
TITLE OF THE CASE STUDY

PILOTING PEER LED 'AUDIT OF GOVERNANCE BY THE LOCAL GOVERNMENT' AT THE VILLAGE LEVEL IN INDIA (Kutch, Gujarat)

Country: INDIA



The Panchayat Associations of Anjar, Paccham and Rapar, discussing the pilot on Governance Audit and deciding on its future course of action in Bhuj, on 8th Sept, 2012.

Key Informants:

Members of the Panchayat associations of Anjar (main), Paccham and Rapar (these are Blocks within Kutch District in Gujarat); Kutch Nav Nirman Abhiyan team and external commentators.

Place and Date: Bhuj, India, 14th Sept, 2012

Authors: Zulfiquar Haider, Sushma Iyenger, and Abhiyan Team, with support from LogIn, SDC.



Discussion on the Audit in Anjar association, Kutch.

Executive Summary

The uniqueness of the Governance Audit pilot lies in its 'purpose', ownership and the positioning of the idea, all of which could make this idea into a powerful mechanism for strengthening local governance. One major learning from the case is about the intrinsic value of the 'process' that were adapted to ensure that the tool was 'relevant' to the needs of primary client – the Panchayat and their associations-, was owned by Panchayats and their association held the responsibility of administering and taking it forward.

Work on this pilot idea started around January 2012 and so is less than a year old. Usual governance tools tend to measure governance at higher level of governments, the parameters are too generic and are usually top-down, addressing concerns and needs of donors and higher tier of governments and not the local governments. In India, the tool of 'Social Audit' has been used to assess if the Gram Panchayats have been effective in implementing certain programmes of the government; have been sensitive to the needs of the poor, women and marginalized and ensured that the benefits reached the intended beneficiaries. While such an audit is much needed, it lands up placing the LG primarily in an agency function and does not give

credence to the larger governance role that Panchayats are supposed to play. This pilot of aimed at looking at 'governance' by the local government, and removes aspects of governance at local level that are not the responsibility of Panchayats. Such a tool does not exist as of now anywhere.

The parameters have been drawn from the Constitution of India and the 73rd amendment act, which details out the role and responsibility of Gram Panchayats as Local governance institutions. The province specific panchayat act¹ and the traditional expectations of governance by citizens from their Panchayats have also been incorporated.

As of now GA has been done in three Panchayats, and has been seen as adding value in raising awareness of citizens as well as Elected Representatives in understanding the role and responsibility of Panchayats as mandated by the law of the land in governance. The panchayat members find the idea of measuring and finding scores against specific parameters very useful; "tells us where we are, on what parameter and how we compare with others". They felt this will also lead to healthy competition amongst them, and suggested that there needs to be some incentive structure associated with the process, with rewards given to high performing Panchayats. The association of Panchayats have also determined to take the process forward to three 'taluka'(sub-district units).

The tool has been able to capture most of the relevant governance aspects of Local Governments in India. The broad framework can easily be tweaked to adapt it for other provinces in the country. The overall framework of thinking about 'governance audit' the process of developing the parameters and the methodology would be very relevant to many countries where democratic decentralization has been instituted.

1. Context and Power Analysis

The 73rd and 74th Constitutional Amendment Bills passed in 1993 introduced new Parts, Part IX (titled 'The *Panchayats*') and Part IX A (titled 'The Municipalities') in the Constitution of India adding Articles 243 to 243 ZG. These are recognized as a landmark development in the process of democratic decentralization in India. They place the responsibility for taking decisions regarding activities at the grassroots level which affect people directly with the representatives of the people themselves, ensure the permanence of local self-governments by providing for regular elections and envisage a core role for local self-government institutions in planning for economic development and social justice. However, with local government being a State subject (Provinces), the implementation of these provisions largely depends on the intent and strength of the State *Panchayati Raj* enactment and a key challenge is ensuring State laws that are consistent with the spirit of the 73rd and 74th Constitutional Amendments. This is where there is significant variation across India, with Kerala, West Bengal, Andhra Pradesh, Karnataka and Madhya Pradesh considered as the leading states in terms of Devolution.

Devolution has been characterised as being made up of three factors – political legitimacy, decentralisation of authority and decentralisation of resources (Donahue, 1997). Despite the 73rd amendment and the detailed provisions for devolution of powers and funds to the PRIs, the situation of devolution in reality is very poor or sketchy in most parts of India, and seems to be rooted in the the conflict between a centralised system (which is how India's governance system was instituted at Independence in 1947) and a new local government system. Political legitimacy of the LGs would need to come from grassroots mobilization, which has not been the case (with the exception of Kerala, West Bengal), and this would have been necessary take advantage of the CAA to pressurise the state governments to devolve enough authority and funds to the Panchayats. The Indian federal fiscal system

¹ Since Panchayats are a provincial subject in India.

is skewed heavily in favour of the Union Government² and as a result the State Governments are starved of funds; they in turn are reluctant to give away their meagre own resources to the Panchayats. Moreover, the bureaucracy is reluctant to come under the administrative control of the PRIs as it resents the perceived (and real) loss of power. The old centralized planning, the top down determination of what the masses need and what is best for the country continues, and resents and thwarts even the constitution mandate of bottom-up planning and implementation.

The political power of the States vis-a-vis the Union Government is much greater than that of the PRIs vis-a-vis the State Governments, hence the State Governments have consistently ignored the directives of the Union Government to implement the Constitutional provisions with regard to Panchayati Raj without facing much opposition from the PRIs and their elected representatives.

On top of this, International donor (especially the world Bank, Asian Development Bank and British-DFID) and central government sponsored schemes tend to create parallel local governance institutions like forest management committees, various user groups, water management committees etc, and give these the responsibility of planning, implementation and control over resources (channeled directly to them), bypassing the PRIs. NGOs too have been playing along similar lines (since mostly donor funded); most are very vary of working with elected representatives, probably more comfortable with 'beneficiaries' who tend to be passive recipients of their programmes. KNNNA, the facilitating agency for this pilot- is one of the few agencies which works directly with and for strengthening the panchayati Raj system.

Despite this, the elected members of the PRIs have been empowered over the years, with Union level concerns over effectiveness of service delivery, and have been given a key role in most of the large Centrally Sponsored Schemes (CSS), especially the flagship rural employment guarantee scheme (MGNREGS, which has ~55,000 Crore INR budget in 2011). This has helped in increasing the political power of the PRIs as over the years; political parties now vie with each other in fielding their own candidates at the LG elections.

It has been seen that LGs with substantial own resources have proven to be more influential in their bargaining power with higher tiers of government and are likely to have greater accountability to citizens as well (paying citizens demand). But most LGs do not levy much tax's (despite legal provisions). With the exception of Haryana and Punjab, the other states have less than 5% of their funds from own revenues (SOPR 2008).

In most States there were legislative and executive orders for devolution of functions, there was no accompanying devolution of functionaries and funds thus rendering the orders ineffective³. As a result onus if left on GPs and they are often blamed for lack of public service delivery (by the citizens as well as bureaucracy), while in reality their ability to actually do anything are very limited.

At the GP level, the ERs have largely forgone accountability to citizens, perpetuating one of the key problems in governance at the local level. Elite capture, bogey candidates (where reservation and quota systems mandate key positions to come from certain marginalized communities and from among women) continue to ensure that democratic decentralization is thwarted. The above regime of

² The Union Government has further compounded matters by tying up transfer of substantial funds in innumerable Centrally Sponsored Schemes (CSS). The contribution of the Union Government to the State Governments in 2001 was 52% as direct transfers, 30% as support to state plans and 18% in the form of CSS (Saxena, 2004). The CSS funds require State component and often tie up States own meager funds.

³ The NACER lead Devolution Index, which is calculated as a composite weighted average of the indices for four different aspects of devolution- Framework, Functions, Finances and Functionaries, national average index value for framework and functions are 51.32 and 50.55 respectively, but for finances and functionaries they are 37.67 and 34.67 respectively, which is very revealing!

‘schemes’ and transfer of functions has meant that the President of the GP, and the body has become like a contractor, executing works; chasing and bribing officials to get various sanctions and release of payments and instalments. The larger vision of Panchayats as governance institutions, working for social justice and economic development, upholding the constitution of India through securing rights, work for equity and like, is rarely to be found⁴.

The institution of Gram Sabha- the general assembly- is authorised to approve and ratify all key decisions at the GP level and is seen as fundamental for decentralized participatory democracy to function. It is often only on paper, with the quorum completed through false signatures in a register. With the entry of party politics, availability of large sums of money (various government schemes), citizens too stand divided on political lines in many cases and ‘patronage’ systems aimed at constituency building have only been incentivised. Very large sums of money are now being spent by candidates (or the parties supporting them), and there is little wonder that these investments are later recouped through corruption in management of resources, giving of contracts etc.

Indian rural society has since long carried caste based divisions, is hierarchical and it is largely patriarchal (with lesser degree in some of the indigenous community areas). Since the British Raj, land consolidation also took place, creating powerful rural elites in some parts. All this finds reflection in the structure and process of Gram Panchayats. It is not uncommon to find that the Gram Panchayat is effectively run only by the President and the government appointed secretary, with hardly any say of the other elected representatives (‘ward panch’). Where a local powerful or their family members occupy the president’s post, they do not feel answerable nor are citizens able to demand accountability (though all this is getting contested increasingly).

2. Background to the case, Rationale

Given the above context, there has been concern about whether the development works, especially social justice related schemes of the government are actually getting implemented well or not; who benefits from the various development schemes of the government, are the (often intended) poor and marginalized people benefiting or it is being captured by others; how much of what is allocated actually getting spent correctly or are the monies being siphoned off.

The Social Audit:

In India, the tool of ‘Social Audit’ has been used to assess if the Gram Panchayats have been effective in implementing certain programmes of the government; have been sensitive to the needs of the poor, women and marginalized. Since beneficiary selection and ratification is often done at the general assembly of a panchayat, it also audits that the benefits reached the intended beneficiaries. Usually this audit is done by an audit team coming from the outside, usually Government officials from higher up and CSO organization functionaries⁵. The team would first study the documents and then in a public forum of the panchayat seek answers to question related to the above mentioned concerns. These days the Social Audit tool is being used primarily for the employment guarantee scheme of the government (MNRGS), which would represent the largest source of money spent at the LG level.

While such an audit is much needed, it lands up placing the LG primarily in an agency function and does not give credence to the larger governance role that Panchayats are supposed to play. In addition, the State and the CSOs are placed one side, auditing the Gram Panchayat to see if they have implemented the scheme well.

⁴ The various efforts of KNNA have been aimed at enabling the GPs to become institutions of governance, including the initiative of Governance audit.

⁵ The Social Audit method was developed and advocated for by the CSO in India.

The MNREGS scheme entitles families seeking employment to demand and get minimum 100 days employment, usually manual labor work within a five km radius of the Panchayat. Increasingly it has also been seen as an opportunity for the Panchayat to carry out soil and moisture conservation works, water harvesting structures, farm field bunds, land levelling and other such works that can build assets with long term benefits in transforming some aspects of the rural livelihood scenario. Panchayats as a result can calculate the number of person days of work that they can carry, budget⁶ it for a year and plan such interventions, thus making MNEGS into a kind of devolved resource for their own development programme.

The social audit process, squarely places the panchayats into 'agents' implementing a deconcentrated function and MNREGS as a 'scheme' (which in a way it is, but under the right to employment act it effectively becomes a devolved function) instead of them handling devolved resources and responsibility.

It also does not allow any space for the citizen and their LG to be seen as working together as partners in local 'governance'; for under a governance lens, the dynamics and responsibility becomes much more distributed. While this is not to deny the responsibility of local 'Government', it none the less only looks at a limited part of 'local governance'.

Most parts of India the Panchayats have lack voice, lack confidence and are not networked. Where this changed, like in Rajasthan and Andhara Pradesh, they have opposed Social Audit and in Rajasthan this has led to the State having to stop doing social audit altogether. It has also resulted in adversarial relations between some of the CSO and the Panchayats.

The Need for a 'Governance Audit':

As mentioed in the 'context' ever since the 73rd and 74th amendment, and despite all the hesitation and contradictory policies, there has been a move towards more and stronger local government (LG), especially in the rural areas (especially by the central government). There is a need to measure the 'governance' by local governments (LG); be able to compare them over time and across LGs, as this will be useful in understanding the governance deficit and define what needs to be done in future to enable PRIs and other local governments to realize the constitutional mandate.

The Social Audit tool is much needed to ensure that the rights of beneficiaries is ensured and public funds are utilised correctly, but it does not measure up to the above need. As of now there are few frameworks which measure 'governance at local governments'. There have been efforts in some countries, largely at the behest of international agencies, or NGO efforts on 'assessing local governance'. These tend to focus a lot of the 'development' aspect of local government, usually emphasizing their service delivery function (like Social Audit). Most initiatives are informed by larger ideas of good governance, and have parameters that are more applicable to higher level of governments, rather than what would be equivalent to India's Gram Panchayats; these also tend to be too generic to be of much value to the LG themselves, thus proving insufficient or not very suitable (see Table 1 below).

Usual governance assessment tools are driven from the outside, owned, pushed and run by Multilaterals/ bi-laterals, other donor's or the UN (Table 1 above attests to this). They are top down and mostly seen as 'monitoring' - not in a very positive sense, but in a policing sense- tool from the above by those who administer them as well as the recipients, the local governments. They are hardly ever received well by local governments themselves, who are unlikely to feel a sense of ownership about them.

It seems that best efforts would still land up assessing 'governance at the local level', which could include governance efforts by other actors, higher level of governments etc, and not governance *by* the local government institution. This new pilot is aimed at addressing all these gaps.

⁶ They can get an additional 40% resources for the material component of any work.

Table 1: Examples of Some Governance Assessment Measures and their Indicators:

<p>World Wide Governance Indicators- World Bank:</p> <ol style="list-style-type: none"> 1. Voice and accountability 2. Political stability and 3. absence of violence 4. Government effectiveness 5. Regulatory quality 6. Rule of law 7. Control of corruption 	<p>International IDEA Democracy at the Local Level</p> <ol style="list-style-type: none"> 1 Representative Democracy (equality, equity) 2 Participatory Democracy (openness, fairness, transparency, responsiveness, accountability)
<p>Local Governance Barometer (LGB)</p> <ol style="list-style-type: none"> 1 Effectiveness 2 Transparency and Rule of Law 3 Accountability 4 Participation and civic engagement 5 Equity 	<p>UN-HABITAT Urban Governance Index</p> <ol style="list-style-type: none"> 1 Effectiveness 2 Equity 3 Participation 4 Accountability
<p>Good Governance for Local Development – GOFORGOLD</p> <ol style="list-style-type: none"> 1 Representation 2 Participation 3 Accountability 4 Transparency 5 Effectiveness 6 Security 7 Equity 	

This new tool is built on a framework that isolates governance by local government; its process of development, ownership and administration makes it for the LGs and by the LGs. At the same time we hope to have other stakeholders come on board– CSOs, CB organizations, policy makers- so that it adds value to them as well.

Choice of Pilot area and partner institution:

Kutch Nav Nirman Abiyan, in Kutch District of Gujarat, has been working with Local Governments on governance issues, strengthening capacities and participatory processes since a decade. They have seeded over time associations of Panchayats in each Taluka; as of now around 4 associations are active. In addition Abhiyan developed a system to providing support to the associations through ‘bridges’ (Setu’s programme), where in a team of people works with Local Governments to improve their capacity and strengthen local governance. One of such intervention has been the Village Governance Fund; this untied fund enabled the Gram Panchayats to undertake developmental agendas within the parameters

of good governance, social justice and equity, and to hone their skills in planning, budgeting and legitimize their position as effective and responsive units of local self-governance.

Given this background, KNNA appeared as a good institution to partner with and Kutch as an interesting pilot area, where one would be able to find a capable facilitating agency and Panchayats that are likely to find such an idea appealing and work with us to develop the tool and pilot it.

3. The Content of Governance Audit

The process of how the tool is developed, who owns it, who pushes it, for what purpose (often these are done under a 'project' and die a neat death at the end of the project period) are all critical to the fate and usefulness of such a tool. The purpose is critical, for it then determines the indicators, the process, the use of the results etc, and therefore needs to be sharply defined at the onset.

Defining the Purpose:

The tool and the envisaged process would have an educational and capacity enhancing function; it re-enforce the expected 'governance' role of LGs in the eyes of the LG elected representative; play an education and sensitization role by helping clarify for the citizen what expectation they should have from their LGs. It can become a mechanism towards instituting the Panchayats in practice as governance institution in the eyes of NGOs, private sector, parallel bodies, and line departments that have often been hesitant in acknowledging and granting them these roles.

The Audit output is also converted into scores for each of the key parameters (sixteen), as well as an overall local governance index, thus allowing for comparisons across Panchayats (definitely within a State as LG is a state subject). It will also allow for easy trend analysis over time, point at the more intractable gaps etc.

The governance deficit pointed out by the audit help define the areas for improvement for each local government. This can influence the process of Local planning, making it much more robust and objective and bring much needed attention to critical governance issues, instead of only focusing on scheme's and infrastructure development. The same can help inform larger policy processes for the government; inform governance support agencies and Panchayat associations about the areas they need to focus on to address governance deficit.

The value of such a method could prove to be enormous as such a tool does not exist anywhere as of now.

Making explicit the Normative principles:

Any assessment or Audit of governance has a normative structure built in, which defines what is good and bad governance. Usually these stem from ideas of 'local democratic governance', of participatory democracy as emerged in the west –Table 1 gives example of some such measures and there parameters.

The normative principles in the GA, that underlie and define what is good or bad governance are drawn largely from the provisions in the Constitution of India, the local expectations of communities (as long as they do not contravene any constitutional proviso), as well as some of the ideas of participatory democratic governance. What is 'good' or 'bad', how good is excellent, or fair; these would need to be defined and calibrated, for perceptions about this could vary based on what people are used to, what expectations they have, their exposure to other places and their governance etc. This can becomes quite subjective, and to ward against that, it would be important to explain the parameter for a context, preferably keep it 'national', and then explain to respondents what excellent, poor or bad means here before they respond. Here we define it sharply enough- by giving well articulated options that so that ambiguity is minimized.

Evolving the Parameters:

To arrive at the parameters the team looked at:

Expectations of good governance from local communities.

LG have continued to play some of the traditional governance (erstwhile Panchayats) roles that existed even before the 73rd and 74th amendments and even before the constitution of India came in existence. Citizens were asked about this and a set of parameters were identified (as long as they are not in conflict with any fundamental rights etc). The following list captures these parameters:

Basic services: *drinking Water for cattle*

Social security: *expectation of support by destitute, very sick people; large medical emergencies.*

Mediation, negotiation: *Intervene in case of harassment by line dept officials and other villagers.*

Conflicts and dispute resolution: *Encroachment of pastures and waste land. Effects pastoralist. On road and tank beds, river. Field boundary disputes etc. Land, right of way in agricultural fields. Pastoralists right to graze cattle.*

Other governance functions: *Allotment of land for housing as families expand; Protect manage public property- school, well, tanks, piped drinking water supply etc; and Ensure that village commons are not encroached; or encroachers evicted.*

Statutory function as mandated by the constitution; what is it that they are supposed to ensure and work towards. Article 12 of the constitution defines the state and Gram Panchayats (GP) are very much part of that definition. Based on that we looked at,

- Fundamental rights
- Directive principles &
- Fundamental duties of local governments.

Fundamental rights, and based on those⁷ some parameters were looked at :

Right to equality

- Ban on sex selection at birth
- Equal pay for equal work (wage rationalization and monitoring needed at GP level)
- Un-equals have to be treated unequally....if treated equally that would be unlawful. This means positive discrimination practices, say for women, destitute, old and infirm, marginalized sections, would be expected for a well functioning LG.
- Prohibition of discrimination on ground of sex, race, religion, caste or place of birth:
 - Equal Access to public places and public amenities

Right to freedom:

- Of speech and expression
- R to education- 6 to 14 yrs
- Protection of life and personal liberty. GPs role on this could include:

⁷ This is not an attempt at providing an exhaustive list of fundamental rights, but of those rights that seemed relevant to at the gram panchayat context.

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- Environmental concerns like pollution, hazardous waste and chemicals
 - Pollution free water and air
 - ecology and public trust doctrine.....forest, beach, wildlife, bio-diversity.
 - Prevention of Sexual harassment
 - Smoking in public spaces

Right against exploitation:

- Prohibition of forced labour (*'begaar* 'and *'bandhua mazdoor'*)
 - Even in case of artisans, are children able to have time for school, play etc?
 - No child below 14 yrs engaged in factories, mines or other hazardous employment.

Right to freedom of religion:

- Freedom of conscience and free profession, practice and propagation of religion (subject to concern for public order, morality and health)

Fundamental duties: (only relevant ones)

- To promote harmony and spirit of common brotherhood amongst all the people of India, transcending, religious, linguistic and regional or sectional diversity.
- to renounce practices derogatory to the dignity of women.
- To protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures. Implication are for issues like:
 - Quarrying
 - Forest and common protection
 - Norms and rule making for these
- To safeguard public property and to abjure violence

Directive Principles: (the relevant ones)

- Strive to minimize disparity in income...eliminate inequalities in status, facilities and opportunities, not just amongst individuals but groups as well
- Public assistance in case of old age, sickness, disablement, unemployment.
- Maternity relief
- Humane condition of work....decent standard of living, leisure, social and cultural opportunities
- Prohibition of consumption of alcohol and drugs
- Preserve breeds of animal; prohibit cow slaughter

- Protection of environment and safeguard wildlife and forests

The Provincial LG act (since LG is a provincial subject) and its provision, what are the 'subjects' that are devolved to them, what partially devolved. Here we take care to factor in the only subjects where in reality the function, along with the decision making power, the functionaries and funds are devolved. In this case we consider performance related to service delivery. Else, we only look at the role of GP in enabling, mediating, negotiating and liaising for these services.

Delegated functions: The role of GP in implementing various schemes of social justice and economic development that have been delegated, or devolved to them; especially some of the key Centrally sponsored and State sponsored Schemes. MNREGS is specifically assessed as it being the largest and very important for its citizens, would reveal the implementation ability of the LG.

Universal principles of 'good local governance', informed by ideas of democratic local governance, are accountability and transparency, inclusiveness and participation, principles of non-discrimination, of equity and ensuing voice to women and poor. Effectiveness and efficiency in service delivery are also part of these parameters, but assume that the local government carries the responsibility, the authority and resources to deliver these, which is not the case with India's Panchayats in most States; hence more often we would be more interested in looking at evidence of their concern for service delivery and pro-active steps in addressing these; after all the citizen expect their Panchayats to do something about these.

Therefore, Governance audit would need to look at all of these functions. It would encompass their role in ensuring social justice, equitable and sustainable economic development related role (this would include social audit as part of it); role in ensuring voice; financial audit; role in decentralized planning; in service delivery function, and in ensuring transparency and accountability.

The challenge has been to come up with a practical, easily administer able audit mechanism, with indicators that are objective and measureable and would together explain bulk of the governance parameter under consideration.

The Governance Audit Framework:

The various parameters drawn from the processes as described above have been clubbed under sixteen main parameters. Measurability has been one factor in selecting the parameters; often what appeared to be an important parameters but was not measurable, has been dropped or captured by some thing else.

Within each parameter, there are many sub-parameters. We hope that the audit process will be able to say something significant about each parameter and explain their observations using the information generated on the sub-parameters. These will be qualitative assessments.

The same qualitative assessments are turned into quantitative scores, so that cross panchayat comparisons can be undertaken and trends analyzed over time. This will also allow patters to be recognized across large governance audit results, spanning districts and states.

Separate weights have been given to each parameter using the 'Delphy' method. Weights have also been given to the sub-parameters within each parameter. Then weights have been given to the source of information, where there are more than one way used to get information about the same sub-parameter, e.g. information on 'how participatory is the planning process' is sought from both the GP body as well as through FDGs at the ward level, one with a marginalized community group and another with a women's group. Here the last two sources are given higher weight.

PARAMETERS OF GOVERNANCE AUDIT:	
1	Local Government administration
2	LG finances
3	LG body Functioning

4	General Assembly functioning
5	Transparency and Accountability
6	Provisioning of basic Infrastructure and services
7	Rule and Norm Making
8	Decentralized Participatory Planning
9	Environmental Management and NRM
10	Pro-Active Governance
11	Traditional governance expectations
12	Equity and Justice
13	Implementation effectiveness – (MNREGA)
14	Economic – development
15	Land – pasture, wasteland, encroachment, etc
16	Level of awareness of the Elected Representatives of LG

4. Participation/ Accountability Mechanism(s): The GA process and Tool

The methodology of administering the tool, the processes followed ensure that voice and participation of marginalised communities and of women citizens is given high importance. IN addition, the sub-parameters usually have gender and equity concerns built in and where these are addressed, these are rated high. The weightages between sub-parameters, done through Delphi method, also build in a bias, rating such Panchayats high on governance.

It was emphasised that the audit team has at least one women member, and this is how it happened during the pilot. The head of the women elected representatives association of Kutch was part of the team.

The process of audit was as follows:

- A) Nomination of audit team by Panchayat association
- B) Training on Auditors by facilitating NGO (KNNA)
- C) Auditors spend 2 days in the panchayat for conducting the audit:
 - a. After pleasantries with the panchayat representative, a group moves in the village for physical verification of status of various service provisioning centres like School, ICDS (early childhood care centres), wells and water supply system, road network, pasture land etc.
 - b. Finance person looks at the financial records of the Panchayats.
 - c. Physical verification of various documents and books.
 - d. FGD with gram panchayat elected representative and other citizens
 - e. FGD with marginalized community group (preferably in a settlement different from the main village)
 - f. FDG with women's group (preferably in a settlement different from the main village)
 - g. Auditors sit together, compare notes and prepare the audit report, fill the formats
- D) Audit report is prepared, signed by auditors and presented to the Gram Panchayat, and a copy sent to the Panchayat association.

Parameters where equity, social justice and participation dimensions were relevant (very many), these were scored by triangulating information from all four or three sources, physical verification, discussion with

Panchayat representatives, FDG with women's group, FDG with marginalized community group. When this was done, each source has been given equal weight, thus response from women and marginalized groups would account for 50% to 66% of the parameter response.

The sub-parameters that together assess the broad parameters (ANNEX 2) reflect serious concern for equity and gender. For example, under parameter 7, rule and norm making by Gram Panchayat, two sub-parameters out of five, relate to women's rights and child rights. The question around commons, also affects the poor most as they tend to have higher dependence for livelihood on commons (like fodder, fuel, food etc).

7. Rule and Norm Making	
1	Pasture land management
2	encroachment on commons
3	irrigation water management and distribution; ground water regulation
4	violence against women
5	child labor

Similarly under the parameter 10, on proactive governance (below), sub-parameters (highlighted) are directly related to concern for equity and gender.

10. Pro-Active Governance	
1	Generating resources from nontraditional source
2	Equity concerns: any special steps (in planning, in schemes, etc) for ensuring this. Any example of positive discrimination? Marginalized sections and women, others?
3	Ensuring Voice of marginalized communities? (Mahila Sabhas? Etc)
4	Services for migrants (inward and outward)
5	PPP, with Industry
6	Association with NGOs in their areas; how do they work with them.
7	has knowledge of NGOs budget for their area
8	Relation with Government: petitioning or an assertive panchayat?
9	Rule and norm making (from earlier section)

5. Advocacy and policy influencing

The pilot is in its infancy and has been done in three Panchayats only. The current effort of advocacy has been mainly aimed at sharing it with other panchayat associations and panchayat bodies. During the presentation of the audit reports to the three Panchayats, representatives from two other associations, Pacchhm and Rapar, were also invited. They were able to see how the process went and what the output of the GA was; they also heard the discussion and reactions of the Gram Panchayats.

Soon after another consultation was called for where the entire experience and its output were reviewed along with representatives of three Panchayat associations. This is where it the associations re-looked at the questions (some were modified; a few new sub-parameters were introduced and some removed) and process. They decided to take this whole process to scale and run it in many more Panchayats across the three Taluka. An audit team will be selected by the associations drawing from all the three. They will also take care of their costs and those associated with the audit team. In addition they are to play a role in advocating for this amongst the Panchayats and are keen to find ways of incentivising the best performing Panchayats. As it appears the pilot is now ready to move to scale and by the Panchayat association themselves as the anchor and promoters.

The pilot was also shared in a large gathering of NGOs, panchayat representatives, some Government functionaries and academics in Ahmadabad, Gujarat. The academics were quite interested and are going to be following up on the developments on this front.

Once the scaling up to some other (say ~30) Panchayats in the three talukas of Kutch has happened, it would be an opportune time to draw further lessons, look at change processes as a result of it, and then based on these evidences, move into larger advocacy of the idea, the process and tool.

The response of Pilot in Kutch, Gujarat:

The LG associations would like to call this, Governance “self-evaluation”, and not use the word Audit given its association with ‘top-down’ processes from the government that citizens and Panchayats may feel resistant to (they are often riddled with corruption). After the initial pilot in three Panchayats, three Panchayat associations (spanning three Taluka [sub-districts]) have decided to set up a separate committee to oversee and take this process forward; they will create awareness amongst the Gram Panchayats. Each year the self-evaluation will be done in a certain number of Panchayats that will be reflective of the ‘state of local governance’; the association will set up a team of auditors drawn from each Taluka, and ensure the process while taking support from the ‘Setu’ for some of the operational issues like training of auditors, data management, scheduling etc.

The Panchayat members want to add a component here where they ‘audit’ the governance work of other government entities (schemes, line departments, etc) that operate and deliver services within their geographical areas, taking one or two such issues each year and advocate for improvement on this basis.

6. The Output and Outcome, Main lessons learnt

The Governance Audit tool is now almost ready, tested in three LGs (will need to be run in some more LGs before the framework and parameters are frozen). The process of administering it to ensure that the

participation and voice of marginalized segments of the population are accounted for, has been arrived at and tested successfully.

At the end of the GA, we get three outputs, a) a descriptive audit report on the sixteen parameters, b) Audit scores on the 16 parameters, and c) a governance index for the LG. As of now GA has been done in three Panchayats (Annex 2, score and index of the Pilot LGs) and has been seen as adding value in raising awareness of citizens and the Elected Representatives in understanding the role and responsibility of Panchayats. The LG members found the idea of measuring and finding scores against specific parameters very useful, as it “tells us where we are, on what parameter and how we compare with others”. It seems to have generated healthy competition amongst LGs. The association of Panchayats have also determined to take the process forward to three ‘taluka’(sub-district units). Post the pilot the tool (sub-parameters and questions) have been fine tuned.

The tool has been able to capture most of the relevant governance aspects of Local Governments in India. The broad framework can easily be tweaked to adapt it for other provinces in the country. The overall framework of thinking about ‘governance audit’ the process of developing the parameters and the methodology would be very relevant to many countries where democratic decentralization has been instituted.

It is too early to talk about Outcome’s, though one hopes that:

- a) LGs will be able to factor the ‘governance deficit’ in their planning for future.
- b) The association takes pro-active steps in working with and supporting the low scoring LGs towards governance reform.
- c) The Association will be able to institute the process and make it systemic as planned by them.

Limitations and Challenges:

As of now the tool has been adapted to a specific province context, and fine tuned to the needs of Kutch district; for example the significant focus on pasture land and animal husbandry. This may seem to limit the ability of the tool to allow across district comparisons; but if the question is about the ‘most significant economic activities’ in the region, substituting Livestock with ‘paddy farming’ can be done easily and one will be able to still compare; after all it is the governance role that one is assessing and not the sector per se.

Some of these limitations may suggest that we focus more on the more ‘universal’ parameters, but then the usefulness of the tool and its purpose for the key stakeholder, the LGs themselves would get into question.

The degree of devolution varies across states, and with that the indicators would need to be adjusted accordingly (the questions asked would need to be tweaked).

The ownership of the tool rests with the LGs themselves. This seems to have worked well in Kutch where there are strong LG associations and a CSO like KNNA facilitating it. How will things work in another context? Who would facilitate such a process? In the absence of relatively strong LG associations, who would carry the ownership of this tool? These questions remain unanswered as of now.

It may seem logical to think of the Government and its agencies carrying forward the tool, investing in its dissemination and use, after all promoting and strengthening Local governance is the States mandate. But then we face the possible pitfall of policing governance, or such perception by the LGs, as seems to have been the case with Social Audit. There could also be the danger of the Government making the parameters more generic and suited to its needs rather than that of the LGs, bringing us back to the central question of purpose and ownership.

Will a LG invite itself get such an audit done? Will it be willing to pay the costs of getting it done as would be the case in financial audit (that is a legal requirement for LGs)? In Kutch it seems the LG Association is going to bear the cost (though with some technical and other support from KNNA), generating it from the LGs themselves.

These are some questions that would have to be seen as the process moved ahead in Kutch and is piloted in some other location that would represent a more typical situation of Local Governments.

ANNEX1 : THE CONSTITUTIONAL FRAMEWORK FOR LOCAL GOVERNANCE IN INDIA ⁸

The 73rd and 74th Constitutional Amendment Bills were introduced in 1992 and passed in 1993. These introduced new Parts, Part IX (titled 'The *Panchayats*') and Part IX A (titled 'The Municipalities') in the Constitution of India adding Articles 243 to 243 ZG. These are recognized as a landmark development in the process of democratic decentralization in India. They place the responsibility for taking decisions regarding activities at the grassroots level which affect people directly with the representatives of the people themselves, ensure the permanence of local self-governments by providing for regular elections and envisage a core role for local self-government institutions in planning for economic development and social justice. However, with local government being a State subject (Provinces), the implementation of these provisions largely depends on the intent and strength of the State *Panchayati Raj* enactment and a key challenge is ensuring State laws that are consistent with the spirit of the 73rd and 74th Constitutional Amendments.

The principal provisions of Part IX of the Constitution of India relating to 'The *Panchayats*' are as follows:

- Article 243 A ('*Gram Sabha*') provides Constitutional recognition for the *Gram Sabha* (GS; defined 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') and stipulates that the GS 'may exercise such powers and perform such functions as the Legislature of a State may, by law, provide.
- Article 243 B ('Constitution of *Panchayats*') defines a *Panchayat* as a rural 'institution of self-government' and makes it mandatory for States to constitute *Panchayats* at the village, intermediate and district levels. *Panchayats* at the intermediate level may not be constituted in States with a population less than 20 lac (1 Lac is 100,000).
- Article 243 C ('Composition of *Panchayats*') mandates that all seats in *Panchayats* should be filled by persons chosen by direct election from territorial constituencies in the *Panchayat* area. Chairpersons of intermediate and district *Panchayats* are to be elected from amongst the elected Members. For village *Panchayats*, Chairpersons can be elected from amongst the elected Members or directly. States may provide for representation of lower tier *Panchayat* Chairpersons in higher tier *Panchayats* and for representation of local *Lok Sabha* (LS) and RS Members of Parliament (MPs), Members of Legislative Assemblies (MLAs) and Members of Legislative Councils (MLCs) in intermediate and district *Panchayats* with certain conditions. *Panchayat* Chairpersons from lower tier *Panchayats* in higher tier *Panchayats* and MPs, MLAs and MLCs represented in various *Panchayats* have the right to vote in *Panchayat* Meetings.
- Article 243 D ('Reservation of Seats') provides for reservation of at least one third of the seats and Chairperson positions at all levels of *Panchayats* for women. Seats and Chairperson positions are reserved at all levels of *Panchayats* for the SC and ST in proportion of the share of the SC and ST population in the total population of the *Panchayat* area subject to a third of these seats being reserved for women belonging to these categories. There is also an enabling clause for extending reservations on similar principles to the Other Backward Castes (OBCs). The allocation of reserved positions for various categories is to be by rotation in such manner as may be determined by the State Legislatures.

⁸ From SOPR 2011

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- Article 243 E ('Duration of *Panchayats*') provides for elections to *Panchayats* to be held within a period of five years and, in the event of dissolution for any reason whatsoever, for by-elections to be held within six months of dissolution. Every *Panchayat* is to be elected for a period of five years and elections to the next *Panchayat* are to be completed before the completion of the term of the existing *Panchayat* to ensure continuity. Article 243 F ('Disqualifications for Membership') specifies the grounds on which candidates may be disqualified from contesting *Panchayat* elections.
 - Article 243 G ('Powers, authority and responsibilities of *Panchayats*') requires the State Legislatures to, by law, 'endow the *Panchayats* with such powers and authority as may be necessary to enable them to function as institutions of self-government.' Such law may contain 'provisions for the devolution of powers and responsibilities upon *Panchayats* at appropriate levels' with respect to 'the preparation of plans for economic development and social justice' and 'the implementation of schemes for economic development and social justice as may be entrusted to them (i.e., the *Panchayats*), including those in relation to the matters listed in the Eleventh Schedule⁹.'
 - Article 243 H ('Powers to impose taxes by, and Funds of, the *Panchayats*') empowers the State Legislatures to: authorize *Panchayats* to levy, collect and appropriate taxes, duties, tolls and fees in accordance with specified procedures and subject to specified limits; assign taxes, duties, tolls and fees collected by the State Government to *Panchayats* for specified purposes and subject to specified conditions and limits; provide for grants-in-aid to *Panchayats* from the Consolidated Fund of the State; and, provide for constitution of specific Funds for crediting monies received by or on behalf of *Panchayats* and withdrawal of monies there from.
 - Article 243 I ('Constitution of Finance Commission to review financial position') specifies that the Governor of a State should constitute a State Finance Commission (SFC) every five years to review the financial position of the *Panchayats* and make recommendations regarding: the allocation of funds to *Panchayats*; the determination of taxes, duties, tolls and fees which may be assigned to or be appropriated by *Panchayats*; measures needed to improve the financial position of the *Panchayats*; and, any other matter referred to the SFC in the interest of sound finances of *Panchayats*. The powers and procedures of working of the SFCs are to be determined by the State Legislatures and the Governor is to 'cause every recommendation' of the SFC, together with an 'explanatory memorandum as to the action taken thereon' to be laid before the State Legislature.

Notably, Article 280 of the Constitution of India, which deals with the constitution and duties of the Central Finance Commissions (CFCs), provides for CFC recommendations to the President of India as to the measures needed to augment the Consolidated Fund of a State to supplement the resources of *Panchayats* in the State on the basis of the recommendations of the concerned SFC.

- Article 243 J ('Audit of accounts of *Panchayats*') empowers the State Legislature to make provisions with respect to the maintenance of accounts by *Panchayats* and the auditing of such accounts.

⁹ The matters listed in the Eleventh Schedule are: (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 programmes; (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 centers 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 Castes and the Scheduled Tribes; (28) Public distribution system; and, (29) Maintenance of community assets.

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- Article 243 K ('Elections to the *Panchayats*') mandates the superintendence, direction, control and conduct of all elections to *Panchayats* to be vested in an independent State Election Commission (SEC) consisting of a State Election Commissioner to be appointed by the Governor. The State Election Commissioner is also responsible for preparation of electoral rolls for *Panchayat* elections.

Further, Article 243 ZD in Part IXA of the Constitution of India provides for the constitution of District Planning Committees (DPCs) by the State Governments in every district where Part IX applies. The DPCs are required to consolidate the plans prepared by the *Panchayats* and Municipalities in the district, and, on this basis, to formulate a draft development plan for the district as a whole. Four-fifths of the DPC members are to be elected by and from amongst the elected representatives of the District *Panchayats* and the Municipalities in the district. Each DPC has the authority to take decisions regarding matters of common interest between the *Panchayats* and the Municipalities, including spatial planning, sharing of water and other physical and natural resources, as also the integrated development of infrastructure and environmental conservation in the district concerned.

Other Articles in Part IX of the Constitution of India include: Article 243 L which extends the provisions of Part IX to the Union Territories under certain terms and conditions; Article 243 M which gives to Parliament the power to extend the provisions of Part IX to the tribal areas listed in the Fifth Schedule of the Constitution of India (It is in exercise of these powers that Parliament passed the Panchayats (Extension to the Scheduled Areas) Act (PESA) 1996.); Article 243 N which exempts certain States and areas covered by the Sixth Schedule, as also certain other States and regions covered by separate special arrangements, from the purview of Part IX of the Constitution of India (the Article also exempts Arunachal Pradesh from necessarily making reservations for the SC); and, Article 243 N which provided a one-year grace period from the entry into force of Part IX to bring all laws dealing with the *Panchayats* into conformity with Part IX of the Constitution of India.

ANNEX 2:

Result of governance Audit (pilot in 3 LGs) :

	Parameters	Mathada	Devadia	Rampar
1	Local Government administration	81.8	84.1	84.1
2	GP finances	69.3	64.0	50.9
3	GP body Functioning	43.5	31.5	89.7
4	GS functioning	25.0	21.9	0.0
5	Transparency and Accountability	58.3	58.3	66.7
6	Provisioning of basic Infrastructure and services	72.6	69.0	45.3
7	Rule and Norm Making	36.4	50.0	50.0
8	Planning	44.1	61.8	14.7
9	Environmental Management and NRM	50.0	25.0	20.8
10	Pro-Active Governance	43.6	54.8	40.2
11	Traditional governance expectations	56.7	66.7	70.0
12	Equity and Justice	88.1	78.6	20.6
13	Implementation effectiveness – NREGA	9.6	4.4	18.4
14	Eco – development	64.3	35.7	28.6
15	Land – pasture, wasteland, encroachment, etc	29.2	25.0	18.8
16	Level of awareness	89.8	66.7	76.9
Governance INDEX		52.6	48.8	41.9