

Rating the Policy and Functional Environment of PRIs in Different States of India- A Concept Paper¹

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Abstract

The growing realization around the globe regarding decentralization of administrative, political and fiscal responsibilities to the local units of Government is one of the best ways of deepening democracy and increasing efficiency. In India the trend has been noted, particularly since early nineties with the passage of 73rd Constitutional Amendment that accelerated the process of decentralization with greater devolution and delegation of powers to local governments and the recognition of panchayati raj institutions (PRIs) in the book of statute as institutions of self-government.

This paper proposes a method that quantifies the current environment that PRIs function under. That is, how 'free' the PRIs are to take independent decisions and implement them. No doubt, the actual performance of PRIs differs and depends upon many other factors. These factors are specific to the state, to the different level of the Panchayati Raj Institutions. The enabling environment is also determined by village level factors. To re-iterate, the method seeks to measure the environment of PRI functioning that state governments have been able to create, not for the functioning of PRIs and not the functioning of PRIs themselves. An attempt is made to cover both quantitative and qualitative aspects.

Key Words: Panchayati Raj Institutions (PRI), Policy, Functional, Environment, State, India, Village, Local, Government, Legislature, Fiscal, Decentralization, SFC, Constitution, Schedule, Indicus Analytics, IIPA, Laveesh Bhandari, V N Alok.

¹ Earlier version of the paper was presented in the Fifth Roundtable Conference held on October 28-29, 2004 at Srinagar, Jammu & Kashmir on the theme of 'Annual Reports on the state of the Panchayats including preparation of a Devolution Index'. Comments and Suggestions from the participants are gratefully acknowledged, especially from V.K. Agnihotri, Mani Shankar Aiyar, Anees Ansari, S.S.Hussain, R.P.Jain, T.R. Raghunandan, M.N.Roy, P.P. Soti, S.M. Vijayanand and M.M.Upadhyay. Comments from O.P. Bohra, Ashutosh Dikshit, Sudha Pillai, R. Ramanujam and P.L. Sanjeev Reddy at the initial stages are also gratefully acknowledged. Usual disclaimers apply.

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“... Many studies of effective decentralization reveal an interesting paradox—that it needs a visionary leadership above to ensure decentralization. I appeal to the Chief Ministers to play this visionary role to become champions of decentralization in their respective states. You represent the pinnacle of democratic leadership in your state and elected panchayat leaders are your fellow travelers. They need your support and handholding.”

—Excerpt from Prime Minister’s Inaugural Address in the Conference of Chief Ministers on June 29, 2004

A. Background

There is a growing realization around the globe that decentralization of administrative, political and fiscal responsibilities to the local units of Government is one of the best ways of deepening democracy and increasing efficiency. It is also felt that fiscal decentralization can help mobilize resources by introducing local solutions and promote equitable growth by mainstreaming the poor in development. The recent past has witnessed many countries including developing countries turning to various forms of decentralization. India is also keeping pace with this trend. New systems of local and intergovernmental finance are being established as part of the evolution. The trend has been noted, particularly since early nineties with the passage of 73rd Constitutional Amendment that accelerated the process of decentralization with greater devolution and delegation of powers to local governments and the recognition of panchayati raj institutions (PRIs) in the book of statute as institutions of self-government.

Consequently, Part IX and has been inserted to the Constitution for rural local bodies and State legislature has been made responsible to transfer functions, listed in the newly created Eleventh Schedule. The State is also required to transfer the concomitant powers to enable them to carry out the responsibilities conferred upon them. Under the Constitution Amendment Act (CAA), the state legislature is supposed to devolve responsibilities, powers and authorities to the local bodies to enable them to function as institutions of self-government. The legislature of a State may both authorize the local bodies to levy, collect and appropriate certain taxes, duties, tolls and fees, etc, and also assign to them the revenues of certain state level taxes subject to such conditions as are imposed by the state government. Further, grants-in-aid may also be provided to these bodies.

New fiscal arrangement necessitates every State under Article 243 I to constitute, at regular interval of five years, a finance commission (SFC),

and assign it the task of reviewing the financial position of local bodies and making recommendations on the sharing and assignment of various taxes, duties, tolls, fees etc and grants-in-aid to be given to the local bodies from the consolidated fund of the State. The conformity Acts of the CAA are required to provide for the composition of the commission, the qualifications for its members and the manner of their selection. Every recommendation of the commission is to be laid before the legislature of the state.

It is more than a decade since Part IX was incorporated into the Constitution. During the last twelve years, one could have found enough reasons to cheer. Conformity Acts have been enacted in all the States². Elections for PRIs have been conducted in almost all States³ barring Jharkhand and Pondicherry. All States except six⁴ have received their first generation Finance Commissions' reports. A number of States have received even their second-generation SFC recommendations. Notwithstanding, PRIs in almost all States continue to be starved of finances causing major impediment in its growth and effective functioning. The problem is compounded when it is seen with the expanded role and responsibilities of the PRIs after CAA became effective and the 11th Schedule was inserted.

Generally, the functional responsibilities are closely linked with the financial powers delegated to the local government, in practice there is a mismatch between these two, leading to a severe fiscal stress at the local level. Own revenues of local bodies are good enough to meet only a part of their O&M requirements, therefore they are dependent on the higher tiers of government to finance their activities. The SFCs are responsible for examining not only the revenue-sharing arrangements between the State governments and the local bodies, both rural and urban, but also the entire range of subjects concerning assignment of taxes, transfers of power and such other subjects for improving the financial health of local bodies. In this case, the CAA does not draw any distinction between the plan and non-plan financial requirements of the local bodies. Therefore SFCs are not confined only to the assessment of non-plan expenditure of

² The 73rd Constitutional Amendment Act is the Union Act to establish the third tier of governments and the conformity Acts are state legislations.

³ Many States have had a second round of elections since the Constitution was amended.

⁴ The entire States of Meghalaya, Mizoram and Nagaland have been excluded from the operation as per article 243 M(2). The First SFC of Bihar has not submitted its report. In the newly formed States of Chattisgarh, and Jharkhand either the report has not been submitted or the SFC has not been constituted so far.

the local bodies for recommending the devolution of funds and financial powers to the local bodies at various levels. It is to be noted here that the national finance commission constituted under Article 280 has been looking at only the non-plan expenditure requirements of the States.

Against this backdrop, the paper aims at rating different states of India on the distribution of functions, finances and functionaries to the various PRIs. This is primarily based on some of the Conformity Acts (CAs) and the environment the States have created for the PRIs to function under.

B. The Index

This paper proposes a method that quantifies the current environment that PRIs function under. That is, how 'free' the PRIs are to take independent decisions and implement them. No doubt the actual performance of PRIs differs and depends upon many other factors. These factors are specific to the state, to the different level of the Panchayati Raj Institutions. The enabling environment is also determined by village level factors. To re-iterate, the method seeks to measure the environment of PRI functioning that state governments have been able to create, *not* for the functioning of PRIs and not the functioning of PRIs themselves.

As a consequence, the data and information are required at the state-level. An attempt is made to cover both quantitative and qualitative aspects. Qualitative issues have been categorized in a quantitative manner so that quantitative ratings can be conducted.

The methodology stresses upon the village level PRIs. These are rated on the basis of

- Functions
- Finances
- Functionaries

It is therefore named as the FFF-Index. Each of these heads has between 5 to 9 measures. The value of each measure ranges between 1 and 5. Equal weights are assigned. It is proposed that three indices be first prepared, one each for Functions, Finances and Functionaries. by averaging the values of the measures under each head. In order to ensure clarity, efficiency and proper accountability, it is proposed to adopt the differentiation of functions into core, welfare and economic categories as done by the Eleventh Finance Commission (Pl. see annex 1). Whether civic amenities, primary health care, drinking water supply or

sanitation or any other should be core functions and to what level it should be assigned will have to be clearly spelt out by the legislature. The basic principle, that whatever can be done best at a lower level must necessarily be done at that level and at no upper level, should be respected and adhered to.

C. The Mechanics of the FFF-Index

The final index of devolution to PRIs however should be calculated as a *multiple* of the three sub-indices. This is based on the view that greater devolution is a *product* of all the three categories of devolution and not its simple aggregate. The following variables are included:

Variable	Measure										
<i>A: Functions: Creating and supporting conditions for assigning functions to PRIs</i>											
1. <i>De facto</i> transfer of 5 Core functions to the Panchayats by way of Rules/ Notifications/ Orders of state governments	$[(\text{Number transferred}/5)*4]+1$										
2. <i>De facto</i> transfer of 13 Welfare functions	$[(\text{Number transferred}/13)*4]+1$										
3. <i>De facto</i> transfer of other 11 Economic functions	$[(\text{Number transferred}/11)*4]+1$										
4. Share of the total amount of all Rural schemes of State transferred to PRIs	<table> <tr><td>< 5%</td><td>- 1</td></tr> <tr><td>5 – 25%</td><td>- 2</td></tr> <tr><td>25 –50%</td><td>- 3</td></tr> <tr><td>50 –75%</td><td>- 4</td></tr> <tr><td>≥ 75%</td><td>-5</td></tr> </table>	< 5%	- 1	5 – 25%	- 2	25 –50%	- 3	50 –75%	- 4	≥ 75%	-5
< 5%	- 1										
5 – 25%	- 2										
25 –50%	- 3										
50 –75%	- 4										
≥ 75%	-5										
5. The state government has incorporated Citizens Charter for PRIs and implemented Right to Information Act	<table> <tr><td>No to both</td><td>- 1</td></tr> <tr><td>Has done either</td><td>- 3</td></tr> <tr><td>Has done both</td><td>- 5</td></tr> </table>	No to both	- 1	Has done either	- 3	Has done both	- 5				
No to both	- 1										
Has done either	- 3										
Has done both	- 5										
6. Whether Detailed Activity Mapping has been conducted or not. ⁵	<table> <tr><td>No activity mapping has been conducted</td><td>- 1</td></tr> <tr><td>Activity mapping has been conducted for:</td><td></td></tr> <tr><td> All core functions</td><td>- +2 (add 2 mark)</td></tr> <tr><td> All Welfare Functions</td><td>- +1 (add 1 mark)</td></tr> <tr><td> All Economic Functions</td><td>- +1(add 1 mark)</td></tr> </table>	No activity mapping has been conducted	- 1	Activity mapping has been conducted for:		All core functions	- +2 (add 2 mark)	All Welfare Functions	- +1 (add 1 mark)	All Economic Functions	- +1(add 1 mark)
No activity mapping has been conducted	- 1										
Activity mapping has been conducted for:											
All core functions	- +2 (add 2 mark)										
All Welfare Functions	- +1 (add 1 mark)										
All Economic Functions	- +1(add 1 mark)										
<i>B. Finances: Creating conditions that strengthen PRIs financial abilities</i>											

⁵ Detailed Activity Mapping is the first step towards high 'quality' of devolution. As such this index will not be able to capture the qualitative aspects of devolution. For this purpose we propose a three-pronged approach to measuring the extent, quality of devolution and the quality of outcomes. See concluding note.

Variable	Measure
7. Authorisation to the Village Panchayats as per the Village Panchayat Act to collect and appropriate taxes, duties, tolls and fees. ⁶ (<i>See below</i>)	$[(\text{Number assigned}/6)*4]+1$
8. PRIs Own Revenue as % of State's Own Revenue	$\leq 0.5\%$ – 1 $1 - 1\%$ – 2 $2 - 2\%$ – 3 $3 - 3\%$ – 4 $\geq 4\%$ – 5
9. Constitution of State Finance Commission. ⁷ (<i>See below</i>)	No SFC has been constituted – 1 Only 1 SFC has been constituted – 2 Two SFCs have been constituted – 3 Third SFC has been constituted – 5
10. Composition of SFC in the State Act – Qualification of Members and manner of selection	No to both – 1 Has mentioned either – 3 Has mentioned both – 5
11. Action taken on the Major Recommendations of latest State Finance Commission ⁸	SFC not constituted or report not submitted or <5% of recommendations accepted – 1 >5% to <25% of recommendations accepted – 2 25 to 50% of recommendations accepted – 3 50 to 75% recommendations accepted – 4 >75% of recommendations accepted – 5
12. Timely Actions on latest SFC recommendations	> Two years – 1 < Two years but >one year – 2 < One year but > six months – 3 < Six months – 5
13. Percentage of funds devolved to PRIs that are 'untied' to any scheme	<5% are untied – 1 5–25% untied – 2 25–50% untied – 3 50–75% untied – 4 >75% untied – 5

⁶ 1. Property /House Tax; 2. Profession Tax; 3.Land Tax/Cess; 4. Taxes/Tolls on vehicles; 5.Entertainment Tax/Fees; and 6. License Fees. These are from a menu of 24 taxes, duties, tolls and fees that has been prepared including the taxes provided for levy by the village panchayats in various State Panchayat Legislations (pl. see Annex 2)

⁷ Succeeding SFCs build a momentum of transparency and evaluation of the devolution process, which in turn leads to better 'quality' of devolution. This measure seeks to captures this element. Newly formed State shall assign 5 marks for the constitution of first SFC.

⁸ Recommendations with respect to resource sharing from the divisible pool, assignment of taxes, grants-in aid, assignment of powers and functions and allocation are considered as Major Recommendations

Variable	Measure
14. PRI accounts are audited on an annual basis within 1 year of the year end	<5% - 1 5-25% of PRIs audited - 2 25-50% of PRIs audited - 3 50-75% of PRIs audited - 4 >75% of PRIs audited - 5
15. Release of Funds to PRIs	If 50% funds are released: By Q ₄ - 1 By Q ₂ - 4 By Q ₃ - 3 In Q ₁ - 5
<i>C: Functionaries: Powers of elected functionaries and support received by them</i>	
16. If devolved functions are administered by	State Government - 1 Parallel Parastatal Bodies - 2 Panchayats - 5
17. Gram Sabha meetings are recorded and available to all concerned	If <5% Meetings' records are available -1 If 5-25% Meetings' records are available -2 If 25-50% Meetings' records are available -3 If 50-75% Meetings' records are available -4 If >75% Meetings' records are available -5
18. Who has the power to a.) take disciplinary actions/transfers; b.) suspend /dissolve the elected bodies; c.) suspend/remove elected officials; and d.) suspend/cancel resolutions passed	District Magistrate and below -1 State Government - 4 Standing Committee of Legislature - 5
19. General support to Panchayats: Government has specified institutions and entities to support PRIs for preparation of Annual Plans	For <5% PRI - 1 For 5-25% of PRIs - 2 For 25-50% of the PRIs - 3 For 50 to 75% of the PRIs - 4 For >75% of the PRIs - 5
20. General support to Panchayats: Government has specified institutions and entities to support PRIs for capacity building	For <5% PRI - 1 For 5-25% of PRIs - 2 For 25-50% of the PRIs - 3 For 50 to 75% of the PRIs - 4 For >75% of the PRIs - 5
21. Constitution of District Planning Committees (DPC)	If <5% DPCs constituted -1 If <25% of DPCs constituted - 2 If between 25 to 50% of DPCs constituted - 3 If between 50 to 75% of DPCs constituted - 4 If greater than 75% DPCs constituted - 5
22. Treatment to the status of Parallel bodies	No change - 1 Inducted PRIs representatives in these bodies----- 2 Modified their powers only to fund management -3 Made parallel bodies as units of PRIs 4 Merged the parallel bodies with PRIs -5

D. Concluding Note

The proposed FFF-index seeks to capture the extent of devolution that the state government has achieved. As such it is transparent and objective in that any one can conduct this and judge for themselves the extent of devolution. More importantly it will allow a comparison of states not only with each other but also across time. That is, how rapidly they are moving towards greater devolution. The proposed index is therefore, simple, objective, and transparent for anyone to create independently.

The FFF-index however will not be able to capture certain qualitative elements of the devolution process. The Activity Mapping of the three Tiers of PRIs (contained in Annex V of the Report of the Task Force on the Devolution of Powers and Functions upon PRIs, GOI) provides an excellent framework for measuring the quality of the devolution. However, an index based on those specific activities will not be highly comparable across states, as it will have to capture elements that are idiosyncratic to the state. Such an index will better measure the changes within the state across time. More importantly the measures will have to be based on some subjective judgments. This would also require PRI level surveys.

The proposed FFF-index will also not be able to capture outcomes, as has been mentioned in earlier sections. Measuring outcomes would also require studies and surveys at the PRI level and should be conducted at a regular basis to fine-tune the devolution process.

Eleventh Schedule⁹
(Article 243G)

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking Water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Caste and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.]

⁹ Added by the Constitution (Seventy-third Amendment) Act, 1992, sec.4.

Classification of Functions Listed In Eleventh Schedule¹⁰

Core Functions

- Drinking Water.
- Roads, culverts, bridges, ferries, waterways and other means of communication.
- Rural electrification, including distribution of electricity.
- Health and sanitation, including hospitals, primary health centres and dispensaries.
- Maintenance of community assets.

Welfare Functions

- Rural housing.
- Non-conventional energy sources
- Poverty alleviation programme.
- Education, including primary and secondary schools.
- Technical training and vocational education.
- Adult and non-formal education.
- Libraries.
- Cultural activities.
- Family welfare.
- Women and child development.
- Social welfare, including welfare of the handicapped and mentally retarded.
- Welfare of the weaker sections, and in particular, of the Scheduled Caste and the Scheduled Tribes
- Public distribution system.

Agriculture and Allied

- Agriculture, including agricultural extension
- Land improvement, implementation of land reforms, land consolidation and soil conservation.
- Minor irrigation, water management and watershed development.
- Animal husbandry, dairying and poultry.
- Fisheries.
- Social forestry and farm forestry.
- Minor forest produce.
- Small scale industries, including food processing industries.
- Khadi, village and cottage industries
- Fuel and fodder.
- Markets and fairs.

¹⁰ Functions appearing in the Eleventh Schedule at Sr. Nos. 11,13,14,23 and 29 are Classified as core functions; Sr. Nos. 10,15 to 21, 24 to 28, as welfare functions; 1 to 9, 12 and 22, as economic functions.

List of Taxes levied by Village Panchayats

1. Property /House Tax
2. Profession Tax
3. Land Tax/Cess
4. Taxes/Tolls on vehicles
5. Entertainment Tax/Fees
6. License Fees
7. Tax on Non-Agriculture Land
8. Registration of Cattle Fee
9. Taxes/Fees on visitors of Fairs etc.
10. Pilgrim Tax
11. Tax/Toll on Animals
12. Sanitation/Drainage/Conservancy Tax
13. Water Rate/Tax
14. Lighting Rate/Tax
15. Octroi
16. Education Cess
17. Fairs and Festivals
18. Tourist Bus Fees
19. Fishery Rental
20. Bus Stand Fee
21. Cart Stand Fee
22. Ferry Service
23. Market/shop/cart Fees
24. Fees/Building Fees/Rents/Fee for ZP shelters