

50 Years of Panchayati Raj in Goa: Retrospect and Prospects

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CHAPTER - 17

Challenges to Decentralized Governance in Goa

Alaknanda Shringare

Very recently Goa celebrated 50 years of Panchayati Raj. Government decision to organized year long events to celebrate 50 years of Panchayati Raj triggered many debates over powers and functions of the Panchayat. No doubt this is also a time to pause and introspect. Panchayats were introduced in Goa in 1962 with limited powers. Since 1962 Panchayats have witnessed many changes. With the passing of the 73rd Constitutional amendment, Goa government passed the Goa Panchayati Raj Act (GPRA) in 1994. With initial hiccups Panchayats were introduced in line with the provisions of the 73rd Amendment Act. However, reluctance on the part of government to devolve powers to the Panchayat has been witnessed at each level of its implementation. The Panchayats in recent years also witnessed noisy scenes over various issues related to development. There is growing discontent among people over the functioning of the Panchayat. One of the debates is also over powers of Panchayats and

gram sabhas. In the light of these developments the present paper tries to understand some of challenges to decentralized governance in Goa.

Introduction

Panchayat Raj institutions evolved in India to support the process of development in the rural areas. Decentralisation as it is understood stands for devolution of powers, functions and finances to the local governing institutions. It is also seen as a process through which peoples' involvement in the planning, implementation and evaluation is made possible. Panchayat raj institutions prior to the passing of 73rd amendment differed from state to state in their structures, powers and functions. With the passing of 73rd Amendment, every state government was compelled to ensure decentralized governance in which the ability of the elected leaders to represent the interests of the people and active participation of people in the local governance are equally valued. It requires strengthening the local governments by making them more participatory, responsive, transparent and accountable.

Decentralized Governance

Decentralizations is often referred to as the opposite of centralization. It indicates a process by which people or political leaders attempt to reverse the concentration of power to the benefit of a single, central rule (Lipset, 1995, p. 335). Decentralization involves both deconcentration, in which local bodies are asked (or, more appropriately, instructed) to assume responsibilities that have traditionally been carried out by central line agencies; and devolution, in which the local bodies are granted the political and financial authorities to undertake these duties (Johnson, 2001, p. 4). For James Manor (2011) most designs of decentralized structure entail a mixture of the three familiar types of decentralization: administrative decentralization (or deconcentration), fiscal decentralization, and devolution (or democratic decentralization). But the emphasis given to these various elements, the ways in which they interrelate, and the details of how systems tend to work, vary considerably.

Governance stands for the manner in which power is used. Decentralized governance refers to the exercise of power by local people and assuring them equal participation in planning and implementation of programmes affecting their lives. The central idea of decentralized governance is equal distribution of power so that the voice of people at the bottom can get reflected, heard and taken into consideration while making decisions concerning them.

Admittedly the most important rationale of decentralized governance is the provision of certain basic services and infrastructures of standard quality at the local level. No citizen should suffer because of her /his choice of location of residence. To deprive a citizen of adequate level of schooling, drinking water, primary health care and other basic services because of her/his choice of location is an injustice (M.A.Oommen, 2004, p. 412).

Decentralized governance is believed to provide local people opportunities to be a part of local governance by involving them in the decision making and development process. In the new governance process decentralized planning gained greater significance. It is based on the belief that any planning aimed at development of people required participation of the concerned people for its success. Local governments are at the centre of any discussion of decentralized governance. While decentralized governance gained significance in the development planning in local areas, the functioning of local bodies come under a lot of criticism.

Decentralized governance in India is often considered as or equated with realizing the dream of Mahatma Gandhi. Gandhi visualized every village as a republic or panchayat having full powers:

In this structure composed of innumerable villages, there will be ever-widening, never-ascending circles. Life will not be a pyramid with the apex sustained by the bottom. But it will be an oceanic circle whose centre will be the individual always ready to perish for the village, the latter ready to perish for the circle of villages, till at last the whole becomes one life composed of individuals, never aggressive in their arrogance but ever humble, sharing the majesty of the oceanic circle of which they are integral units (Parel, 2009, p. 182).

Gandhi believed that every village has to be self-sustained and capable of managing its affairs. However, a deeper look into the decentralized process initiated in India after independence suggests it does not have any resemblance to Gandhian principles of village swaraj. The 'state' which Gandhi visualized as exploitative, gained prominence over village swaraj in the decentralized structure which emerged after independence. Those who advocated enshrining Gandhi's ideas about decentralized power to Indian villages were countered by those who insisted that Indian villages were the strongholds of conservative caste-ridden social mores and therefore, could not be entrusted as agents of socio-political change (Mullen, 2012, p. 28). As a result decentralization occupied place in the directive principles of state policy. The official concept of decentralization emerged only after practical difficulties evolved while

implementing Community Development Programmes. However, it was only in 1992 that decentralized governments received constitutional recognition.

Decentralized governance stood for transparent, responsive and accountable administration at the local level. Participation of people to ensure effective public service delivery is emphasized in the process. PRIs are seen as institutional mechanisms to ensure peoples involvement. They brought government closer to the people. Constitutional validity to the Panchayats by passing 73rd Constitutional amendment reinforced the idea of participatory development. The procedural part of decentralized governance defeated the substantive part of it. The experiences elsewhere in the country except for few states are not very satisfactory and Goa is not an exception to it.

Decentralized Governance in Goa:

Panchayats were introduced in Goa in 1962, while the traces of self- rule can be witnessed way back in pre-Portuguese period in the form of the Gaunkari system. Gaunkari system was called Comunidades with some modifications in their functioning during Portuguese rule. Gaunkari system provided for a different system mainly based on collective ownership and administration of land. Land was the major source of income in the Gaunkari system. During Portuguese rule the Gaunkari system was greatly modified. While Gaunkari provided for various services and social security to the villagers it never was a major unit of democratic governance. Local self rule was introduced in Goa after liberation.

The Panchayati Raj system was introduced in Goa with promulgation of Goa, Daman and Diu Village Panchayat Regulation, 1962. It provided for single tier Panchayat in Goa. The regulation reserved one seat for women and the term of the Panchayat was fixed for four years. While elections were held regularly, Panchayats enjoyed limited powers. The Panchayati Raj system has failed to empower the villages as self-sustaining units and to inject social and economic transformation. (Fernandes A., 1999, p.142)

With the passing of the 73rd Amendment Act decentralized governance received a new lease of hope. It led to the passing of the Goa Panchayati Raj Act (1994) which provided for a two tier system, viz., Gram Panchayat and Zilla Panchayats. However, nothing much changed from the earlier system. Though local self-governments were introduced with lot of enthusiasm they failed to realize the purpose of participatory democracy and participatory development at the grass-root. As these local bodies are the creation of the

central government and are dependent on the state government for its powers and functions, no serious effort was made by state government to devolve powers, functions and finances to these local bodies. As a result Panchayats failed to guarantee self-rule and self-reliance. The reluctance on the part of state governments to devolve more powers and functions to these local bodies is the major hurdle for achieving participatory development. Whatever little powers enjoyed by these institutions is often misused by elected members for furthering their vested interests rather than using it for the development of village.

Devolution of powers, functions and finances:

The 73rd Amendment provided for devolution of powers, functions and finances to the Panchayati Raj Institutions however it is left to the states to decide on this devolution. As a result in spite of 29 subjects mentioned in the 11th Schedule of the constitution which are to be devolved to the PRIs, the devolution index varied from state to state. There is reluctance on the part of the state governments to devolve all powers to PRIs. Except for a few states like Kerala, Karnataka, Arunachal Pradesh, Sikkim, and Tamil Nadu most states have not delegated all subjects to the PRIs. Goa government has devolved 18 subjects to Gram Panchayats and 6 subjects are devolved to Zilla Panchayats. Panchayat levies 11 types of taxes.

As Oommen(2004) put it, democratic decentralization is neither deconcentration nor delegation but it is devolution. A Task Force on Decentralization of the Government of India (GOI, 2001) defines devolution thus:

Devolution in the context of the Panchayats, means that when the authority in respect of a specific activity is transferred from the state to the local governments, the latter should have the prerogative of taking decisions in respect of planning and implementation of such activity. In fact functions, funds and functionaries are complementary to one another in the process of devolution of responsibilities and powers upon the Panchayats" (M.A.Oommen, 2004, p. 4).

Devolution of three F's - functions, funds and functionaries is necessary for PRIs to function as units of local governance. After two decades of passing of 73rd amendment not many states have devolved all the powers to PRIs. Several states Conformity Acts use the language such as such as the 'state may by notification' or 'subject to such rules as may be made from time to time', 'the government may alter' and the like which undoubtedly are overriding powers

that will render ineffective the process of building self-governing democratic institutions at the sub-state level (M.A. Oommen, 2004, p. 5).

According to The State of Panchayats, Report on Goa State, "The Devolution of power to Panchayat in Goa face hurdles at two levels: the structural level and socio-political conditions at the grassroots level" (IRMA, 2007-08, p. 38). At the structural level the report mentions that there is friction between elected representatives of state legislature and Panchayat members, between the government officials and Panchayat members and finally between the two tiers of the Panchayat itself. As Goa is a small state, the scope of development activities that can be carried out by different stakeholders is less. The space for influence is small and each stakeholder is competing for resources and influence (IRMA, 2007-08, p. 38). The report also takes a note of invisible conflict between the elected members of Panchayat and legislative bodies. Panchayat members are seen as encroaching over the powers and areas of legislative members. If more powers are devolved to Panchayat members, it is believed that, these members are seen as the ones who are delivering the services and no one will approach the legislative members. Devolution of finances is also seen as an area of tension. Following devolution, the finances would go directly to the Panchayat bodies, who would plan and implement development works. This would reduce the opportunities for rent-seeking by both government officials as well as the state leaders. While state governments are given responsibility to devolve such powers, functions and finances, the will for devolution is lacking for various reasons. However, it is also true that as most of the elected members of the Panchayat aspire to contest elections for the state legislature or maybe Parliament, they look towards present MLAs and MPs as their mentors for the same and will not push too hard something which will displease them.

The devolution of 3Fs is not satisfactory in most of the states. To motivate states to devolve powers and responsibilities to the Panchayat and put in place an accountability framework, the Ministry of Panchayat Raj, Government of India started ranking the states on the basis of Devolution Index. This was to provide incentives under the Panchayat Empowerment and Accountability Scheme (PEAIS) in accordance with their performance on the basis of frameworks, functions, finances, functionaries, capacity building of Panchayats and accountability of Panchayats. Based on weighted aggregation of six dimensional sub-indices Goa stands at 16th position with an index value of 31.77 among all the states (excluding Union Territories and North Eastern states) which is much below the national average of 38.5. When considered

in each of the dimensions separately, Goa is much below the national average with regard to Panchayat functions, finances, capacity building of panchayats and accountability of panchayats. It scored above national average in the dimension for Panchayat functionaries and upto national average for Panchayat framework.

The Panchayats are not completely autonomous of state. They are actually organized under the Dillon's principle enunciated in the late nineteenth century which holds that the local governments are derivative of the state. (IIPA, 2013, p. 13). They are created by the state and depend on state for their powers. It is now for the state government to create an enabling environment to help and sustain the PRIs as self-governing entities. Thus the first challenge for decentralized governance in Goa is how far the state government is willing to devolve more powers, functions, finances to the PRI so that they can effectively evolve as institutions of not only local self-governments but also as institutions of decentralized planning which ensure participatory development.

Participatory development

Direct participation of people in decision-making process is something which is valued the most. Participatory development is an integral part of decentralized governance. The process of decentralization is intended to facilitate participatory development with a more accountable and responsive government. Participation of people not only ensures policies being framed in the interest of the people but it also ensure accountable government. Participation acts as a check on the sinister interests of the representatives. Increased participation allows all interest to be represented by those who know them best and acts as a force on the representatives to take them into consideration.

Direct participation of the people is guaranteed through the local self-institutions. Panchayati Raj Institutions have not only guaranteed peoples participation in local elections but they also have given an opportunity to the people to participate in the decision making process. So far as people participation in local elections in Goa is concerned there is a positive trend however, their participation in Gram Sabha meetings is not satisfactory. It is only very recently Gram Sabhas have become very active and vibrant in many villages as they noticed that Panchayats are sanctioning mega projects which are burdening the existing resources, leading to demographic change and damaging the ecology and environment in the village. By attending Gram

Sabha meetings in large number people are demanding for the revocation of such NOCs.

If we look at decentralized governance as redistribution of political power, what has been observed in most cases is that decision-making powers stop at elected representatives of the Panchayat. In the absence of mechanisms to ensure transparency and accountability of the elected representatives Panchayats are becoming increasingly unresponsive. Participation of people in development planning has been reduced to a mere slogan. Accountability at the time of elections is failing to ensure responsiveness. There are provisions for putting before the Gram Sabha the annual financial plans and annual statement of income and expenditure. Gram Sabhas are turned into mere sanctioning bodies. While the Act provides that the decision of the Gram Sabha 'shall be binding' on Panchayat, in reality most decisions remain on paper. The State of Panchayat Report states: "Resolutions are passed in the Gram Sabha but Village Panchayat body does not implement them. Only those decisions that the Sarpanch thinks right are implemented" (2007-08: p.29). The Section 6 of Goa Panchayati Raj Act (1994) which states that the decision of the Gram Sabha shall be binding on the Panchayat came under contradiction with the Section 66 of the same act.

Section 6(4) of Goa Panchayati Act states that: the decision taken by the Gram Sabha shall be binding on the Panchayat provided it is not contrary to the rules and regulations formed under this act or any other law for the time being in force and it shall be the duty of the Sarpanch to execute the same as early as possible (GPRA, 1994). In recent years in the wake of various mega projects what has also been observed is the neglect of Section 6(4). In many villages of Goa, NOCs have been granted to various mega projects which villagers are unaware of. Once villagers come to know about such works they are demanding revocation of such NOCs by attending the Gram Sabha meetings in large numbers. Thus Gram Sabha meetings have seen increased participation of local people. Since 2007, the issue of mega housing project created uproars in the Gram Sabha meetings in most of the villages. People forced the members of Panchayat to pass a resolution opposing mega housing projects coming up in their areas. They also demanded that any such mega project coming up in their village be placed before the Gram Sabha for discussion before providing NOC for the same.

An increase in the activities related to tourism, mining, mega housing project and for many such reasons Goan villages are experiencing increasing

pressure on land. Amidst protests by people Town and Country Planning department issued an advisory to the Directorate of Panchayats stating that Gram Sabha has no power over issuing and revoking construction licenses. The decision of government to give overriding powers to panchayat over Gram Sabha generated heated debates in Goa in recent years.

In most of these cases it is Section 66 of the GPRA 1994 which came under the scanner. Section 66(1) of GPRA (1994) states: "Subject to such rules as may be prescribed, no person shall erect any building or alter or add to any existing building or reconstruct any building without the written permission of the Panchayat. The permission may be granted on payment of such fees as may be prescribed" (GPRA & Rules, 1994). There is a demand from the civil society groups to put before the Gram Sabha any mega project coming up in the area and to make their decision binding on the Panchayats. However, government asserts power for Panchayat over Gram Sabha decisions on the basis of Section 66.

Within the broader framework of the 73rd amendment, the state government has power to decide over devolution of powers to panchayats as well as gram sabha. Article 243A of the Central Act (1992) does not specify the functions and powers of the Gram Sabha but it states: "a Gram Sabha may exercise such powers and functions at the village level as the legislature of a State may, by law, provide". Thus it is left to the state governments to specify the functions to be performed by the Gram Sabha. This resulted in assigning functions such as to endorse, to recommend, to suggest, to audit accounts, etc. to Gram Sabha. They hardly enjoy any real powers. Resembling the similar developments in other states Goa is also witnessing trends where decisions of elected representatives are given power over people. The 73rd amendment was passed to facilitate people's participation in the development planning but Panchayats have ended up being one more agency of government to control local issues.

Gram Sabha or peoples forum, always been an integral part of the concept of village government in India. Ashok Mehta committee on Panchayat Raj states: "The Gram Sabha has an important role in activating the democratic process at the grassroots level inculcating community spirit, in increasing political awareness and enabling weaker sections to progressively assert their point of view" (Nambiar, 2001, p. 3115).

It is relevant to note that Gram Sabha is not only an institution of articulating the needs and aspirations of the people but also a method of to

mobilize peoples participation. As the Panchayati Raj Institutions (PRIs) are responsible for implementation of centrally sponsored schemes and programmes of Ministry of Rural Development the role of Gram Sabha becomes essential in identifying the beneficiaries for such programmes. They are also expected function as the watchdog to protect the interest and resources of the community. Peoples' participation through Gram Sabha is a prerequisite for making Panchayats accountable to people.

Powers to the Gram Sabha will ensure participatory planning and development. There is a need to strengthen the Gram Sabhas and not to turn them into merely sanctioning bodies. Making it mandatory on the Panchayat to put before Gram Sabha the major decisions regarding development of village for its sanction may go a long way in ensuring democratic planning. However before entrusting power to Gram Sabha certain issues need to be addressed such as low attendance in Gram Sabha meetings.

Low attendance in Gram Sabha meetings

The attendance of people in these meetings is not satisfactory in Goa. There are many reasons for it. One of the reasons is no serious effort been made by the Panchayat members to publicize the dates of Gram Sabha meetings. Lack of information about dates of the meeting is one of the causes for low participation in the Gram Sabha meetings. Some meetings of the Gram Sabhas are called at a very short notice that people hardly come to know about them.

Section 5 (1), of GPRA (1994) states: "there shall be four ordinary meeting of the Gram Sabha to be held on any Sunday of January, April, July and October of every year to be convened by the Sarpanch". Section 5(2) of the Act provides for special meetings of the Gram Sabha convened by the Sarpanch on 26th January, 15th August, 2nd October and 19th December, every year. In many Panchayats the scheduled date of the meeting is put up on the notice board of Panchayats. It needs to be taken into consideration that people visit Panchayats only if they have work and do not go to Panchayat on a regular basis due to which they hardly come to know about these meetings. If the Panchayats have to be made accountable and responsive to the Gram Sabha, it requires not only the meetings should be conducted regularly, but efforts should also be made to inform Gram Sabha members in advance about such meetings. Some states have taken steps in this direction by way of distributing pamphlets, putting posters in public places like markets, bus-stops, etc. Some Panchayats

in Goa are also taking similar steps to inform people about the meeting but such practices are restricted to very few Panchayats. There is a need to use similar such methods in all Panchayats to inform people about the schedule of the meeting.

Quorum

The second related question is the issue of quorum required in the Gram Sabha meetings. Panchayats ensure people's participation if quorum required for decision-making in Gram Sabha is made compulsory. Goa Panchayati Raj Act provides that the decision of the Gram Sabha shall be binding on the Panchayat, but the quorum required for such a decision is not made mandatory. The GPRA provides that *one-tenth of the total number of members of the Gram Sabha shall form the quorum for the meeting and when there is no quorum for any meeting after fifteen minutes from the appointed time, the meeting shall stand adjourned for half an hour and when it re-assembles, no quorum shall be necessary to transact the business communicated to members in the agenda of the appointed meeting.* Thus it is very easy for the Panchayat to decide the matters in Gram Sabha without quorum. Members of the Panchayat hardly put effort to inform the people about the meetings to ensure more participation in the Gram Sabha meetings.

Gram Sabha is the foundation of the Panchayati Raj System. Any attempt to weaken it may result in failure of decentralized governance. As the Gram Sabhas ensure direct participation of people it should be mandatory on Panchayats to put for discussion all major decisions of the Panchayat. Sufficient measures should be taken up to encourage people's participation. The recent experiences where people are attending Gram Sabha demanding revocation of licenses issued by the Panchayat is an indication of the fact that people are interested in attending Gram Sabha meetings to protect their interest.

Corruption and Instability

It is a known fact that in recent years the menace of corruption is on the rise in the Panchayats in Goa. All the construction activities and major projects coming up in the villages require Panchayat license/NOCs. Growing real estate business and demand for land for various projects make corruption flourish in the Panchayats. Related to corruption is the issue of instability in Panchayats. Every member of the Panchayat tries to become the Sarpanch due to which other members by passing a resolution bring down the Sarpanch. In

most of the cases Sarapanchas are not even able to complete two years. In some cases it works on the mutual understanding among the members of Panchayat where every member gets an opportunity to become Sarpanch. Corruption and instability are rendering the Panchayat unresponsive.

Representation of Marginalized Sections

Decentralization is understood as power devolved to the people or their elected representatives. There is reluctance on the part of policy makers to entrust decision-making power to people over elected members of panchayat. The existence of social cleavages, particularly caste and religious differences, poverty also create hindrances in effective participation of people. As observed by Fernandes A. (1999), a causative factor constraining democratic functioning of gram sabha in Goa has not been sub-cultural pluralism (an unfavourable domination by certain ethnic, linguistic, religious, racial differences or even class structure) as Dahl (1989) argues, but the selective mobilization of political supporters of the sarpanch. However, limited research and data are major constraints in making any generalizations in this regard. The 73rd Constitutional Amendment provided for reservation of seats for SCs, STs and women however it itself is not a guarantor of equal participation and representation of interests of marginalized sections. There are evidences of them being used as proxies. Lack of research work available in Goa highlighting on this aspect (especially participation and representation of SC and ST communities while some works are available on participation of women) makes it difficult to state participation and representation of these groups in the Gram Sabha meetings. And how far they are able to put forward their demands and interests.

Decentralized governance attributing values of accountability, transparency, responsiveness, trust and reciprocity needs to be given ample scope for exploration and experimentation. Local governments need to be strengthened to deepen the democratic values. However, the structural and procedural aspects are rendering PRIs weak and unresponsive. But being a small state Goa has potential to initiate experiments and provide model for decentralized governance.

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