Legal Framework and Citizen Participation in South Asia Regional Report (India, Nepal, and Bangladesh)

LogoLink research – Legal Frameworks for Citizen Participation
South Asia Regional Report

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PRIA - Society for Participatory Research in Asia

LogoLink is a global learning initiative aimed at strengthening citizen participation in local governance. Through a network of partners, LogoLink provides spaces for exchange, reflection and research on diverse experiences around the world, and encourages learning and action for participatory local governance. LogoLink is hosted by the Participation Group at the Institute of Development Studies, University of Sussex, UK.
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Preface

This report is part of a global research initiative undertaken by the Institute of Development Studies, the Ford Foundation and the regional partners (in East Africa, Latin America, South East Asia, Northern Countries and the South Asia) through the LOGO Link programme.

PRIA, as a regional partner, initiated this study in three countries: India, Bangladesh and Nepal. Taking into considerations regional variations, India was divided into three regions: North, South and Central. Country researchers for India were identified and contacted to undertake the research on Legal frameworks and their implications on citizen participation in their respective countries. Similarly, regional researchers and PRIA's regional partners were requested to take this process forward in different regions of India. The South Asian regional report is based on the country/region reports prepared by following researchers/organizations.

1. Mr. Mukti Rijal, IDG, Kathmandu, Nepal
2. Prof Z. R. Khan, Dhaka University, Bangladesh
3. Prof. Balraj Chouhan, Lucknow University and Sahbhagi Shikshan Kendra (SSK), Lucknow : India (North)
4. Mr. S. L. Asati, Govt. of Madhya Pradesh and Samarthan, Bhopal: India (Central)
5. Dr. G. K. Reddy, Osmania University, Hyderabad and PRIA (A.P): India (South)

As the South Asian region is predominantly rural, emphasis on rural local self governance in this report is very obvious. Research and field experiences across the regions and countries were shared in a 'closed' regional meeting at PRIA where researchers from Nepal, Bangladesh, 3 regions of India and PRIA team discussed and debated in detail the 'similarities' and 'dissimilarities' in the actual legal frameworks and also in their manifestations on the ground. Later a synthesis of the patterns across the South Asia was presented to an 'open' roundtable to elicit the comments and suggestions from the learned participants of the regional roundtable on legal framework and citizen participation.

Like any synthesis report, the present report has many limitations and results presented in the report should be examined with caution, taking into considerations variations across countries and also variations across the regions in a country. India being the largest country with varied experiences across different states finds relatively more space in the synthesis report. However, the more detailed analysis of region/countries has been presented in respective region/country reports.

We are thankful to our learned respondents, participants of the Roundtable, region/country researchers, colleagues in LOGO Link programme at IDS, partner organisations in Uttar Pradesh (SSK), Madhya Pradesh (Samarthan) and Andhra Pradesh (PRIA-AP) and also colleagues in Centre for Local Self Governance in PRIA for providing enriching inputs to give a shape to this synthesis report, which has been restructured according to an agreed outline during writeup at the Institute of Development Studies (IDS).

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1. Introduction

The ancient and rich civilisation of South Asia has been shaped by various combinations of geo-political, economic, social and demographic forces, which produced a rich variety of institutions, social movements, traditions, system of belief and practices. The South Asian region has had along history and culture of local self-governance. Village communities in India during the time of Rig Veda (1200 BC) had self governing bodies called sabhas. Village administration in Nepal is said to be as old as the geography of the country. In old days Nepal was divided into self-governing thums (territories) and each thum had its own panchayats composed of five elected members. The local bodies regulated and administered the villages so much so that they were termed as 'little republics'. The traditional social norms in South Asia co-exist with liberal democratic institutions in an uneasy, ambiguous, and contradictory relationship. So, it can not be gainsaid that the system of local government was a democratic institution at the grassroots level endowed with adequate power, clearly defined functions and sufficient financial resources. The tendency with South Asian governments has been to concentrate power in authority of the state. Nepal, Bangladesh and India are geographically different but dynamics of central-local relationships are almost same in these countries.

Nepal is small land locked country sandwiched between India and China. Its geographical position has been traditionally characterized as being analogous to a yam caught between two rocks. It comprises a total of 147, 181 square kilometers of land. The recent census reveals that Nepal’s population has reached 23 million. Nepal’s average literacy rate stands at 54% while 80% of the people are farmers living in rural areas.

Bangladesh came into existence in 1971 when Bengali East Pakistan seceded from its union with West Pakistan. About a third of this extremely poor country annually floods during the monsoon rainy season, hampering economic development. Bangladesh is in the northeastern portion of the Indian subcontinent, bordered on the west, north, and east by India, on the southeast by Myanmar (formerly known as Burma), and on the south by the Bay of Bengal. The area of the country is 147,570 sq km. Geographically, historically, and culturally, Bangladesh forms the larger and more populous part of Bengal, the remainder of which constitutes the neighboring Indian state of West Bengal. On December 16, 1971, Bangladesh emerged as a sovereign country, and is now a country of about 120 million people.

India measures 3214 km from north to south and 2933 km from east to west with a total land area of 3,287,263 sq.km. It has a land frontier of 15,200 km and a coastline of 7516.5 km. Andaman and Nicobar Islands in the Bay of Bengal and Lakshadweep in the Arabian Sea are parts of India. Indian population is polygenetic and is said to be the melting pot of various mosaic. As per 2001 census, population of India on 1st March 2001 was 1.03 billion. The sex ratio was 933 and total literacy rate was 65.38 % (Male: 75.85 %, Female 54.16 %). India has 18 officially recognized languages. However, there are more than 1650 languages spoken as mother tongues by different population groups. Indian Constitution provides for a Sovereign Socialist Secular Democratic

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1 Census of India 2001: Provisional Population Total
Republic. The country of more than a billion people living in 28 states and 7 Union Territories is governed in terms of the Constitution, which is federal in structure with unitary features.

Majority of region's population is rural. Village communities and their organisations have been in existence in India, Nepal and Bangladesh for over centuries.

2. Historical context and constitutional framework

India, Nepal and Bangladesh have democratic forms of governance. While in India democracy has deepened and matured, democracy in Nepal and Bangladesh is new and still growing. India is the federation of states while Bangladesh and Nepal have unitary forms of governance. Constitutions of these three countries provide for supremacy of Parliament. Each of the three countries is governed by democratically elected cabinet (lead by the Prime Minister). The cabinet performs executive functions as per the written Constitution and is accountable to the Parliament.

People in these countries have been provided rights to participate in the affairs of governance of their respective country. Constitution of each country (wordings may differ) provide for many fundamental rights including the rights of: Equality before law, Protection of right to life and personal liberty, Safeguards as to arrest and detention, Protection in respect of trial and punishment, Freedom of movement, Freedom of assembly, Freedom of association, Freedom of thought and conscience, and of speech, Freedom of profession or occupation, Freedom of religion, Rights to property, Protection of home and correspondence and Enforcement of fundamental rights (Source: these words are from the Constitution of Bangladesh but almost same rights have been constitutionally provided to people of India and Nepal).

In addition to fundamental rights guaranteed to citizens, the Constitution (for example, of India) 'directs' state (in the form of directive principles): to secure a social order for the promotion of welfare of the people, Equal justice and free legal aid, Organisation of village panchayats, Right to work, to education and to public assistance in certain cases, Provision for just and humane conditions of work and maternity relief, Living wage, etc., for workers, Participation of workers in management of industries, Uniform civil code for the citizen, Provision for free and compulsory education for children, Promotion of educational and economic interests of Scheduled Castes (SCs), Scheduled Tribes (STs) and other weaker sections, Duty of the state to raise the level of nutrition and the standard of living and to improve public health, Organisation of agriculture and animal husbandry, Protection and improvement of environment and safeguarding of forests and wild life, Protection of monuments and places and objects of national importance, Separation of judiciary from executive, and Promotion of international peace and security (Source: Directive Principles of State Policy : Constitution of India).

The role of Civil Society has not been specifically mandated by the Constitutions of India or Bangladesh. However, the principles and policies of Local Self governance in Nepal says : 'His Majesty's Government shall, in accordance with the guidelines set forth in the Constitution of the Kingdom of Nepal, 1990, on decentralization, pursue the principles and policies for the development of local self governance system having the Local Bodies oriented towards establishing the civil society based on democratic
process, transparent practice, public accountability, and people’s participation, in carrying out the functions devolved on them.

From above it can not be inferred that the Constitutions of India and Bangladesh restrict or disable Civil Society participation in governance. Constitution provides ample spaces for Civil Society to participate in Governance through Fundamental rights of Citizens for free expression of thoughts and freedom to form associations. Civil society in each country has been in forefront to propose alternative bills and acts to governments and parliaments. For example, the Right to Information bill pending before the Indian parliament was originally proposed by the Civil Society and government later with minor modifications introduced the bill in the parliament.

3. National laws specifically relating to participation

3.1. Laws and Constitutions
3.1.1. Nepal

The state structure follows the standard pattern of a parliamentary democracy with a constitutional monarch as a symbol of national unity. The government is accountable to the parliament. The parliament consists of two houses and Lower House is called the House of Representatives directly elected every five year though an adult franchise. Following the principle of the separation of power, the judiciary is kept fully independent of the other branches of the government. The Constitution of the Kingdom of Nepal identifies Nepal, 1990 as a unitary state which provides for the habitual exercise of supreme legislative authority by one central power. It is therefore, distinguished from federal system which presupposes the existence of two level of legislative authority, one at the union level and other at the state or provincial level. The preamble in the Constitution of the Kingdom of Nepal 1990 states the fact that the Constitution was made with the widest possible participation of the people. It also intends to consolidate the adult franchise to guarantee that all adult citizens have, without distinction, equal voting rights. There is no qualification attached to the right to participate in the election – right to vote, contest election and hold political office – on the grounds of sex, ownership of property, payment of taxes and so on.

Political parties are at the heart of the Nepal’s new constitutional party. Political parties are indispensable and integral parts of a democratic system. The importance of the political parties and the need of running them democratically have been underscored by the Nepalese Constitution. Article 112 provides that the persons committed to common political objectives shall have the ability to form political parties and to campaign for support around the country.

The Constitution of the Kingdom of Nepal, 1990 is different from the constitution of other countries in South Asia including India. No other constitutions mention provisions relating to inner democracy within political parties. The Constitution also requires making of a separate law relating to political parties to ensure that they are democratically structured and their transactions are transparent.

Article 114 of the constitution aims to ensure that women participate in national politics by providing that at least five percent of the candidates of a party seeking to contest
elections must be women. However, a party which wanted to disregard the intent and spirit of Article 114 could do it by fielding women candidates for the constituencies where party prospects are not brighter. Out of 265 members in both Lower House (205 members) and Upper House (60), only 13 women were elected to the Parliament during the last election. The constitutional intent about minimum representation of women has become the maximum for almost all parties.

Participation is enshrined as the directive principle of the state policies. Article 25(4) of the constitute states “It shall be the responsibility of the state to maintain conditions suitable to the enjoyment of the fruits of democracy through wider participation of the people in the governance of the country and by way of decentralization”.

The Constitution of the Kingdom of Nepal 1990 in its Article 46 implies a structure for decentralized administration by its requirement that fifteen members - three from each of the development regions - of the Upper House of the parliament (Natural Council) be elected by the electoral college consisting of the Chairman and Deputy Chairman of Village Development committees (VDCs), Mayor and Deputy Mayor of Municipalities, President, Vice-president and members of District Development Committees (DDCs). This constitutional provision implicitly provides for the two decentralized levels, the village (town) and district levels. Accordingly, village development committees and municipalities are the local government units at the rung. DDCs are the intermediate unit acting as via media between lower nits and central government.

From constitutional point of view, the status of local governance and decentralization can be termed as a weaker version because there is no specific articulation about organizational framework and competencies in the basic law of the land. Political parties are debating the agenda for constitutional reform, and agreed to incorporate separate chapter on Local Governance in the Constitution.

3.1.2. Bangladesh

Bangladesh is a unitary, independent, sovereign Republic to be known as the People's Republic of Bangladesh. The state religion of the Republic is Islam, but other religions may be practiced in peace and harmony in the Republic. The citizenship of Bangladesh shall be determined and regulated by law. All powers in the Republic belong to the people, and their exercise on behalf of the people shall be effected only under, and by the authority of, this Constitution. This Constitution is, as the solemn expression of the will of the people, the supreme law of the Republic, and if any other law is inconsistent with this Constitution and other law shall, to the extent of the inconsistency, be void.

The principles of absolute trust and faith in the Almighty Allah, nationalism, democracy and socialism meaning economic and social justice, together with the principles derived from them as set out in the Constitution, shall constitute the fundamental principles of state policy. These principles shall be fundamental to the governance of Bangladesh. They shall be applied by the state in the making of laws, shall be a guide to the interpretation of the Constitution and of the other laws of Bangladesh, and shall form the basis of the work of the state and of its citizens, but shall not be judicially enforceable.

The state shall encourage local Government institutions composed of representatives of the areas concerned and in such institutions special representation shall be given, as
far as possible, to peasants, workers and women. Steps shall be taken to ensure participation of women in all spheres of national life.

In Bangladesh, relationship between the national and local government units has been authoritative in nature always heavily in favour of the national government. The colonial legacy and the absence of democratic government at the national level for a considerable period of time may have contributed in creating this.

Besides other regulatory mechanisms, the national government primarily exercises its control over local bodies and government officials 'attached' to these bodies. The national government controls local institutions by issuing orders and circulars (quite often against the spirit of legal framework) from time to time. Under the law, the national government enjoys sweeping powers over elected local bodies. The central government is empowered to carry out enquiries into the affairs of these institutions and can suspend them. In short the local government in Bangladesh is totally dependent on national government for its functions and survival.

3.1. 3. India

India is a Union of states. Citizens of India have fundamental rights to form association and express their thoughts. Every adult citizen has right to vote and contest the election. Constitution has delineated very clearly the roles and rights of Central and state government. Union list and state list for indicative subjects of jurisdictions (of Centre and states) have been provided. There is a concurrent list dealing with common (to Union and state) subjects. Before Constitution (73rd and 74th Amendments) Acts, India had only Union Territories (UTs) and states as part of its federal structure and Panchayats were mentioned in the Directive Principles only. But with the enactment of these acts, defacto a third tier of governance, with a wide democratic base has come into existence in the country. Till then, in Parliament and in the states and UT assemblies there were about 5000 elected members. But now every five years three million people’s representatives are elected. The Acts have opened up spaces (for the first time) for political participation of women and marginalised caste groups.

Panchayats in India are still a subject of 'state lists'. So, under the 73rd Constitution Amendment, it has been left to the states to endow the panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government. However, the Amendment casts a duty upon the states that the devolution of powers and responsibilities to panchayats may contain provisions in respect to: (a) the preparation of plans for economic development and social justice, (b) the implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the matters listed in the Eleventh Schedule of the Constitution. The 73rd Amendment aroused a great deal of expectation that hereafter, the panchayats would really be entrusted with substantial functions at the ground level and that they would come back to life once more. No doubt, there is progress, but not up to a level desired by the Act. Every other day, there is pressure exerted by Ministers and Members of Legislative Assembly (MLAs) to take away the powers and functions of the panchayats. Unless the functions of PRIs are clearly defined, problems will continue to persist. State governments, in the first place, perceived panchayats as parallel institutions created to erode their authority. Therefore,
Distortion started from the very beginning, with the making of the new Panchayat Act itself. In fact, very few states have devolved specific functions to panchayats. This is notwithstanding the fact that they amended their Acts in conformity with the provisions of the 73rd Amendment. An examination of the Panchayati Raj Acts of different states, which have been enacted after the 73rd Constitution Amendment Act, 1992, reveals that there is no uniformity in assigning the functions to different levels of panchayats. Genuine devolution of finances, functions and functionaries has still not taken place. Union and state governments have still to develop a mentality to share powers with local governments. The higher governments and their organs are using their genius and ingenuity to constantly invent ways to frustrate rather than further the Constitution. However, there are many notable exceptions inside these governments and too many outside the governments (Civil Society organisations (CSOs)) who represent deep and positive commitments towards local self-governance in India (as well as in other countries of the region).

3.2. Right to Information in South Asia

Governments in South Asia have started to respond to the inside and outside pressures, and take on board the global recognition of the right to information. While Right to Information is the part of Constitution of Nepal, no such right is pronounced in the laws Bangladeshi land. The Freedom of Information Act, 2000 is now before the Indian Parliament and several Indian states have already adopted freedom of information laws or orders. In Nepal there has been some official acceptance of the need for legislation and it is hoped that developments currently underway will lead to the adoption of freedom of information laws.

In 1982, the Supreme Court of India ruled that access to government information was an essential part of the fundamental right to freedom of speech and expression in Article 19 of the Constitution: The concept of an open Government is the direct emanation from the right to know which seems implicit in the right of free speech and expression guaranteed under Article 19(1) (a). Therefore, disclosures of information in regard to the functioning of Government must be the rule, and secrecy an exception justified only where the strictest requirement of public interest so demands.

Several Indian states (Goa, Tamil Nadu, Madhya Pradesh, Rajasthan, Delhi, Maharashtra and Uttar Pradesh) have passed either right to information laws or executive orders to implement this right. A comparative overview of these state laws shows that the various models adopted have different kinds of pros and cons. Some of the state laws have a long list of exceptions and few have adequate provisions for imposing liability for not providing information. Moreover, as pointed out by a legal expert, 'the somewhat sparse public debate of the peoples' right to know began to concentrate on the need for legislation rather than providing and making information available to the public immediately. Somehow, the basic strategy that seems to have evolved in public discourse became 'legislation first, information later.' India presents a mixed picture with much secrecy legislation still in place restricting the free flow of information, but at the same time some significant developments at state level in terms of promoting freedom of information laws, as well as draft national legislation.
The Right to Information appears in the Nepali Constitution for the first time under Article 16. It is a novel provision in the constitutions of a South Asian country. A democratic system is an open system. Citizens should not be kept in the dark regarding official activities of public importance. A citizen has a right to know whether the country is properly governed or not or whether government is proceeding in accordance with the law and recognised ethical values and social norms. The Supreme Court, in different cases, has ruled that every citizen had the right to demand and receive information. “Openness is the main characteristic of democratic society and that a regular flow of information to the people is necessary in order to enable them to undertake regular supervision of the government and to watch whether it is clean and heading in the right direction”.

Nepali Press has been able to strengthen itself. Civic forums and groups have become active to criticise and hold the government officials accountable to the people. However, Civil Society in Nepal like their counterparts in Bangladesh is still demanding actual manifestation of this right.

4. Local governance

4.1. Local governance systems and structures

4.1.1. Nepal

The Local Self-Governance Acts, 1999 recognize decentralization as the major policy subject to be coordinated and steered by the head of the government himself. A Decentralization Monitoring Committee (High level over-sight committee) headed by the Prime Minister is provided. Leaders of the opposition, parliamentarians, representatives of stakeholders and experts and bureaucrats are members in the committee. The Act provides for the creation of Local Government Financial commission to recommend further financial authority to Local Governments. The Act introduces the concept of revenue sharing between the centre and the local bodies. Moreover, it guarantees royalty from the development projects implemented within the area of local units. The Act separates power between the deliberative and executive organ of local bodies. Local Government Associations are legally recognised as stakeholders in decentralization. The Act creates local service commission to provide separate cadres and personnel for local government units. The Act requires political parties and law enforcers (Police) to help local bodies to co-ordinate and carry out their functions. The Act reserves twenty percent seats to women and disadvantaged groups at the local government. The Act mandates the existence of the association of local governments to articulate, represent and defend their respective interests.

Local Self-Governance Act, 1999 defines participation, enhancing partnership of local government with civil society as the rationale of decentralization in Nepal. Sustainable development, accountability and transparency are mentioned, among others, the most important objectives of decentralization and Local Self-Governance in Nepal. The local government system in Nepal as divided into two tiers, the bottom tier consists of village and municipal bodies. The next intermediate tier is district level. The country is divided into seventy five districts as a result there are seventy five DDCs at the district level which are split into a number of Areas (Ilakas) for election purposes. At the lower level, 58 municipalities and 3913 VDCs exist. Each Municipality and VDC is subdivided into a...
minimum of 9 to a maximum of 36 wards based on the size of the population. However, subdivision (wards) of VDCs is fixed at nine irrespective of the demographic size

4.1.2. Bangladesh

Immediately after Independence in 1971, a significant change in the local government system was brought about in 1976 through the Local Government Ordinance. This ordinance provided for a Union Parishad for a union, a Thana Parishad for a Thana and a Zila Parishad for a district. The Union Parishad comprised one elected Chairman and 9 elected members, two nominated women members and two peasant representative members. The Thana Parishad consisted of the Sub-Divisional Officer being the ex-officio Chairman, the Circle Officer and a Union Parishad Chairman. The Zila (District) Parishad was to consist of elected members, official members and women members whose numbers were determined by the government. Its term of office was five years. However, no elections were held and government officials ran the Parishad. In 1980, as a result of an amendment of the Local Government Ordinance, the Swanirvar Gram Sarker (self-reliant village government) was introduced at the village level, but was abolished by a Martial Law Order in July 1982. A major change was initiated in the local government system through the introduction of the Local Government (Upazila Parishad and Upazila Administration Reorganization) Ordinance in 1982. This Ordinance was followed by the Local Government (Union Parishad) Ordinance in 1983, the Local Government (Zila Parishad) Act in 1988 and the three Hill Districts Acts and Palli Act in 1989. The Upazila Parishad Ordinance (1982) was particularly significant as this was supposed to help implementation of the decentralization programme of the government. In the Upazila System (as it came to be known), the (directly) elected Chairman would have the principal authority in running the affairs of the Upazila, his tenure being five years. The Upazila Nirbahi Officer would be subservient to the Chairman. After nine years of reasonably effective implementation, the Government of the Bangladesh Nationalist Party, who came to power through election, abolished the Upazila system in 1991. During its five-year tenure, the government could not provide an alternative democratic form of local government. When after another election in 1996 the Bangladesh Awami League came to power, they constituted a Local Government Commission and came up with a Report on Local Government Institutions Strengthening in May 1997. The Commission has recommended a four-tier local government structure including Gram/Palli (Village) Parishad, Union Parishad, Thana/Upazila Parishad and Zila (District Parishad. All these tiers are concerned with rural/regional administration, while urban local governments remain outside the Commission’s purview. The two major tiers of urban local government’s, Pourashava (for smaller Municipalities) and City Corporation (for four of the largest cities) are in order.

The rural/regional local government as proposed by the latest commission on local government would have four tiers: Gram (Village) Parishad, (40,000); Union Parishads (4403); Thana/Upazila Parishads (460); Zila (District) Parishads (64). Urban areas have a separate set of local governments. The Bangladesh Census Commission recognized 522 urban areas in 1991 (with a population of about 5000 or more) but only about 138 of the larger urban areas among these have urban local governments. The four largest cities have a City Corporation status, while the rest are known as Pourashavas or Municipalities, which again are classified according to financial strength.
4.1.3. India

The recent Constitution (73rd Amendment) Act, 1992 which came into force on 24th April 1993, was meant to provide constitutional sanction to Panchayats and establish ‘democracy at grassroots level as it is at the state level or National level’. Except three north-eastern states (having tribal councils) and two urban UTs, all the states/UTs coming under the purview of this Act have amended their Panchayat Acts in conformity with the Central Act. The Gram Sabha or village assembly has been envisaged as the foundation of the Panchayati Raj system. There are three tiers of Panchayats: Gram Panchayat - at village level; Panchayat Samiti - at intermediate level; and Zilla Parishad - at district level. The states having population less than 2 million have not constituted the Panchayat at intermediate level. As a result, at present, there are about 3 million representatives of Panchayats at all levels. These members represent more than 0.25 million Gram Panchayats, about 6,000 Panchayat Samitis and over 500 Zilla Parishads. All the seats in a Panchayat at every level are filled by elections from respective territorial constituencies. Not less than one-third of the total seats for membership as well as office of chairpersons of each tier has been reserved for women. Reservation for weaker castes and tribes (SCs, STs and Backward - Dalits) has been provided at all levels in proportion to their population in the Panchayats. To supervise, direct and control the regular and smooth elections to Panchayats, a State Election Commission has been constituted in every state and UT. The Act has ensured constitution of a State Finance Commission in every state/UT, for every five years, to suggest measures to strengthen finances of Panchayati Raj Institutions (PRI). To promote bottom-up-planning, the District Planning Committee (DPC) in every district has been accorded constitutional status. An indicative list of 29 items has been given in the Eleventh Schedule of the Constitution. Panchayats are expected to play an effective role in planning and implementation of works related to these 29 items. The spirit of the Constitution visualises Panchayats as institutions of self-governance. However, giving due consideration to the federal structure of our polity, most of the financial powers and authorities to be endowed on Panchayats have been left at the discretion of concerned state legislature. Consequently, the powers and functions endowed to the PRIs vary from state to state.

The constitutionally decentralised institutions have come into being. But they can’t be a solution to one and all ills of governance. The reality is quite harsh. Rigid patriarchal structure inhibits women participation in public affairs. Moreover, majorities of the elected representatives are first timers with little or no prior knowledge of functioning of PRIs. Many of the women PRI members are illiterate and have to comply with social taboos and patriarchal values. These women members, as per rigid rules of the patriarchy, are expected to be shy and submissive resulting in weak articulation skills. It is not easy for the rural weaker section to actively participate in development process. The literacy level among SC, ST and women is quite low. The distribution of rural assets and powers is heavily skewed in India - the bottom 39 % of rural households (belonging to lower castes) own only 5 % of all assets, while the top 5 % own 46%. Also at local levels, the powers held by some individuals have traditionally always superseded the

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2 Lok Sabha, 1992: The then Minister of Rural Development, while moving the Bill to further amend the Constitution of India, Debate on Constitution (Seventy-third Amendment) Bill

3 S. S. Meenakshi Sundaram, 1994 : Decentralisation in Developing Countries, Concept Publishing Company, New Delhi
limit legitimised by social institutions. If the people and their institutions are not active, the state and its institutions, whether in centralised or decentralised form, are forced to assume leadership of the people. Under these conditions, people’s ability to exercise options in civil society interactions and within social hierarchies often becomes the requisite condition for the local government to be responsive and accountable.

4.2. Direct Participation

The Local self Governance Acts of the three countries provide spaces for direct participation of people at grassroots. But only Indian constitution has very clearly provided legal sanctity to direct participation of people through the Gram Sabha. Article 243 of the Constitution of India defines Gram Sabha as “a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level”. The seventy third amendment to the constitution of India has made it compulsory to have a Gram Sabha, an institution of direct democracy, at the root of the institutional structure of Panchayati Raj. Gram Sabha is the only forum which provides opportunities to all the adult villagers to directly participate and suggest what can and need be done for their own village and how. However, the constitution does not stipulate any details regarding the structure, powers, and functions of this institution.

As per varying statutory provisions across the states, there are considerable variations in matters like the structure, jurisdiction, and frequency of meetings, powers and functions of Gram Sabhas in different states. While the jurisdiction of a Gram Sabha extends to the entire area of the concerned Gram Panchayat in some states (Andhra Pradesh, Haryana, Himachal Pradesh, Madhya Pradesh, Rajasthan and Uttar Pradesh, etc.), it is confined to a ward or a single rural habitation in some other states (Kerala, Orissa, West Bengal, etc.). Some states stipulate 5 percent to one third of total electorate as the quorum required for the Gram Sabha meetings, in other states no quorum is prescribed for Gram Sabha. It is the (mandatory) responsibility of concerned Gram Panchayats that the Gram Sabha meetings be held at least twice a year with provision for calling special or additional meetings whenever necessary. The PRI members should inform (through posters, notices, beating drums or visiting houses) the date, time and place of Gram Sabha meeting to community members well in advance. The chairperson of Gram Panchayat chairs the Gram Sabha meeting.

Almost all the states have delineated functions of Gram Sabha in their State PR Act. The Gram Sabha shall consider annual accounts, proposals for fresh taxation, etc. It will consider plan for development programmes. The Gram Sabha shall render assistance in the implementation of development schemes pertaining to the village. It identifies the beneficiaries for the implementation of development schemes pertaining to village. The voluntary labour and contributions in kind and cash or both for community welfare programmes is to be mobilised by the Gram Sabha. In states like Maharashtra and Bihar, the Gram Sabha plays an important role in vigilance committees.
Gram Sabha in different states: an Overview

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<th>Status - Overview</th>
<th>Concerns</th>
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<tbody>
<tr>
<td><strong>Population and Area</strong></td>
<td>1. Entire area of Gram Panchayat</td>
</tr>
<tr>
<td>2. One revenue village</td>
<td>2. Many times a voter has to spend more than an hour to reach to the venue of the Gram Sabha.</td>
</tr>
<tr>
<td>3. Voters in a single ward or one electoral constituency of Gram Panchayat</td>
<td>4. Spread over few hundred meters to many kilometres</td>
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<tr>
<td>4. Spread over few hundred meters to many kilometres</td>
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| Meetings- Frequency and Schedule | 1. At least two meetings in a year | 1. Gram Sabha members are often not informed about forthcoming Gram Sabha meeting. |
| 2. Gram Panchayat should communicate date, venue and time of meetings to Gram Sabha members. | 2. Apathy among villagers about the outcome of Gram Sabha meeting. |
| 3. Meeting dates fixed in advance, e.g. 15th Aug., 2nd Oct., 26th Jan., 13th April, etc. | 3. Fixed date, timing and venue should be chosen considering harvesting season, availability of villagers in the village and caste dynamics. |
| | 4. Simultaneous Gram Sabha in whole state on a particular date discourages full participation of government officials. Many times the meetings of Gram Sabha turn out to be mere formality ones. |

| Participation, Power and Function | 1. Quorum varies from 5% of voters to one third of voters to no quorum at all | 1. Gram Sabha has not been enabled to consider subjects of general interest - all levels of developmental work, line departments. |
| 2. No provision to ensure/enhance participation of women and dalits. | 2. No follow-up of Gram Sabha decisions |
| 3. Status of specifically appointed (in Gram Sabha meeting) government official ambiguous | 3. A process of consultation with concerned Gram Sabhas should be initiated in case of all developmental programmes across sectors like education, health, agriculture, MCH, nutrition, etc. |
| 4. Decision of Gram Sabha is not binding to Gram Panchayat | 4. Gram Sabha decisions should be binding. |
| 5. Except few states Gram Sabha does not have any role in relation to line agencies of government | |

In many states, the dates for Gram Sabha meetings have been fixed in advance - 26th January, 13th April, 2nd October, etc. Fixation of dates in advance helps Gram Sabha members and other concerned persons (officials) in remembering these dates. For meaningful deliberations in Gram Sabha, it is essential that these officials be present in Gram Sabha meetings to assist people with relevant information about government’s (development) programmes, etc. Also this process ensures accountability of officials towards Gram Sabha.
The agenda placed before the Gram Sabhas in most states is limited to selection of beneficiaries for various poverty alleviation programmes or decisions on various works like roads or drains proposed to be taken up by Gram Panchayat. Therefore, in such Gram Sabha meetings attendance is limited to potential beneficiaries of poverty alleviation programmes or persons interested in taking various works on contract. To complete formalities, (bureaucracy sponsored) Gram Sabha meetings are often held to prepare beneficiary lists: Below Poverty Line list, Indira Awas Yojana, etc. Naturally participation in such Gram Sabhas can’t be treated as genuine participation. Moreover, Gram Sabha being only a recommending body (or a debating forum for the people) the views expressed and decisions taken in Gram Sabha looses their importance. People’s participation in Gram Sabha will certainly be enhanced if the decisions of Gram Sabhas are made binding to Gram Panchayat and concerned line department and if agenda of Gram Sabha covers a range of subjects (village school. Primary Health Centres, water supply, sanitation, Public Distribution System, etc.) that affect people’s day to day affairs.

Most of the states have so far focused their attention on defining powers and functions of Gram Panchayats and other tiers of PRIs. The states like Madhya Pradesh, Rajasthan, Maharashtra, Karnataka Tamil Nadu and Kerala have made earnest attempts to place the institution of Gram Sabha on firm footing. The village development plan prepared by Gram Sabha members are binding to all agencies in Kerala, M.P., Maharashtra, Rajasthan and Tamil Nadu. Kerala government has assigned planning function to Gram Sabha in the states for preparation of people’s plan. Gram Sabha has control over social sector institutions and functionaries and work completion certificate is issued on the basis of social audit by it. Gram Sabhas were conveyed for the identification of the felt needs of the people and to identify gaps in local development. Involvement of Gram Sabha in People’s Campaign in Kerala generated awareness among the people about decentralisation process and role of local bodies in development. In Madhya Pradesh, Gram Swaraj Act has virtually transferred all powers to Gram Sabha regarding local development. However, the empowerment of the Gram Sabha involves both a process of political awakening and a measure of administrative organisation. It can not be achieved merely by enacting legislation and issuing guidelines. A sustained movement should be organised to educate the people and to train the elected representatives and officials to internalise the potential of the Gram Sabha as an institution of participatory democracy. It requires political will and economic support.

4.3. Indirect Participation

Election to local bodies is a common feature of Local self Government Acts in the region. Each village development committee in Nepal has a village council and executive committee called the village Development committee. The council is deliberative and policy making and it consist of VDC chairperson, Deputy chairperson, ward-committee members representing women, disadvantaged groups, minority and Dalits Hence, council has 53 members in total. The council approves policies, programs and budget of VDC.

4 Ministry of Rural Development, GOI, 1999: Empowering the Gram Sabha - Report of the Subgroup of Taskforce on Panchayati Raj, Minister of Rural development, Govt. Of India, October 1999
Structure of Local Self Government in Nepal

VDC has thirteen members as its executive board. They are VDC chairmen, vice chairmen, nine ward chairman and two nominated members from among the members of the council. One such nominated member should be women. The VDC has its own secretariat and administrative setup. The secretary of the VDC is a government employee of Ministry of Local Development (MLD).

There are provision for committee system in both VDC and village council. The Council can appoint short term five sectoral committees - Infrastructure development, agriculture, forest and environment committee, Population as and Social Committee, Organization and Administration Committee and Water Resource and Land Committee as per need to assist in development efforts of the village. In addition, there is also provision of an Audit Committee. This committee is authorized to assess the resources mobilization performance of VDC, see concordance and synergy between VDC programs and budget allocation, financial irregularities and revenue collection. This committee can invite local intellectuals and businessmen to participate if required.

In Bangladesh, Union Parishad is the only functional tier for which election has been held. A typical Union Parishad is composed of 10 to 12 villages with an average population of 20,000. In 1997, women for the first time were allowed by legal enactment to be directly elected to the Union Parishad from three reserved seats. Election to about 4,500 Union Parishads were held on the basis of universal adult franchise and in all about 14,000 women were elected to Union Parishads.

In India, for example Uttar Pradesh, Gram Sabha elects members of Gram Panchayat, Chairperson of Gram Panchayat, member of block panchayat and the member of
district panchayat. Chairpersons of block and district panchayats are not directly elected by the people. They are elected by elected members of respective tiers.

Indian Constitution, to ensure electoral participation of marginalised, has reserved seats at all levels of local government for women and dalits. The affirmative action through the 73rd Amendment has provided an opportunity for women and dalits to come out of shadow of traditional rural lords. At a simplistic level the 73rd Amendment assured women and dalits space within political processes at local level with the reservation of seats (one-third to women and territorial population size based reservation to SCs and STs). About one million women representatives and about 0.6 million SC/ST members have been elected to different level of PRIs.

Though the reservations were perceived as a form of redistributive justice, in practice most of the women face constraints on account of traditional power structures and their (women’s) lack of access to knowledge. When the 73rd amendment came into being, a lot of men saw their rule ending within Panchayats and therefore pressurised their wives or other female members of their family into standing for elections. When she got elected, she was expected to act like a puppet. She has to face many structural and institutional constraints. The lack of adequate information about their roles and responsibilities inhibits women Panchayat leaders to function effectively. In almost all states more than 90 % of the Panchayat Secretaries are males. Local government officials at the block level feel uncomfortable in dealing with the women members. Such a feeling is partly due to gender bias and partly due to lack of experiences in public roles for women. In case of SC/ST members the prejudices of majority of officials is discernible. Used to interaction based on well defined caste hierarchy, these officials had to reorient themselves in dealing with women and SC/ST panches and Sarpanches.

To provide real substance to grassroots governance, CSOs like PRIA has put greater emphasis on ensuring participation of women and Dalits in the Gram Sabha and Gram Panchayat meetings. Special programmes for promoting awareness generation, attitudinal changes and skill developments are conducted for women and Dalits. Experiences teach us that developing individual leadership is as important as ensuring participation of groups in Gram Sabha/Gram Panchayat meetings. Their leadership should be developed by building individual capacities.

Legislation is a necessary but not sufficient component of process of decentralisation. Just by providing reserved seats to marginalised, it can not be ensured that they will freely and frankly participate in the election process. Moreover, caste and class dynamics in the region are not so favourable for marginalised sections. So, it requires that marginalised people in particular and people in general should be encouraged by the Civil Society to participate in the election process. Voters should be educated and made aware (e.g. Pre Election Voters Awareness campaign (PEVAC), undertaken by PRIA and Partners) about their roles and responsibilities for free and fair elections. Civil Society and the Governments can collaborate for mass public education.
4.3.1. Participation of indigenous people

Extension of Panchayats to Scheduled Areas: Implementation of Central Act 40 of 1996:
The 73rd Amendment when passed in 1992 excluded Scheduled Areas and Tribal Areas from its purview. However, Article 243 M(4)(b) provided that Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and Tribal Areas subject to such exceptions and modifications as may be specified in such law. The states having Scheduled Areas were thus bestowed with no authority to extend to the Scheduled Areas, the Panchayat conformity Act passed by them following the 73rd Amendment. They were obliged to take cognisance of Article 243 M. But most states having Scheduled Areas, violated Article 243M and enacted Panchayat laws for the entire state including the Scheduled Areas contrary to law. Neither the state legislature nor the executive paid heed to 243 M.

Taking cognisance of the growing unrest among the tribals in different parts of the country and the judgement of the High Courts, the Government of India in the Ministry of Rural Areas and Employment constituted a Committee of Members of Parliament and Experts (Chairman: Shri D.S. Bhuria, M.P.) on June 10, 1994.

The overall emphasis of the report of the Bhuria Committee was that any legislation on the Panchayats for the tribal areas should be based on basic premises of participative democracy and that it should be in consonance with the customary laws, social practices and traditional management of community resources. The Committee visualised that the institutions at the grass root and district levels should have functional autonomy, power relating to management of natural resources be vested in the Gram Sabha and the role of lower level government functionaries be minimal and confined to law and order in Scheduled Areas. The proposals recommended by the Bhuria Committee paved the way for passage of a comprehensive legislation extending provisions of the Constitution relating to the Panchayats in the Scheduled Areas.

The Act called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (Central Act No. 40) was made applicable to the states which have Scheduled V areas. These states are Andhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Madhya Pradesh, Chattisgarh, Maharashtra, Orissa and Rajasthan. The concerned state governments were allowed a period of one year to amend such provisions of their existing Panchayat Acts which contravened the provisions of the Central Act. This Act received the assent of the President on 24th December 1996.

The Central Act No. 40 also made some specific and significant exceptions and modifications, such as:

Exceptions and Modifications to Part IX of the Constitution – Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:

It is curious what advice the law departments of the States furnished to their government, and later the advice given by the Advocate Generals when the Acts were challenged in the High Courts.
1. state legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;

2. every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their culture identity, community resources and the customary mode of dispute resolution:

3. every Gram Sabha shall:

   (a) approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;

   (b) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause (c).

   (c) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before resettling or rehabilitating persons affected by such projects in the Scheduled Areas shall be coordinated at the State level;

   (d) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;

   (e) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;

   (f) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;

   (g) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specially with –

      (i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;

      (ii) the ownership of minor forest produce’

      (iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;

      (iv) the power to manage village markets by whatever name called;

      (v) the power to exercise control over money lending to the Scheduled Tribes;
(vi) the power to exercise control over institutions and functionaries in all social sectors;

(vii) the power to control over local plans and resources for such plans including tribal sub-plans;

(h) the State legislations that may endow panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that panchayats at the higher level do not assume the powers and authority of any panchayats at the lower level or the Gram Sabha.

(i) The State Legislature shall endeavour to maintain the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district level in the Scheduled Areas.

4.4. Joint action of civil society and local government

Local Government structure provides spaces for civil society to work with institutions of local self government for socio-economic development of the locality. In Nepal legal provisions have been made for Civil Society and Local Government collaborations. But despite the absence of such provisions in acts of India and Bangladesh, Civil Society is using its fundamental rights and platforms like Gram Sabha to collaborate.

4.4.1. Village planning in India

As per Article 243-G, Panchayats in India are constitutionally mandated to prepare plans for economic development and social justice. Thus every Panchayat has to prepare a plan taking into account local needs and local conditions. Participatory micro-planning is^5 (a) a way to turn (centralised-top down) planning on its head, (b) a way to mobilise resources, (c) a basis for negotiating with block/district government, and (d) a framework for accountability (of Gram Panchayat to Gram Sabha). The whole process develops a framework of agreement within the Gram Sabha about development priorities. Villagers sit together to prioritise the community problems, prepare a list of resources available and ask the Gram Panchayat to implement the plan. Since the Plan is implemented year around, it provides a more rigorous framework for the Panchayat to be accountable to Gram Sabha. A plan allows villagers to scrutinise and judge the performance of their Gram Panchayat.

A typical micro-planning process involves many stages and in majority of cases, requires facilitating support from Civil Society. Informal meetings are organised at ward levels to orient people. (In a Gram Sabha there are a number of wards- each ward elects one Gram Panchayat member). In these meetings the community analyses the village situation. Often individuals and groups come up with their specific individual needs and problems. Ensuring full participation of all the (caste, class and gender) groups, and synthesising specific needs, an exhaustive list of community problems/needs is prepared. The ward/village level needs are prioritised and synthesised to prepare Gram Panchayat level plan. Then these needs are prioritised

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^5 Rajesh Tandon, 1998 : Opening remarks by Dr. Rajesh Tandon - National Workshop on experience sharing on micro-planning at PRIA
and a detailed village plan is prepared. On the fixed date (usually fixed in advance by
government), the Gram Sabha meets under the chair of Gram Panchayat chairperson.
The plan is made known to every one in the Gram Sabha meeting. The Gram Sabha
approves the village plan. It is now the responsibility of the Gram Panchayat to mobilise
resources from village (with the help of Gram Sabha) and other sources, including funds
from Union and State governments, to implement this plan. It has been found that from
preparation to implementation of the plan, the Gram Sabha keeps an eye over the Gram
Panchayat. Even an ordinary villager feels a part of the village development plan,
resulting in the direct participation of the community in village government. The whole
process of micro-planning, it has been seen, helps strengthening of Gram Sabha by
enhancing people’s participation in Gram Sabha meetings.

Many times these Gram Panchayats feel frustrated because of their inability to
implement their participatory (village) micro-plans. Their own village resources - both
human and economic are beyond their control. Control of development resources
remains with local administration and officials, who don’t wish to share power with PRIs.
The government and line departments are indifferent to the Gram Panchayats’
demands. The frustration results from devising plans that can not be implemented
because of scarcity or lack (or misappropriation) of resources. Except a few states like
Kerala and Himachal Pradesh, there is no discernible initiative by State governments to
promote participatory micro-planning. Where as the ‘rich’ (Donors created) Local groups
like Village Education Committee (of the District Primary Education Programme), Water
Users’ associations, etc. are not organically linked to Gram Panchayats but are working
parallel to undermine the PRIs.

Presently, the complete micro-plans are mostly prepared in those Panchayats where
NGOs are involved. The whole process involves a great deal of effort and time. Micro-
planning should become people’s agenda. The Gram Sabha /Gram Panchayats and
line departments need to be sensitised on the importance of micro-planning processes.
The whole process of village level planning also needs to be demystified. So, what is
required is a packaging of micro-plans, which can be replicated by non-experts. The
planning and implementation of village plan should be integrated. The planning process
must discourage over dependence on funds from outside. The Gram Sabha should
come forward in mobilising its own (natural, physical and human) resources. However,
Gram Panchayats need support from above as well. The government supports in this
direction are very crucial.

4.4.2. Peoples’ Participation in Alternative Dispute Resolution (ADR) in Nepal

Community participation in dispute settlement has been in vogue in Nepal since ancient
time. Participation of people in dispute settlement has been formally enshrined in the
Local Self Governance Act, 1999. Justice has been indeed becoming costlier in Nepal.
The formal justice dispensing machinery has been rendered inaccessible to the poor
and the marginalized. The process is professionalized and made more cumbersome.
The Act, therefore, gives justice dispensing roles and functions to the community under
the ambit of subsidiary governance. The Act emphasis on harmonious and non-
adversarial approach to dispute resolution. The various forms of alternative dispute
resolution-negotiation, facilitation, mediation and arbitration have been well combined in
the law. It is to be noted that management of local conflicts and disputes has been
indeed integral to local governance for long.
### Civic Participation in Dispute Resolution

- A mediator should be a person belonging to the locality concerned
- A mediator should be an independent and impartial person
- A mediator should be a person of integrity, impartiality and intelligence of mind

Section 35 and 102 of the Act provides recognition to local elders, social workers and credible people as processors and resolves of local disputes by bringing them together in the mediation board formed by VDCs and Municipalities. For the purpose of dispute resolving –VDCs and Municipalities have been empowered to prepare a panel of medi-arbitrators in which locally trusted credible and impartial people have to be included.

### 5. Strengthening accountability

The elected representatives of local self-governments are close to people. This closeness is in the form of physical proximity as well as metal wavelengths. Because of this proximity they are continuously being watched by the people for their performances as elected representatives and are being asked about their accountability to the people.

The process of no-confidence motion, when used in its true spirit (in India, there are example of misuse of these processes by powerful caste groups against women and dalits), ensures accountability of elected leadership towards the elected body. The elected representatives by majority votes can frame charges against an ordinary member or the chairperson in the form of a no-confidence motion. When passed in the Panchayat, the concerned member/chair has to leave his/her position.

State conformity acts in different states of India have empowered the Gram sabha to undertake social audit of Panchayat's performance. In a Gram sabha meeting, the villagers can 'legally' ask the Panchayats to furnish all the details regarding their functions and finances. Each activity and related financial aspects are discussed in details. Since most of the villagers have seen the actual activities and their different components (and also know about local prices and quality of products), the process of social audit, which is often facilitated by CSOs, leads to transparency and accountability in the system of local self governance. Even Bangladesh and Nepal, using right to freedom of speech and right to information respectively, the CSOs have been able to initiate such processes at local levels.

Madhya Pradesh is one of pioneer state in India to bring out legislation in the form of Right to recall. This legislation is especially for Local self Governments. Gram Sabha can initiate a process to recall its elected representative on the basis of charges of non-performance or irresponsible behaviour. However, to provide electoral stability to system, it has been fixed that right to recall motion against the elected representative can be brought only after two years of his/her lection to Panchayat.

Beside these legislative provisions, Civil Society through its public hearings has promoted transparency and accountability. Committee system (of Local Bodies) in Bangladesh, Nepal and India has also helped to widen the participation of people in...
direct governance. It has promoted better accountability and has helped in checking the behaviour of institution and its leadership. For example, guardians of ‘actual students’ in Nepal have been made members of primary school management committee to ensure accountability of the teachers and education department.

6. Lessons and conclusions

Legislations are necessary but not sufficient in themselves. In South Asia, where traditional social structures (caste, class and patriarchy) are prominent, conflict between social and legal orders is obvious. With the passage of time, and also with the effect of global restructuring, constitutional provisions of democratic decentralisation are gaining strength over tradition autocratic structures. It is not uncommon to see that caste like structures are 'gradually adjusting' to reservation of seats for dalits. But field is not open. There are inherent risks. Traditional powers are trying their best to manipulate the whole process with direct or indirect supports from vested interests. Proxy women and dalit panches are many. Time is too short to judge the overall impact of the decentralisation but trends are emerging clearly.

Because of varying socio-political environment and civil society engagement in different Countries and regions, there is an uneven development in Local Government Institutions across the States and Countries. It necessitates a judicious and synergistic mix of interventions from government and CSOs. Attempts should be made to bring local self-governance on agenda for all institutions and an issue of concern for all citizens. Sustained public education is needed to build a commitment towards local self-governance. People should be made responsible to monitor functioning of the Institutions. Using new information technology as well as conventional means, the authentic, timely and easily accessible information about institutions of local self governance should be made available to concerned citizens on sustainable basis.

Special emphasis is needed on orientation of elected women and dalit representatives. The leadership capacity of women and dalit leaders should be strengthened by providing them training and exposures. If need be, the family and community members of the women representatives be involved in these capacity building efforts. They should be empowered to act as responsible, accountable and effective leaders.

Panchayats need more money to fulfil their constitutional responsibilities. At present the fiscal devolution ratios are against the institutions of local government. The PRIs should be provided with more functional powers to generate their own revenue. They should have control over their own natural, physical and human resources. The grants from Central and State governments should be untied in nature. These grants should reach to PRIs timely and smoothly.

Role of political parties and their political will to strengthen local self governance is not clear in India and Bangladesh. In some states of India the exceptions are there. But in majority of states there is conflict between state and local political powers. State bureaucracy is not accountable to local governments.

Local Self Governance is a contested terrain where a number of stakeholders are players. They are not only local or national. International players are also influencing the system of governance at local levels (donor created parallel bodies or country
assistance conditionalities). So, naturally multi-stakeholder approach is required by Civil Society to intervene to bridge the gap between Legal and Social Orders. Working with like minded is necessary but bringing to fold the opponents is also must.

7. Bibliography

