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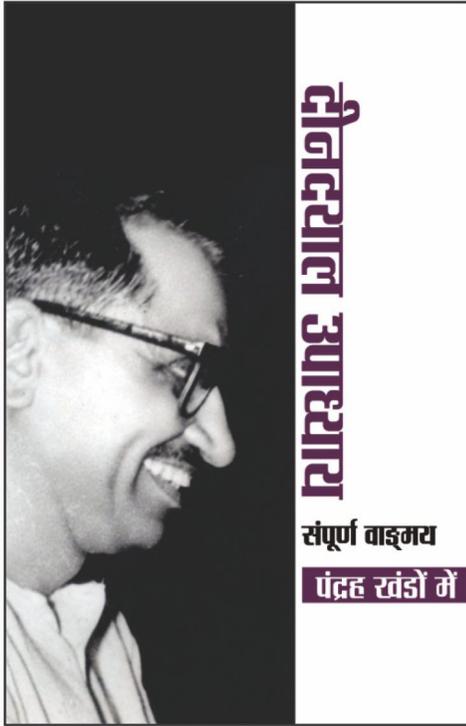


Panchayat Raj Special



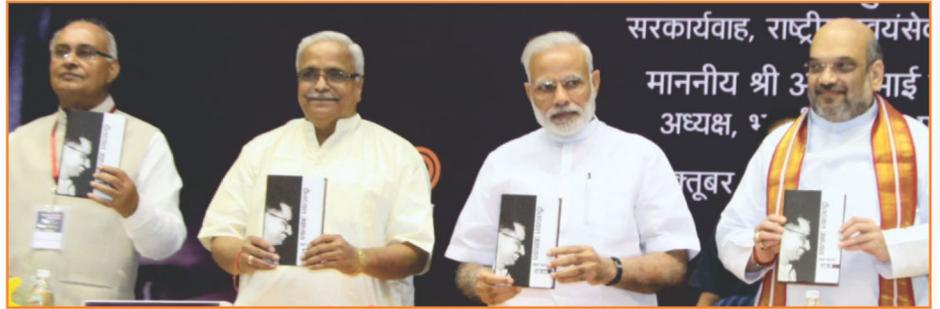
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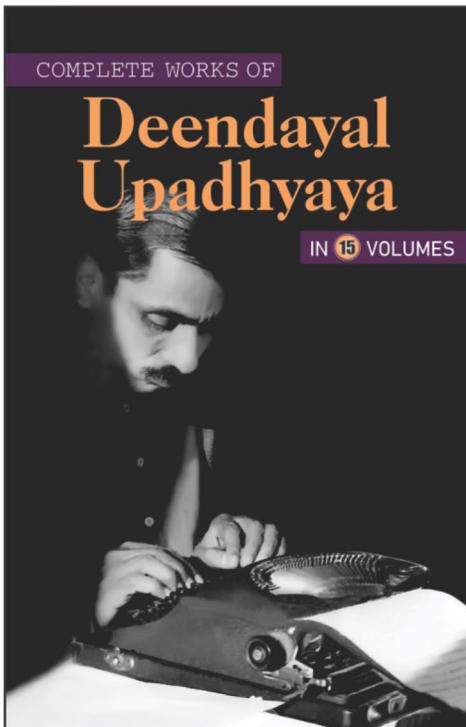


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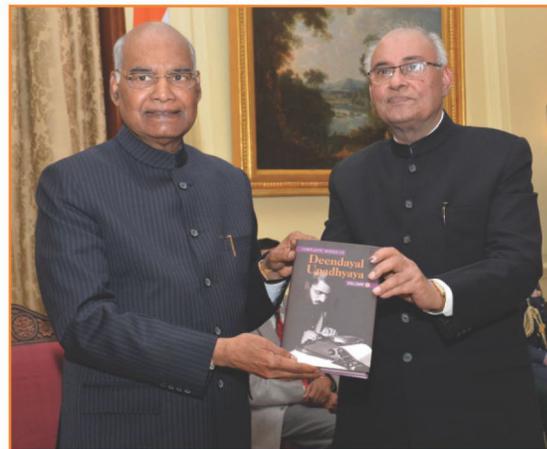


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Panchayat Raj Special

Editor

Dr. Mahesh Chandra Sharma



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Manthan is a multidisciplinary, peer-reviewed, academic and theme oriented journal dedicated to the social and academic activism, published quarterly from Delhi. It is always oriented on a particular theme. It welcomes original research articles from authors doing research in different genres of Humanities.

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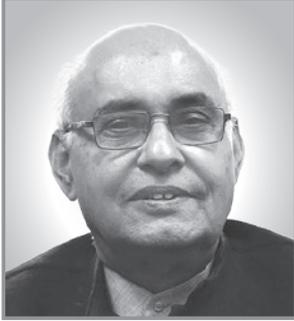
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Ruchi Rawat is a Ph.D. scholar and has done her graduation and post-graduation in Political Science from Ramjas College, University of Delhi. She's NET qualified in Political Science. Her areas of interest include Ancient Indian Political Thought and Policy & Governance. She has presented papers at various conferences. Besides these, she's actively engaged in working for the preservation of her own vernacular language, 'Bangani', which is enlisted in the extinction list by UNESCO.

Milind Thatte is the organiser of the Vayam Abhiyan. He is working in tribal sector for about 25 years. The mission of empowerment of the Gramsabhas is being conducted in more than hundred of villages through the Vayam Abhiyan.

Dr. Chandrashekhar Pran is author of eighteen researchbased books on the Panchayati Raj system. From the very beginning, he was interested in social work. Worked in various positions in Nehru Yuvaw Kendra from Regional Coordinator to National Director for 25 years. Lead Panchparameshwar Yatra to five states — UP, MP, Rajasthan, Haryana and Punjab — by cycling for 72 consecutive days at the end of 1999 to study and assess the status of the new Panchayati Raj. Took study leave from government service in 2002 for a comparative research work of five states from Allahabad University on the topic Role of Village Panchayats in Development and Change in Attitude and Behavior of Youth.
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Editorial



Dr. Mahesh Chandra Sharma

Bringing out the issues of ‘Manthan’ in a series of thematic special issues indicates that they are intended to be research-based. The first two issues were brought out as ‘Constitution Specials’ (January-March 2019 and April-June 2019), followed by the ‘Gram Swarajya Special’ (January-March 2022) and later as ‘Policy Direction Elements Special’ (July-September 2022). Each of these issues included research on various aspects of ‘Panchayat’, underscoring the importance of this topic in India's governance structure.

The current issue dedicates itself entirely to ‘Panchayat’, reinforcing its significance as a central theme. Such reiteration only underlines the importance of the subject in hand. In fact, addressing the issue of ‘Panchayat’ provides an opportunity to initiate the “decolonisation of Indian governance” -- a task that, due to historical constraints, was left incomplete by the Constituent Assembly and now rests with the current generation.

While covering a recurring theme can sometimes lead to overlap, sincere efforts have been made to minimise such repetitions. Both Shri Ram Bahadur Rai and Dr. Chandrashekar ‘Pran’ have contributed to each issue, with Dr. Pran’s insights frequently focused on the 73rd Constitutional Amendment. Despite the potential for overlap, Dr. Pran tailored his work to align with each issue’s unique focus, ensuring originality and minimal redundancy.

This issue features contributions from seasoned researchers, and even students of academic research have participated, enriching the discourse on the ‘Indianisation’ of governance in India itself. We hope readers will find the content both insightful and thought-provoking for them.

In a departure from the standard research publications, this issue includes a literary experiment too. ‘Panchayat’ has been a recurring subject in Indian literature, and we have included a study by researcher Anil Kumar, who explores immortal storyteller Munshi Premchand’s iconic story, ‘Panch Parmeshwar’. Kumar examines this story alongside other Hindi literary works that resonate with the theme of ‘Panchayat’.

Additionally, Hindi scholar Dr. Rajeev Ranjan Giri's article provides a ground-breaking perspective, and we recommend it to all interested in sociological research. If readers find this literary approach valuable, we may continue it in future editions too. We solicit your advice in this regard.

Another notable aspect of this issue is that the two Hindi literature articles have not been translated into English, nor has Dr. Seema Singh's article on 'Panchayat' been translated into Hindi. This move is exceptional and not intended as a recurring feature.

The subject of 'Panchayat' remains central to India's public discourse, and there is an ongoing need for public awareness and education. Together, let us take on the responsibility of fostering greater understanding and engagement on this essential topic.

Study circles have been started at many places on the basis of these special issues of Manthan. As this is a useful initiative, you can also begin this work in a small group at your place. Should you begin such a study circle, please do inform us of your efforts.

As this is the final issue of 2024, we will come up with a fresh series next year. The upcoming special issues include a "Dalit Special", the first one in the New Year, and a "Pasmanda Muslim Special" to follow while the topics for the third and fourth special issues of 2025 will be informed to you in due course of time.

Best Wishes.



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Ram Bahadur Rai

Panchayati Raj: Time for another Constitutional Amendment

If the system of Panchayati Raj can be implemented in its true sense and in its entirety, then it will be a model for the world. For this, some amendments in the Constitution are still necessary. An insight

There has been a strong craving for Panchayati Raj in India since the beginning. Before Independence, a historic golden dream of meeting the ocean of Panchayati Raj was growing in the minds of the people whereas the citizens of independent India got just a drop of assurance. The country somehow digested it, but the inertia did not break. It is a matter of regret that the subject of Panchayat has been turned into a mirage. In reality, when the Panchayat system will enter the lives of the people, then that dream, which was the basic element in our freedom struggle, will come true. So what will happen if the dream of Panchayati Raj comes true? A system of 'rural republic' will be established; India will become self-reliant; it will be prosperous, rich and it will appear in all its dimensions; its culture will be refined and it will also have a refinement in its democratic system. Today, India is tirelessly moving towards this goal. If the political system can be restructured at this time and the rural republic, i.e. Panchayati Raj, can be fully established, then India will be free from the ghost of global market. As a result, it will be a friend of the world.

How will this be possible? What have been the small and big obstacles in its path and why do these hurdles still exist? How can they be removed by constitutional measures? This brief research paper is an attempt to investigate Panchayati Raj system in the context of our Constitution and whether this series of questions is capable of finding its own answer or not.

In the political system of independent India, there has been a kind of deep dilemma from the beginning over the Panchayat issue. This is similar to the one that had engulfed Arjuna on the battle field in the Mahabharat. There appears to be two main reasons behind this. The first is historical, i.e. colonial, and the second reason is ideological ambiguity. This predicament had started in the Constituent Assembly itself.¹ The first reason influenced the second one. This means, the commitments made during the freedom struggle were pushed into the background, because the architects of the governance system refused to understand the importance of the Panchayat system. By architects, I mean the then bureaucrats, big or small. The faces of the Constituent

Assembly, i.e. the then political leadership, were helpless in front of these “facilitators”.

This is that same conflict which more or less continues even today. It is not visible on the surface. It will be possible to see it only by delving into the cause-effect relationship. There is no need to go far to find evidence of this. One just needs to know the wide gap between the unmatched public statements of the ruling political leadership and the constitutional arrangements made to establish the Panchayat system. The political leadership keeps announcing from time to time that the Panchayat system should be given an important place, but it remains entangled in the illusion of the governance system. The unchangeable habits of walking on the old lines of law and conduct are the illusion.

Even today, this information fills any Indian with despair that the question of Panchayat was raised in the Constituent

Assembly on prodding from outside² and this went on filling the hearts of the members with compunction. There was a feeling in this self-reproach that we did not remember the best traditions of our ancient State system at a time when we are going to lay the foundation of independent India! But it was too late by then. So, whatever solution came to their mind at that time became a part of the Constitution.³ This idea was successful only to the extent that the Constituent Assembly gave the Panchayat the identity of a ‘self-government’ and included it in the Directive Principles of State Policy. The Directive Principles have their own importance which are more moral but are not binding like constitutional provisions. In this way, after great difficulties, Panchayat could be included in the functions of the State as a moral duty under the Constitution. That is why the State hardly considered itself bound by a

moral thread to implement it. The duty of the State is to form rules and regulations. New methods of control keep emerging from it but this does not seem to have any connection with the question of morality.

If there was a hope that the State system that emerged from the Constitution would follow the path of Gram Swaraj, then that illusion was shattered soon. The failure of community development schemes, which were framed based on the Soviet model, started a rethinking. So the question was: what should be the improved form of village development? Two national heroes made great efforts to answer this question -- Pandit Deendayal Upadhyay and Loknayak Jaiprakash Narayan. Pandit Deendayal Upadhyay's guiding suggestion was, “Janapadas have played an important role in the development of India's State system and public life. Therefore, the present States should be demarcated into districts on the basis of history and public behaviour. There, the elected Janpad Sabhas should have the right to govern. Districts, development blocks and Panchayats should be created under the Janpadas. The Parliament should have the right to make laws for the entire country in this regard.”⁴ This is the “concept of an undivided circle-shaped five-valley unitary State”.⁵ This idea presents a framework of a perimeter, which has the concept of a constitution



that is beneficial for the society, the State system, the human beings and the creation as a whole, which had been a tradition in India since ancient times.

The August Revolution opened the path to the formation of the Constituent Assembly. Jaiprakash Narayan or JP, a hero of that revolution, gave voice to Gandhiji's Gram Swaraj in his own words. He presented a framework for the restructuring of the Indian State system. In his words: "If our present political system has to be given a solid foundation, if it has to be inspired by Indianness and if Indian society has to be given a strong form and kept alive, then for this we will have to adopt the ancient Indian social system. It will have to adopt that system of social life which is autonomous and developing in its own way, in which employment, business and people's trade are operated as per the interest of the entire society."⁶ His idea was bound to evoke a reaction from among the Nehruvian social scientists. Well, it did.

Famous social scientists M.N. Srinivas and A.M. Shah challenged this idea in an article. They wrote, "The idea that Indian villages are separate and self-sufficient was first presented by Sir Charles Metcalfe in 1830 and after this, many scholars and politicians supported it. Sir Henry Maine and Karl Marx supported this idea. In recent times, Mahatma Gandhi and his supporters not only said that

Indian villages have been self-sufficient traditionally, rather they wanted to bring such a program through which the sacred self-sufficiency of the villages can be re-established."⁷ Their article was published in the EPW magazine a year after JP gave his suggestion. In it, they have even dubbed Sir Charles Metcalfe as 'vile'.⁸ Did they say so because Metcalfe praised our ancient concept of 'rural republic'? Does that make him 'inferior'? Through their article, they were not only responding to JP by launching a theoretical battle but they were also arming the Nehruvian bloc with an argument.

The argument of those scholars goes further like this, "When an idea is more than 100 years old, and has been advocated by thinkers like Maine and Marx, it acquires the status of a dogmatic doctrine. Until recently, most writers writing on rural India have accepted the autonomy and self-reliance of villages as a self-certified idea. This served to conceal the real nature of the Indian rural 'community'. At the same time, it provided a basis for revivalist and Utopian programmes of political action."⁹ They conclude, "The village was always part of a larger economic, political and religious system. Talks of separateness, autonomy and self-reliance were mere illusions."¹⁰ Thus, the ideological confusion and conflict that existed in the Constituent Assembly came to

the fore at this juncture as well. The names and forms changed, but the conflict of ideas remained the same. Has the changing times had any positive effect? The loud talk of Gram Swaraj is like asking a person bound in chains to run at a fast pace, which is a big joke on that person. A similar joke continues with Panchayati Raj too.

If we look at it from the very first day, we will find that there was very little consensus on this issue, especially among Mahatma Gandhi, Pandit Jawaharlal Nehru and Dr. Bhimrao Ambedkar. Their concepts were different from each other. Each of them was also opinionated. "Gandhiji considered returning to the village as the only authentic reason for achieving Swaraj. Nehru and Ambedkar also considered the village to be the place of India's traditional life. But unlike Gandhiji, they believed that it also reflected India's economic backwardness and social evils. These concepts had far reaching effects."¹¹ Its relation with Panchayati Raj in the political system is very direct. It was not just a situation of not having a clear vision. It was also a tremendous clash of ideas. Nehruvians have been winning in this till now -- whether they are in the government or in the academic world. This stream took up the task of changing the basic elements of rural life after Independence. With the help of the government, such programs were created which look

attractive but are poisonous in effect. Is anyone unfamiliar with the agility of the governments in these efforts? Whoever is interested, they are familiar with it. The common vision in such efforts has been that rural life has to be made compatible with modernity. This is the element which has been a big obstacle in the path of Panchayati Raj. It can be seen and tested very easily in government policies. Due to such policies, the provisions, which should have been made in the Constitution for Panchayati Raj from the very first day, could not be made.

Because Nehruvian sociologists were agog with a mental agony and have been influencing the State policy. Their agony is: "The concept of village or rural areas has a special importance in India. Cities in India have a long and diverse history, yet the British colonisers presented India to the world as a land of village republics. This presentation of India was so impressive that even the nationalist leaders accepted it

largely without any criticism."¹² Thus, they have been active in converting this acceptance into rejection. But a parallel and strong flow has also existed, and it is still there today. The most recent evidence of this is "India's two prosperous, beautiful and self-governing villages -- Ullawur and Kundrattur."¹³ That is why, there has been a demand for carrying out necessary amendments in the Constitution to establish Panchayati Raj system. It arose more strongly when the community development schemes failed. The report of the Balwant Rai Mehta Committee also helped in creating a favourable environment for Panchayati Raj. The Panchayati Raj system that was established at that time with much fanfare proved to be a sham.

This dealt a severe blow to the leadership of the government and the society. Therefore, the demand to make Panchayati Raj constitutionally compatible started rising. Despite this, Panchayati Raj was neglected under the influence of

communists and people with colonial mentality during the rule of Pandit Nehru and Indira Gandhi. They were rich in words but were all stereotypes, whereas the need was different. The old tradition should have been linked to the Constitution. A creative officer drew the attention of Prime Minister Rajiv Gandhi towards this. It has its own story, we will keep it for some other time. But by then, every conscious citizen had become enriched with the experience that the State system that has emerged from our Constitution is controlling and regulating the Indian society. The Constitution has made a system of its own in which the Constitution can be amended according to the requirement from time to time through a prescribed method.

Although the idea of Panchayati Raj is universally accepted, it has gone through many changes in its definition. After Independence, it was considered a type of decentralisation and some moves were started for this. When the government wants to postpone an issue, it forms various types of committees.¹⁴ Such committees give their recommendations. There is a debate on it and some hopes are raised. Panchayati Raj has experienced such a long journey wherein the road was full of tunnels. There is provision for only two governments in our Constitution -- the Centre and the States. A new provision was needed for Panchayati Raj. Due to this experience, the sun of the

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When the government wants to postpone an issue, it forms various types of committees. Such committees give their recommendations. There is a debate on it and some hopes are raised. Panchayati Raj has experienced such a long journey wherein the road was full of tunnels. There is provision for only two governments in our Constitution -- the Centre and the States

Manthan

64th Constitutional Amendment was seen for a while amidst the dark clouds of corruption, which ultimately got hidden later. It would be appropriate to say that the rising sun was hidden for political reasons. Rajiv Gandhi issued an unwritten decree of the death of that amendment. However, somehow a beginning was made. No doubt, it was auspicious.

Because then Prime Minister Rajiv Gandhi had said in the Lok Sabha, “Gandhiji wanted every village in India to be self-governed. His dream was to establish a rural republic through Panchayats. Panditji (Jawaharlal Nehru) established Panchayati Raj. Indiraji stressed on public participation, so that economic and social progress could be made. Still, it cannot be denied that we failed to meet the test of public aspirations and wasted 30 years.”¹⁵ ... “In the laws made by the State Assemblies in this regard, the State government has been given enormous powers to ruin the Panchayat institutions. They have so much power of procrastination that the representatives of these institutions have no strength left to stand on their own feet. Their existence depends less on the orders of the public and more on the whims of the State governments.”¹⁶ He concluded his speech like this, “We have faith in the public. The public has to decide its fate and the fate of this country as well. Come! Let us give maximum democracy to

the people of India and eliminate maximum power brokers. Come! Let us hand over all powers to the people.”¹⁷ Prime Minister Rajiv Gandhi himself presented the Constitutional Amendments for the Panchayats as well as the Nagar Palikas.¹⁸ These Constitutional Amendment Bills were passed by the Lok Sabha on 10th August 1989.¹⁹

Some shocking facts have come to light about what has been considered a big step towards the Panchayati Raj system. These facts have been discovered now that contrary to the big claims made by Rajiv Gandhi in the Lok Sabha, there was no provision for Gram Sabha in the 64th Constitutional Amendment Bill.²⁰ Were the Members of Parliament and the policy makers aware of this fact? Just think! Is it ever possible to hand over power to the people without establishing Gram Sabhas? A research group on Panchayati Raj has discovered this fact. Why did this happen? Was that Constitutional Amendment Bill made as per Rajiv Gandhi's intention? The research group has come to know that this happened because the bureaucracy did not want it. There were many big holes in that Constitutional Amendment. Though it is unnecessary to describe them here in details, this one fact is capable of telling the whole story that there was no clarity of any kind in that draft.

This gives rise to a very important question that ‘has the attitude of the bureaucracy

changed regarding the Panchayat or have they developed even the slightest feeling in them for establishing Gram Swaraj on the ground?’ To understand this, we will have to look at those Constitutional Amendments, which were proposed later and though they were not passed, at least an effort was made in that direction. It was at the level of political leadership that an attempt was made in 1990. The Constituent Assembly made the first attempt. If we consider that as the first round, then the third round was when P.V. Narasimha Rao's government presented the Constitutional Amendment Bill in September 1991. It was the fifth round when it could be successfully approved by the Parliament after going through various parliamentary processes. This was in December 1992 when it was formally recognised as a Central law after the President approved it. This led to a big step in the direction of establishing Panchayati Raj from 24th April 1993. Various studies and experiences can be considered as the sixth round. The picture that emerges after this arduous journey is like the metaphor that Panchayati Raj is stuck like a Trishanku between convocation (the occasion of completion of formal education) and then getting married for a family life and entering the battle of the mundane world, because its seventh round is yet to take place.

The 73rd Constitutional

Amendment was certainly an important step for Panchayati Raj. It was implemented at the Central level in 1993. The States took their own time. It took them two years. This gave rise to the hope that Panchayati Raj system would finally be established. But the only thing that was possible with that amendment was that Panchayati Raj could get constitutional recognition for the first time. It means, the Constitution recognised self-government at the village level. Provisions were made for it. Some basic things are necessary for any government -- a geographical area, subject, process of formation and rights. The 73rd Constitutional Amendment made a provision for a three-tier Panchayat system in the entire country. The tenure of Panchayats was fixed at five years. Regular elections would have to be held, so provision was made for constituting State Election Commissions. Reservation in elections was ensured so that balance in representation is maintained. As many as 29 subjects were assigned to Panchayats through the 11th Schedule of the Constitution. This did create a principle, but in practice, participation of the villagers was not ensured. Though elected Panchayats were formed, their complete control remained in the hands of the bureaucracy. And it remains so even today.

There is a history of amendments in the Constitution

for Panchayati Raj. It can also be seen as a gradual development. Today, academic study of these amendments is being done in a broader context. One reason for this is that despite reaching a stage of gradual development, the expected results have not come out. These amendments have not borne fruit, due to which the wait is not over. It is a common experience that a consensus has been reached on Panchayati Raj but like before, the deep differences on its complete definition could not be resolved. As time is passing, the question of Panchayati Raj is becoming complex. This can be clearly understood from the fact that the Constitution Review Commission also understood the need for constitutional amendment for Panchayati Raj.

The Constitution Review Commission²¹ regretfully admitted that "a cursory review of the 50 years of the Constitution's journey clearly reveals one fact that these years have been more of failures than of successes."²² The report of the Commission is comprehensive. It contains a critique of the working of the entire Constitution and important suggestions for improvement. But the Commission also examined this failure from the point of view of Panchayati Raj and included it in its conclusion. The Commission acknowledged that the 73rd Amendment brought provisions related to Panchayati Raj system into the Constitution. This has also given 'constitutional

status and protection' to the Panchayat system.²³

Today, the first question is: whether the goal of 'rural republic' or Gram Swaraj has been achieved by the 73rd Constitutional Amendment. No doubt, Panchayati Raj has been established and elected Panchayats are in existence. But in this process, have all the rights and duties of power come into the hands of the villagers which they are entitled to? This has not been possible till now. The Constitution Review Commission also acknowledged this. In its report, it has even pointed out some shortcomings and expected that the government would remove it.²⁴ The Commission also made many recommendations.²⁵ They are important. But successive governments at the Centre have not paid attention to them till now.

But those who are committed to Gram Swaraj are making tireless efforts to bring about reforms. The Panchayats, which have been formed and are working, are being constantly reviewed socially. More than three decades have passed and during this period, the fundamental shortcomings in the functioning of these Panchayats have been identified at many levels. The biggest shortcoming of the Central laws related to Panchayat is that the Legislative Assemblies alone are authorised to make Panchayat laws. They have to make rules also. The second shortcoming is that the Panchayat laws made in

the States do not have a clear concept of 'Gram Sarkar' or village government. The biggest shortcoming is that the political leadership in the States is governed by the bureaucracy, not by the manifesto of their party.

However, during the third term of Atal Bihari Vajpayee, Rural and Employment Minister Baba Gowda Patil had issued a circular, in which he informed the Chief Ministers and administrators of Union territories that the Government of India has declared 1999-2000 as the 'Gram Sabha Year'. Here is an excerpt from his letter: "The purpose of this declaration is not only to accelerate the process of democratic decentralisation, but also to fulfill the pious resolution of our constitution-makers by establishing Gram Sabha in accordance with Mahatma Gandhi's vision of Gram Swaraj."²⁶ ... "Despite the direction given under Article 40 of the Constitution to constitute Gram Panchayats as units of self-governance, the progress made so far is not enough and the newly elected Gram Panchayats have not been able to live up to this great task and high expectations."²⁷

The goal of Gram Swaraj has become more difficult due to all-round interference in the functioning of the Panchayats. A complex diversion has also taken place due to the MP and MLA funds. The paths of the Panchayats have changed. Constitutional expert Dr. Subhash Chandra Kashyap's comment

gives the Central government an opportunity to open its eyes, "The truth is that such schemes show that MPs and MLAs are eager to use executive powers... and are against the basic spirit of Panchayati Raj institutions."²⁸

In the same sequence, he warns the Central government that "the right to decide on the details of the functioning of local self-governing institutions has been left to the State governments and they will have to make these institutions effective through law or executive orders and directives. The laws made by the States are very different from each other because every State has tried to decide according to its own interests as to what and how much authority the State can hand over to the local institutions."²⁹ The diversion due to the MP fund starts in such a way that the character of the public representative changes. He becomes a part of the government. Secondly, the members of Lok Sabha and Vidhan Sabha invest the funds of their quota in the same area which belongs to the Gram Sabhas and Panchayats.

Subhash Kashyap explains this from his experience in this manner: "On one hand, it is natural that the State governments want the Union to hand over as many powers as possible to them, but on the other hand, when their turn comes, they hesitate to give up any authority in favour of the Panchayati Raj institutions."³⁰ Similarly, the Second Administrative

Reforms Commission has also submitted its detailed report on local governance i.e. Panchayats.³¹ Among other things, it recommended extensive amendment in Article 243 (G) of the Constitution. Thus, there are examples one after another, which present the necessity of new amendments in the Constitution for Panchayati Raj.

At least, the following things must be included in the Constitutional Amendments. One, the subject of Panchayat should be put in the Concurrent List of the Constitution. Two, a common national form of Panchayats should be determined in the Constitution. Three, a standard of Gram Sabha should be made in which public participation is ensured. Four, the Panchayat and Nyay Panchayat should be established in the Panchayati Raj system in the same way as the government and judiciary have autonomy. Five, Panchayats should be free from the control of the District Magistrate and they should be under the Lokpal. If these things are added to the Panchayati Raj system by amending the Constitution, then it can be hoped that the dream of a rural republic in India can be fulfilled.

At what stage is the country in this tell-tale journey of Panchayati Raj? If this question arises, then it can be understood by remembering a basic ritual of marriage ceremony in Indian culture. That basic ritual is, the couple taking seven rounds

of fire. From this, another question arises that whether the necessary constitutional seven

rounds of Panchayati Raj have been completed? As per my observation, the seventh round is

pending, that is the inevitability of another important constitutional amendment for Panchayat Raj. ●

References:

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3. In the original Constitution, the subject of Panchayat was included in the Directive Principles of State Policy in Part IV of the Constitution. That was the 40th one.
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12. Ibid
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14. Order of committees -- Balwant Rai Mehta Committee (1957), Jayaprakash Narayan Committee (1961), Ashok Mehta Committee (1978), G.V.K. Rai Committee (1985) and Dr. L.M. Singhvi Committee (1986).
15. Prime Minister Rajiv Gandhi's speech in the Lok Sabha while presenting the 64th Constitutional Amendment on 15th May 1989.
16. Ibid
17. Ibid
18. This is called the 65th Constitutional Amendment Bill, which Rajiv Gandhi presented in the Lok Sabha on 7th August 1989.
19. In this manner, the Lok Sabha took a constitutional step by passing the 64th and 65th Constitutional Amendment Bills.
20. Note - Chandrashekhar Pran, founder of 'Teesri Sarkar Abhiyaan', informed about this fact in a conversation with this author a few days ago.
21. Note - The President constituted the Constitution Review Commission on 23rd February 2000 to review the working of the Constitution.
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27. Ibid
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Dr. Ramanand Sharma

Bharat & Democratic Decentralization: Evaluating 73rd Amendment Act through Indic Lense

Abstract

The 73rd Amendment to the Indian Constitution, enacted in 1992, marked a significant milestone in the evolution of local governance in India by institutionalizing the Panchayati Raj system. This amendment aimed to decentralize power and enhance democratic participation at the grassroots level, particularly in rural areas. Rooted in India's ancient traditions of community-based decision-making, the Panchayati Raj system reflects a long-standing cultural ethos of participatory governance. The study delves into the historical and cultural roots of the Panchayati Raj, tracing its origins to ancient Indian traditions that emphasized community-based decision-making and participatory governance. By examining the evolution of local governance in India, the paper assesses how the 73rd Amendment has reinforced Indian identity and democratic values at the grassroots level. The analysis highlights the amendment's role in promoting political inclusion, enhancing accountability, and fostering socio-economic development in rural areas.

Furthermore, the paper discusses the challenges and successes of implementing the Panchayati Raj system, offering insights into its impact on rural governance and the broader implications for democratic practices in India.

Keywords: Panchayati Raj, Village, Decentralization, Constitution, Governance, India, Amendment etc.

Introduction

For a democracy to truly flourish, it is imperative that every constituent unit participates not only in the sovereign authority of the state but also in the quotidian operations of governance. Our Prime Minister Narendra Modi too states that Success of democracy is impossible without participation of the people¹. To achieve this, a subtle yet profound transformation has been occurring in the villages of India through the Panchayati Raj system, harmonizing ancient traditions with modern governance. This system of village self-governance aligns seamlessly with both contemporary democratic principles and the Indian ethos, underscoring why India is often heralded as the “birthplace of

India is considered to be the mother of democracy. The 73rd amendment to the Constitution has further strengthened this identity of the country and its democratic values. An objective assessment of the changes brought about by it

democracy.” Mahatma Gandhi famously regarded villages as the backbone of India, and indeed, the essence of India resides in its villages, which serve as the nation’s smallest administrative units. Although the original constitution did not explicitly mention panchayats, this oversight was rectified by the 73rd Constitutional Amendment Act of 1992. This amendment revitalized the longstanding concept of Panchayati Raj, elevating village self-governance from an esteemed ideal to a constitutional imperative. However, this development did not occur in isolation. It rather drew from the profound reservoir of Indian identity and democratic traditions that date back to the Vedic era. By institutionalizing Panchayati Raj, the amendment aimed to decentralize power and bring governance closer to the populace. Hence, it also empowered rural communities and enhanced democratic

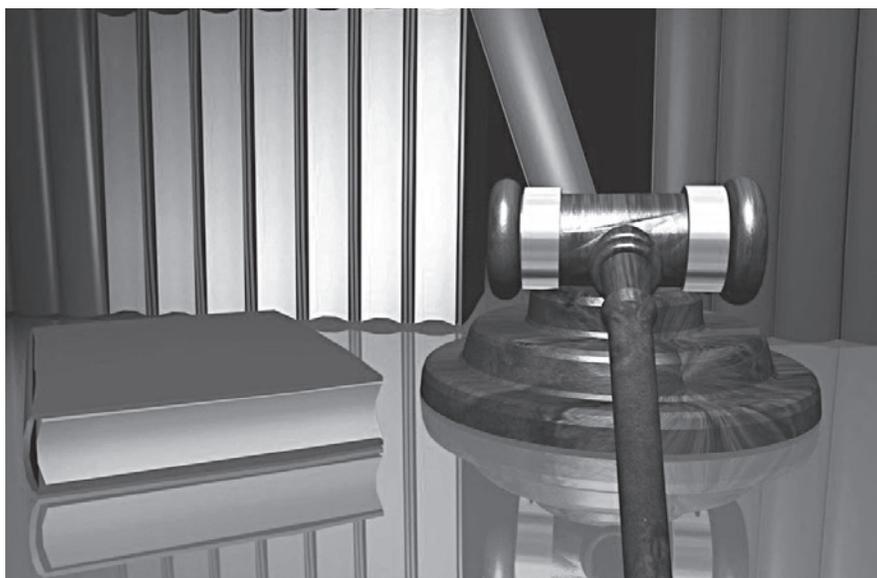
engagement at the grassroots level.

The Panchayati Raj system, deeply rooted in ancient village assemblies, was conceived as a mechanism to realize Mahatma Gandhi’s vision of Gram Swaraj, or village self-rule. The 73rd Amendment institutionalized this vision by establishing a three-tier governance structure—comprising the Gram Panchayat at the village level, the Panchayat Samiti at the block level, and the Zila Parishad at the district level. It ensured that local self-governance became a permanent and integral component of India’s political framework. This structural transformation was designed to empower marginalized groups, including women and Scheduled Castes and Tribes, through mandated reservations, and hence promoted social justice and inclusive development. This research paper explores the impact and significance of the 73rd

Amendment, examining how it has revitalized traditional governance systems while adapting them to meet contemporary needs. By analyzing the historical context and the amendment’s implementation in India, this study evaluates the successes and challenges of the Panchayati Raj system in fostering a more participatory and decentralized form of governance.

Indian Village System

Village communities have long been an integral component of Indian society. Their existence and roles have meticulously chronicled since the Vedic era. The organizational structure of these communities varied significantly across different regions, shaped by local traditions, caste dynamics, and administrative practices. This variation underscores the adaptability and resilience of village communities throughout Indian history. Villages served as the fundamental units of governance, regardless of whether the central authority was monarchical, oligarchical, or republican². These institutions demonstrated remarkable durability, enduring the rise and fall of numerous empires. Functioning as self-governing entities, village communities exercised considerable autonomy in managing local affairs, including law enforcement, revenue collection, and social regulation, often through a governing body known as the



panchayat. The panchayat, composed of village elders or representatives, played a pivotal role in decision-making and conflict resolution.

Village communities were distinguished by a network of caste-based roles and occupations essential to their operation. This system, known as the jajmani system, involved hereditary service relationships between different castes, ensuring economic and social stability within the village. Each village community functioned as a distinct entity, playing a crucial role in the continuity and preservation of Indian society amidst numerous upheavals. This structure greatly benefited the inhabitants, providing them with considerable freedom and independence. The economic activities of village communities were supported by common resources, such as wastelands and communal funds, managed by the village assembly. These resources were vital for covering communal expenses and maintaining village infrastructure. The concept of the village as a self-sufficient unit, often described as a “little republic,”³ “highlights the deep-rooted tradition of local governance and community autonomy in India. Altekar viewed village rule as a platform for people to have a decisive voice in governance, essential for maintaining law and order and ensuring that the needs of the local population were met. This decentralized system

facilitated a more participatory form of governance, where local bodies wielded significant administrative powers and responsibilities, thereby reducing central government control and promoting local autonomy.

Historical Records

The earliest evidence of local self-governance dates back to the Vedic period, where the notion of Panchayatan—a group of five individuals, including a spiritual leader—was prevalent. Historical texts like the Markandeya Purana also describe a village as a community surrounded by cultivable lands, where inhabitants collectively manage resources and sustain the community. Vedic literature references various assemblies and committees, such as the Sabha, Samiti, and Vidatha, which played pivotal roles in local governance and decision-making. The Rigveda mentions these democratic assemblies, noting that the Samiti, or the Vedic folk assembly, sometimes held the power to elect a king, while the Sabha exercised certain judicial functions. Both bodies enjoyed the right to debate, a privilege not afforded to the popular assemblies of other ancient civilizations. The office of the village headman (Gramani) marks the village’s emergence as a unit of administration. In the later Vedic period, however, the Samiti ceased to function as a popular assembly, and the Sabha evolved into a narrower entity

resembling the king’s privy council. According to Atharva Veda, in villages (gramas), forests (vanas), and Sabhas, one should employ courteous and pleasant language⁴:

*“Ye grama vadaranyam ya
sabha athibhoomyam.*

*Ye Sangramaah Samitiyasteshu
Charu Vedam Te.”*

According to Prabhat Nath Banerjee, during the early Vedic period, the village functioned as an autonomous unit of governance, largely independent from central control. Similarly, Manu’s literature identifies three types of habitations: gramas (villages), puras (towns), and nagra (urban areas). The Gramini (chief) and other village officials were selected by the villagers and held accountable to them. The Manusmriti identifies the village officer as the “Gramik,” whose primary duty was to collect revenue⁵. For every ten villages, an official called the “Dasik” was appointed, while the “Visadhip” oversaw twenty villages. The “Shatpal” was responsible for one hundred villages, and the “Shahestrapati” managed one thousand villages. Historical records from 907 CE - 949 CE indicate that local administration was conducted by well-organized committees or panchayats, which appointed various inspectors—such as garden, pond, justice, and gold inspectors—to resolve local disputes⁶.

During the epic periods of the *Ramayana and Mahabharata*, village governance was

structured with clearly defined administrative roles. Bhishma's advice to Yudhishtira and the Pandavas in the *Shanti Parva* reflects the ancient Indian governance ethos, referencing the institution of the five (*pancha panchasvanusthitah*). The *Shanti Parva* further elaborates on self-governance, detailing the roles of village assemblies and local leaders. It describes a hierarchical system with officials like the Gramik (village head), Dashap (chief of ten villages), and others overseeing larger groups, responsible for tax collection and defense. Similarly, the Ramayana outlines the administrative division into two main parts: Pur (city) and Janapada (village), underscoring the significance of local governance in maintaining order and ensuring welfare. Lord Ram's Ram Rajya emphasizes the role of assemblies, such as the Sabha, where important matters were discussed, reflecting the participatory nature of governance central to the Panchayati Raj system. In this era, a group of families formed a Grama/Graman, with each village mandated to have a Graman and a 'Senani,' both holding equal power in the village.

Kautilya's *Arthashastra* offers a comprehensive account of ancient village administration, serving as a precursor to the modern Panchayati Raj system. According to the *Arthashastra*, villages varied in size, typically comprising 100 to 500 families, with boundaries marked by

During the Gupta period, the system persisted with some changes in nomenclature: the district official was known as the *vishya pati*, and the village headman was referred to as the *grampati*. In central India, these entities were called Panchamandalas, while in Bihar, they were known as Gramajanapadas. These bodies negotiated with the government for concessions and dispute resolutions. The Chola dynasty's inscriptions detail the construction and functions of village assemblies and their executive committees, with village administration carried out by elected representatives forming the village council

natural features like hills, forests, and water bodies. The Gramik was responsible for maintaining law and order, collecting state dues, and overseeing agricultural productivity. They also reported criminal activities and ensured proper land use, playing a crucial role in the village's economic and social life. The Gopa had jurisdiction over multiple villages (five to twenty) and was responsible for maintaining land records and census data.

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village administration carried out by elected representatives forming the village council. According to the *Jatakas*, villages were classified based on size and habitation mode. Jain and Buddhist literature provide insights into various aspects of village life, with Buddha actively promoting public participation in decision-making through dialogue, debate, and voting. Buddha emphasized the concept of a republic where parliament and council played crucial roles in decision-making at both state and village levels.

In the medieval period, the autonomy of village panchayats declined due to power centralization under the Sultanate and Mughal empires. Although the Tughlaqs instructed officials not to interfere with or harm the Panchayat, the Mughal period saw a decline in Panchayat power due to battles and exploitation by land revenue officials. Nonetheless, village assemblies continued to exist with reduced authority. Local governance was characterized by

officials such as the Mukkaddam for administration, Patwari for revenue collection, and Choudhrie for dispute resolution, working alongside the panchayat. During the Mauryan and Post-Mauryan periods, the headman, assisted by a council of elders, continued to play a prominent role in village life. According to Professor Atalekar, gram sabhas existed in regions like Gujarat, Maharashtra, and Karnataka, addressing local disputes and indicating the presence of autonomous bodies managing local administration within villages or groups of villages⁸.

Regarding village self-rule, Sir Charles Metcalfe, the provisional Governor-General of India (1835-36), remarked that village communities functioned as “little republics,” possessing nearly everything they needed within themselves and remaining largely independent of external influences. He noted that these communities endured through various dynastic changes and revolutions, significantly contributing to the preservation of Indian society and promoting happiness, freedom, and independence⁹. Metcalfe expressed a desire for these village constitutions to remain undisturbed, fearing any actions that might disrupt them. Colonel Thomas Munro also held village rule in high regard, observing that every village was akin to a republic and that India was a confederation of such republics¹⁰. Colonel Tod similarly

considered self-government the most vital aspect of traditional Hindu law, viewing these villages as *Imperio Imperium*, or mini-republics.

Still, under British rule, the autonomy of village panchayats was further eroded. However, the introduction of representative local institutions began with Lord Mayo’s resolution in 1870, which aimed to decentralize governance due to fiscal necessities. This was followed by Lord Rippon’s resolution in 1882, which provided a democratic framework for local bodies, emphasizing elected representation and marking a significant step towards modern local governance. Local self-government institutions further gained momentum with the establishment of the Royal Commission on Decentralization in 1907, chaired by C.E.H. Hobhouse. The commission acknowledged the significance of village-level panchayats. Against this backdrop, the Montagu-Chelmsford Reforms of 1919 shifted the responsibility for local government to the provinces. The reforms also suggested that local bodies should have as much autonomy as possible, minimizing external control. However, these panchayats were limited in scope, covering only a few villages and performing restricted functions. Due to organizational and financial limitations, they did not evolve into democratic and dynamic institutions of local self-governance at the village level.

Village Rule – The Dream of Indian Spiritual Leaders

In the 20th century, Indian spiritual leaders reinvigorated the notion of village self-governance, advocating for a model of self-rule centered on Indian principles. Sri Aurobindo envisioned an independent India as a “Vedantic State¹¹,” distinguishing Indian democracy from its European counterpart by noting that the ancient Indian system evolved organically from real life, accommodating diverse interests and needs¹². Vinoba Bhave delineated India’s history into four distinct phases: ancient India, when both the nation and its villages were independent; medieval India, where the nation was subjugated but its villages remained autonomous; British India, during which both the nation and its villages were subjugated; and contemporary India, where the nation is independent but its villages remain dependent.

Mahatma Gandhi’s concept of *Gram Swaraj* underscored the significance of villages as self-sufficient republics, a notion deeply embedded in India’s historical traditions. Gandhi was a vocal critic of the central government, advocating for grassroots democracy that empowered individuals to engage in self-governance and decision-making at the village level. His philosophy emphasized the revival of village communities, promoting self-sufficiency and

minimal reliance on external entities. “Back to the villages” was his clarion call, urging people to focus on reconstructing village life neglected during British rule. Vinoba Bhave, a follower of Gandhi, further championed decentralized governance, advocating for love and non-violence as essential tenets for societal transformation. Gandhi strongly supported the decentralization of political and economic power, favoring self-sufficient and self-governing village Panchayats, which he viewed as exemplars of non-violent organization.

Following Gandhi and J.C. Kumarappa, leaders like Jayaprakash Narayan, Pandit Deendayal Upadhyaya, and Dr. Lohia also recognized *Gram Swaraj* as fundamental, actively campaigning for its realization. Drawing from Gandhian philosophy, the Sarvodaya movement, led by Jayaprakash Narayan, offered a radical reinterpretation of governance¹³. This vision questioned the appropriateness of the parliamentary system for India, proposing instead a “communitarian democracy” aimed at reviving traditional village governance structures. Central to this concept was the panchayat, conceived as the sole directly elected body at the base of a pyramidal structure of indirect elections reaching the national level. Narayan’s model vested sovereignty in village assemblies (Gram Sabhas) and advocated

for a partyless democracy based on consensus, representing not just a local government reform but a comprehensive alternative to India’s existing democratic system. Although the 73rd Amendment did not fully embrace this vision, it was inspired by these ideas of decentralized, village-based governance, reflecting the profound connection between Panchayati Raj and traditional Indian self-governance concepts.

The Need for Decentralization and Lack of Place in the Main Constitution

Decentralization serves as a mechanism to enhance public participation by empowering individuals to initiate and determine their public policies. This process is intricately linked with democracy, development, and good governance¹⁴, as it transfers decision-making authority and resource distribution to the populace. Recognized as a fundamental element of any democratic system, decentralization enables the identification of public needs through both direct and indirect planning and implementation processes. Furthermore, it facilitates the exchange of local knowledge and needs, driven by political demands from local communities to national ministries, thereby empowering citizens and their representatives with decision-making power and responsibility¹⁵. Given its

significance in Indian history, decentralization should have been incorporated into the newly drafted Indian Constitution following the country’s independence in 1947.

Ram Bahadur Rai notes that during a seven-day meeting with American journalist Louis Fischer, Gandhi expressed his desire to distribute power among India’s 700,000 villages rather than centralizing it¹⁶. However, this vision was not universally shared among leaders, leading to an ideological clash between Gandhi and the constitutional drafters regarding the form and political philosophy of the new government. The constitutional drafts notably omitted any reference to village panchayats, which scholars find surprising, as villages could have been pivotal constituents in the provincial system. While Gandhi advocated for self-governance and the Panchayat system, the drafters of the Constitution believed a centralized state was necessary to address India’s economic, social, and political inequalities¹⁷. The draft constitution made no mention of villages as units of self-government, and Dr. Ambedkar criticized the state of Indian villages, describing them as the “ruination of India” and “sinks of localism, ignorance, and communalism.”¹⁸ “Many supported Ambedkar’s view, arguing that increased decentralization would not necessarily lead to greater democracy in villages, as it

could empower higher castes to wield power more oppressively against the poor. Gandhi, however, strongly opposed this perspective, emphasizing that village communities had historically been the foundational units where individual happiness, freedom, and independence were realized¹⁹. He considered the omission of the people's voice a significant oversight, asserting that "the greater the power of the panchayats, the better for the people."

One by one, members rose to voice their sorrow, anger, and disappointment. Shri Narayan Aggarwal even drafted a "Gandhian Constitution" based on Mahatma Gandhi's vision and the principle of 'Gram Swaraj,' presenting it to the members of the Constituent Assembly. However, the Assembly rejected the idea of a Panchayati Raj-based administration, as it would require significant alterations to the Draft Constitution's form and structure. Nevertheless, a provision for Panchayati Raj was included in the non-justiciable Directive Principles of State

Policy, under Article 40²⁰. This article suggested that the state should confer such powers and responsibilities on Panchayats as to make them institutions of self-government. Consequently, the Indian Constitution limited the concept of decentralization to community development projects. Against this backdrop, the first three-tier Panchayat system was introduced in Rajasthan, where the Rajasthan Panchayat Act of 1953 established a three-tier structure at the village, intermediate, and district levels. This system was inaugurated by Prime Minister Pandit Jawaharlal Nehru in 1959, with the first Panchayat Raj elections held from September to October of that year, conducted under the Rajasthan Panchayat Samitis and Zilla Parishads Act, 1959.

Road Map to 73rd Constitutional Amendment Act

During the first meeting under the Five-Year Plan (1951-1956), the Balwant Rai Mehta Committee was established to reinforce

the concept of Panchayats and prioritize rural development and citizen welfare²¹. The committee emphasized that the "village panchayat is the foundation of the entire administrative structure for national development." It made several recommendations, including the establishment of a three-tier system, decentralization, and the appointment of a Gram Sewak, but these did not materialize. Subsequently, the Ashok Mehta Committee was formed in 1977 under the Janata Government. It revised the earlier recommendations, proposing a two-tier system with elections every six months, the appointment of a Panchayati Raj Minister at the state level, and reservations in the system. The G.V.K. Rao Committee in 1985 further expanded the role of Panchayati Raj institutions in planning and executing development programs.

Finally, the L.M. Singhvi Committee, formed under Rajiv Gandhi's government, aimed to revitalize Panchayati Raj institutions for democracy and development. It recommended a constitutional mandate, the establishment of Nyaya Panchayats, financial resources, and regular elections. In 1990, the Constitution (74th Amendment Act) Law, which proposed changes to both Panchayati Raj institutions (PRIs) and municipalities, was submitted but not debated. In September 1991, during P.V. Narasimha

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Rao's tenure as Prime Minister, a revised version, the Constitution 72nd Amendment Bill, was introduced. Parliament ratified the 73rd and 74th Constitutional Amendments in December 1992, formally establishing local self-governance in rural and urban India. These amendments legitimized decentralization and solidified India's three-tier government structure.

From Nyaya Panchayats to Gram Nyayalayas – are They Effective?

In the early years of the Indian republic, Nyaya Panchayats were introduced as a means to provide decentralized and accessible justice in rural areas. These institutions were inspired by the idea of recreating an 'indigenous' model of dispute resolution based on traditional village panchayats. However, by the late 1970s, Nyaya Panchayats had largely disappeared due to their inability to effectively address the needs of rural litigants. The failure of Nyaya Panchayats was attributed to their ambiguous role within the judicial and political systems, as well as their reliance on a romanticized notion of village panchayats that overlooked the complexities of rural disputes and social hierarchies. In response to the limitations of Nyaya Panchayats, the Indian Parliament enacted the Gram Nyayalayas Act in 2008, aiming to establish over 5,000 Gram Nyayalayas across the country.

Unlike Nyaya Panchayats,

In the early years of the Indian republic, Nyaya Panchayats were introduced as a means to provide decentralized and accessible justice in rural areas. These institutions were inspired by the idea of recreating an 'indigenous' model of dispute resolution based on traditional village panchayats. However, by the late 1970s, Nyaya Panchayats had largely disappeared due to their inability to effectively address the needs of rural litigants

Gram Nyayalayas are designed to function as an extension of the formal court system, providing professionalized justice delivery at the village level. The Gram Nyayalayas are headed by a Nyayadhikari, a judicial officer with qualifications equivalent to a Judicial Magistrate of the First Class, and are intended to be mobile, conducting periodic visits to villages within their jurisdiction. Gram Nyayalayas represent a significant departure from the village panchayat ideal, as they embrace a model of adversarial adjudication similar to formal courts. This model includes the presence of legal representation and adherence to procedural laws, albeit with some modifications to accommodate the rural context. Gram Nyayalayas are tasked with resolving both civil and criminal cases, with an emphasis on conciliation in civil matters. However, Gram Nyayalayas predominantly handle criminal cases, with civil cases being relatively rare. Field research conducted on Gram Nyayalayas in Rajasthan, Maharashtra, and Madhya Pradesh reveals that

these institutions operate more as decentralized courts than as traditional or indigenous forums for dispute resolution. The presence of professional judges and lawyers in Gram Nyayalayas ensures that even civil cases are likely to be heard in an adversarial manner, further aligning them with the formal court system.

Challenges and Policies Recommendations

The Ministry of Panchayati Raj, established in 2004, was created as a dedicated ministerial body to facilitate decentralization and to strengthen and empower Panchayats. The Ministry's primary objectives are to formulate appropriate legislation in Indian states, establish mechanisms to support village governance, and provide financial assistance. However, it remains evident that all twenty-nine subjects outlined in the XIth Schedule have not yet been transferred to Panchayats. Even when transferred, Panchayats retain very limited autonomy, particularly regarding financial powers and functions. The roles assigned to Panchayats,

as detailed in Article 243G (A) and (4) of the Constitution, are primarily developmental rather than promoting true self-governance. To address this, states should implement ‘activity mapping,’ whereby each state clearly delineates the responsibilities and functions of different levels of government concerning the subjects listed in Schedule XI.

Furthermore, evidence suggests that when women and Dalits are elected to Panchayati Raj bodies, they often serve only as *de jure* representatives, while the *de facto* authority lies elsewhere. The Panchayati Raj institutions (PRIs), being creations of state governments, lack inherent powers and functions of their own and cannot legislate independently. Their functions are restricted to what is explicitly authorized by the state, reflecting a reluctance among political elites to share power with the PRIs. Administrative and fiscal decentralization remains minimal, with most authority retained by state governments. Panchayats are not adequately empowered to levy and collect taxes, fees, duties, or tolls, limiting their capacity to generate their own resources—a deficiency also highlighted in the Reserve Bank of India’s inaugural report on the ‘Finances of Panchayati Raj Institutions’ released on January 24, 2024²². Therefore, it is essential that Panchayats be granted greater powers to generate their own revenues. Moreover, the central

government should incentivize states to promote the effective devolution of functions, finances, and personnel to Panchayati Raj institutions through financial rewards.

Additionally, in most states, Panchayats lack the authority to recruit their own staff or determine their salaries, allowances, and other conditions of service. Due to inadequate financial resources, even when the power to recruit exists, it is often underutilized or not utilized at all, resulting in an insufficiency of resources for necessary developmental expenditures. In certain states, bureaucrats wield more power than the elected Gram Pradhans, who can be removed at their discretion. Consequently, in many states, the role of the Gram Sabha is reduced to merely advising or approving village audit reports. To counter this, Karnataka has established a separate bureaucratic cadre for Gram Panchayats, preventing the frequent deputation of employees who may overshadow elected officials²³. Such measures should be replicated in other states to strengthen the genuine essence of local self-government.

Conclusion

Panchayati Raj was not merely an aspiration of Mahatma Gandhi; it embodies the lived reality of our nation and the enduring truth of countless millennia. However, panchayats have become devoid of their essence, reduced once again to impotent symbols of a democracy that lacks substance²⁴.

Although the 73rd Constitutional Amendment sought to invigorate the lifeless panchayat system after its omission from the original constitution, the promise of dynamic local self-governance remains only partially realized. In Gandhi’s words, the demise of villages signifies the demise of India, necessitating that villages become self-sufficient in every respect²⁵. To achieve this, India must renew its commitment to the amendment’s spirit by genuinely devolving fiscal and administrative powers to panchayats. This requires conducting timely elections, ensuring the autonomous functioning of local bodies, and building local capacity through training and resources.

True decentralization is not merely desirable but essential for the flourishing of India’s democracy. It brings governance closer to the people, enhances accountability, enables locally-tailored solutions, and fosters new leadership. Most importantly, it strengthens democratic foundations by providing citizens with a tangible stake in governance. As India strives to become a developed nation and global leader, empowering its villages is not optional but imperative. The future of Indian democracy hinges on realizing the full potential of the 73rd Amendment—transforming panchayats from mere paper tigers into vibrant engines of local development and citizen empowerment. Only then can India rightfully claim to be the world’s largest grassroots democracy. ●

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S.S. Meenakshisundaram

Structure for Decentralisation in India: A Critique

With the inauguration of the Community Development programme in India during October 1952, blocks consisting of about 100 to 150 villages had become basic units of development administration within the existing districts. Since community development did not pick up the desired pace even after four years, a study team headed by Balwantrai Mehta was appointed to study the Community Projects and National Extension Services in January 1957 and suggest measures to activate them. This team came to the conclusion that: "So long as we do not discover or create a representative and democratic institution which will supply the local interest, supervision and care necessary to ensure that expenditure of money upon local objects confirms with the needs and wishes of the locality, invest it with adequate powers and assign to it appropriate finances, we will never be able to evoke local interest and excite local initiative in the field of development". It therefore recommended people's participation through Panchayati Raj.

The study team was aware of the fact that reasonably well equipped

infrastructure and establishments already existed at the district and block levels in the offices of the District Collector and the Block Development Officer and they could be used to house these democratic institutions proposed by them. To ensure people's participation in decision making at levels closer to the people, the team recognised the need to revive Gram Panchayats. Hence it recommended the establishment of a three tier Panchayati Raj, the middle tier namely the Panchayat Samithi at the block level playing the pivotal role in the scheme of decentralisation. The first generation Panchayats that came about in 1959 thus owe their origin to the Balwantrai Mehta study team.

The phase of ascendancy in the history of Panchayati Raj in India continued till 1964, to be followed by a phase of stagnation (1965-69) and then a phase of decline (1969-77) with the gradual weakening of commitment to democratic values at the highest levels. The Janata Party Government led by Morarji Desai which took office in 1977 decided to reactivate Panchayati Raj and set up a committee under the chairmanship of Ashok Mehta to take a fresh

The need to revive Gram Panchayats was recognized with the view to make sure the participation of people in decision making. A critical study of the entire scenario

look at the whole situation. This committee felt that a Gram Panchayat (GP) with a population of around 5000 is too small an entity to be economically viable and it may not be able to plan and execute programmes for its economic development. In their opinion a lower tier with a population of around 20,000 will ensure both economic viability and democratic participation. They therefore recommended a two-tier structure of Panchayati Raj – Zilla Parishad at the District level and Mandal Panchayat for a group of villages with a population of twenty to thirty thousand (ie. below the block level).

Though the Union Government did not act upon the Ashok Mehta Committee report owing to a change of Government, the Janata Party led Government of Karnataka went in for the two-tier system of decentralisation in 1987 and established elected Mandal Panchayats and Zilla Parishads throughout the State.

The Gram Sabha in this system was the basic tier providing for participatory democracy enabling all voters in the village to participate in the deliberations. The Taluk Panchayat Samiti was a nominated body created for the purposes of coordination between the Mandal and the Zilla Parishad. This system worked well for a period of five years; but it had to be replaced by the three tier system in 1993 to comply with the provisions of the Constitution 73rd Amendment which mandated a uniform three tier Panchayati Raj System in all the States with a population exceeding twenty lakhs.

Current Status

Elected local governments are now in position throughout India. The structure is well set even though many States have started questioning the need for a three-tier system of elected rural local bodies. While some States like Kerala would like to dispense with the intermediate

tier, Tamilnadu would prefer not to have a district tier at all. A proposal to leave the structure for decentralisation below the district to the discretion of the States was not acceptable to the Joint Parliamentary Committee which looked into the draft Constitution Amendment. Some experts also raise a basic question as to why should a multi-tier system be prescribed for rural governance in India which always had a single tier of governance in urban areas. While an urban ward has only one representative in their local government, a village will have three local government representatives who may not always see eye to eye with each other and that will not certainly be conducive for the development of the village. It is in this context, this paper attempts an answer to the question as to which structure would facilitate decentralisation better under Indian conditions.

Structural Issues

A good local governance system has to conform to certain design parameters that create the right incentives for the institutions to function in a responsible and accountable fashion. First, they must be constructed to minimize, or at least discourage, destructive political rivalries between themselves and between them and political representatives of higher levels of government. Second, they must have a clearly defined functional space that is their own, where higher levels of government have little role to



play. Third, they must also have a clearly defined fiscal space, created first and foremost by giving them a meaningful tax base, sufficient tax assignments and, if necessary, tied fund transfers to handle specific shortcomings or responsibilities. Fourth, they must have the freedom to secure the capacity that they need, both institutional and for the people who run these governments, from either higher levels of government or from other sources. Last, there must be good systems in place for people to hold their local governments to account—either directly or through recourse to an independent agency empowered to intervene.

The institutional design for decentralisation should take into account not only the developmental thrusts built upon the capabilities at the local levels but also the need to ensure local participation in decision-making. The dynamics of development necessitates that the technical expertise of a high order be made available at levels below the State to sustain the momentum of development which, in many cases, has been already administratively decentralized at the district level. The inescapable conclusion, therefore, is that the district should be the first point of decentralisation, under popular supervision, below the State level.

The problem of striking a balance between technological requirements and possibilities

for meaningful participation by the people in development management recurs at levels below the district. Since it is extremely difficult to combine representativeness and viability in one level of local government, this problem is sought to be solved by having one or more tiers in such a way that the smaller-area one is closer to the people while the larger-area one is better financed and technically more powerful.

The question of adequate area for a unit of administration is quite complicated in any given State, owing to unevenness in terms of economic resources, communication facilities, population density, level of social integration, civic commitment, etc. A uniform set of criteria cannot apply, even within a State. It would, therefore, seem appropriate to leave the exact pattern of local government below the district level to the States. The Union Government could at best lay down the general criteria for guidance.

More recently two criteria have been suggested for determining the size of a local government unit. These are access and service. If service is taken as the prime determinant of size, an important consideration has to be the population, because the cost of the service is a function of the population requiring that service, although at some point, when the population reaches a certain level, the unit cost of the service would reduce. It

means, therefore, a minimum and a maximum population can be established — a minimum to guarantee that the service is not too expensive and consequently inaccessible to the people and a maximum to ensure quality and promptness in service.

Access to government in terms of influencing public policy decisions and enhancing both responsible and responsive administration is a prime requirement for any democratic government. If access is an important prerequisite of size, then, in addition to population, one has to look at the communication network, level of political awareness, and also the area. While the service criteria will take care of the economic viability and administrative efficiency, the access criteria should serve the political and democratic needs of the people. Should the application of these criteria lead to divergent views, one has to raise the basic query, whether the functions of local government can be or should be performed for profit.

Insisting on viability for local government and not for other levels of government would amount to an obvious discrimination against local government since the local government provides an instrument for democracy or at least provides an extra avenue for democratic participation. The “access” criteria should therefore precede the “service” criteria in determining the structure of PRIs in any State.

It must, however, be added that the lowest tier should not be so small in size as to make it insignificant or incapable of discharging its legitimate duties as a local government. For instance, the GPs in most parts of India, covering a population of about 2,500 or less cannot perform any functions on their own and hence do not command the respect a local government deserves. The Mandal Praja Parishads in Andhra Pradesh, with a population of about 40,000 and the GPs in Kerala and West Bengal with a population of around 30,000, appear to satisfy both the access and service criteria and have the potential of becoming the growth centres which can discharge the duties of a local government, closer to the people, fairly effectively.

It is obvious that one of the things that must be done immediately is that the size of the GP has to be increased uniformly in several States of India to provide viability

as well as to assure public participation in decision making. If for political reasons the GPs cannot be reorganized in the near future, then a few adjoining GPs can be grouped into a 'cluster panchayat' with an office building and an establishment of its own, performing the role of the lowest functional unit of decentralisation in that State.

If the lowest tier can satisfactorily meet the criteria of access and service, there may not be any need for an intermediate tier at all between the district and the village. If the physical distance between the district headquarters and the panchayat is substantial, establishment of de-concentrated offices of the Zilla Parishad under public supervision at convenient locations can bridge that gap and bring the Zilla Parishad nearer to the people.

Case for a District Government

A closely related question is whether there should be

separate urban and rural local governments in India, as has been the practice till now. The rationale for parallel systems of urban and rural local self-governments could be that the character of the two communities being different, the problems to be managed by these local governments are altogether different. The rural areas depend on primary production activities whereas the urban areas thrive on secondary and tertiary activities. The land and resource use issues are entirely different and hence it would be desirable to let each system concentrate on issues specific to the character of the communities they serve. Another argument could be that the fusion of these two types of governments might put rural areas to disadvantage. The low level of education, lack of experience in public affairs, inability to control the mass media, the bureaucratic biases, the difficulties in the way of organization and mobilization of public support scattered in thousands of small village communities and the capabilities of urban representatives to push through large projects with an urban bias may work against the interests of the rural sector. Parallel systems would insulate and protect rural interests against urban influences. A third argument can be the urban areas, being the main contributors of resources for public investment, might also feel a similar threat of being overwhelmed by

A closely related question is whether there should be separate urban and rural local governments in India, as has been the practice till now. The rationale for parallel systems of urban and rural local self-governments could be that the character of the two communities being different, the problems to be managed by these local governments are altogether different. The rural areas depend on primary production activities whereas the urban areas thrive on secondary and tertiary activities. The land and resource use issues are entirely different and hence it would be desirable to let each system concentrate on issues specific to the character of the communities they serve

resource-hungry poor majorities from rural areas.

The costs of parallel forms of local government are, however, equally heavy. They have produced artificial resource constraints. Even though urban populations' need for water, land, energy and nutrients is increasing, it has not been able to develop these resources for more equitable sharing simply because these resources are usually located outside their jurisdiction. Nor have the rural areas been able to develop them because of severe financial constraints. Using their control on State power and money power, the urban areas offer attractive prices and facilities for increasing the rate of resource exploitation without incurring the cost of resource replenishment. Over a period of time, the cumulative result of the process of over-exploitation has been the impoverishment of environment from where rural areas could get life supports — free fuel, fodder, fruits, timber, renewal of soil nutrients, unpolluted water, etc. The urban local governments have been reluctant to expand services like water supply, electricity, roads and transport, sewerage, etc., to neighbouring villages because the revenue income from the villages is too small to pay for even a fraction of such services. On the other hand, the land scarcity in urban settlements with severe deficiencies in basic civic amenities, forcing the inhabitants to live in dangerously polluted

environments and dilapidated structures.

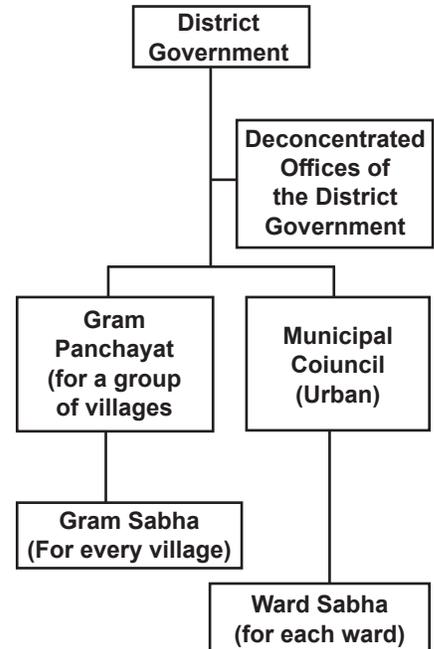
The administrative costs of a dual form of local government are also high. Municipal revenue of small and medium towns is so pitiable that most of them have not been able to meet even the basic needs of their citizens. On the other hand, the existing rural local government has staff resources which, with marginal adjustments, could be used to look after the municipal needs of their headquarters town which can be developed as the growth centre for both the urban and rural communities.

A Possible Future

The case for ending the dualism in local government is thus strong. A single local government at the district level can perhaps look after the needs of its urban and rural components with a set of safeguards built into it so as to ensure just development of the entire area. In the current context, a population of one million may be a suitable cut-off; however, exceptions may have to be made in respect of larger-size urban settlements, keeping in view their social and economic settings such as the community identities and the hinterland served by the city. Such a district government can also plan for the entire district obviating the need to have a separate DPC to coordinate action by various implementing agencies at the district level, including the ZPs and city/town municipalities.

Figure 1 below illustrates an ideal structure for local governance in India.

Figure 1



This in effect means that every Indian will belong to either a GP or a Municipality and will look upon that as the local government entrusted with the responsibility of providing what all he needs from the entire system of governance. The district government will be the first level of decentralisation below the State and will provide the necessary link between the State and the local governments either directly or through its units/offices spread across the district. Reorganizing the PRIs as indicated above will require a wider debate and discussions throughout the country so that State specific systems can be evolved to suit the needs of the people as well as the country.

Conclusion

Decentralisation whereby local governments are empowered to make all policy and programme decisions on behalf of their resident-voters represents a complex system of political, administrative and fiscal autonomy and associated accountability mechanisms to the electorate. Properly laying out a decentralized system of governance with legal status and institutions is important but not sufficient. Unless the institutions operating in the environment are given real powers, decentralisation cannot succeed. A proper streamlining of functions between central, state and local governments is necessary for the local governments to operate effectively. The concept of devolution does not permit concurrent jurisdiction. All tiers of panchayats are units of local self-government. They are sovereign within their own functional areas and are not subordinate to another tier of panchayat. To ensure that the devolution is tier-specific there should not be any concurrent jurisdiction over the devolved

functions not only among different tiers of the panchayats but also between the local and state governments. Unless the devolved items meant for the PRIs are excluded from the purview of the line departments the devolution would not have any functional meaning.

Fiscal decentralisation is crucial to make decentralisation an overall success. If local governments are not enabled to raise their own revenues, they cannot perform their functions effectively. Tax decentralisation has to be pursued vigorously along with functional and expenditure decentralisation assigned to them. The local governments as a policy should not depend on Central resources and even when grants are made by the higher level governments, that should be either untied or for specific purposes and formula based.

Capacity building of the PRIs goes a long way in ensuring that they truly constitute the basic tier of governance and development. In order to create responsible, effective and accountable local

governments, participation of people in the process of decision making is of paramount importance. Regular conduct of Gram Sabha coupled with social audit can ensure peoples' participation and accountability of the local governments to their electorate.

The case for establishing district governments as the first level of decentralisation below the State with a list of subjects assigned to them is strong and worth pursuing. Establishing GPs (with a population of around 20,000) and Town Municipalities below the district level will provide effective decentralisation and ensure people's participation in decision making at those levels. Until we are able to persuade our lawmakers to understand and appreciate the utility of such a move and get the Constitution amended to that effect, we will have to live with the existing system and concentrate on activity mapping, untied grants, decentralized planning and capacity building of the stake holders to keep up the momentum. ●

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Sunil Kumar

Gram Sabha: Where Every Voter is a Legislator

Gram Sabha is the key institution in India's multilevel governance structure. An objective evaluation of the system along with some relevant suggestions

Following the 73rd and 74th Constitution Amendment Acts coming into force in 1993, India today has a multilevel governance structure in place viz. Union, State & rural and urban Local Governments. There is widespread consensus among thinkers, authors, practitioners that the way forward for the country is to focus on local government for better delivery of services to citizens and attainment of 'cooperative federalism' wherein all tiers of Government work together towards the common goal of steering the country on the pathway of sustainable development and inclusive growth wherein all citizens are assured of a life of dignity.⁽¹⁾

Basic Structure of Constitution

The Supreme Court had first propounded the doctrine of 'Basic Structure' of the Constitution in the Keshavanand Bharati case judgment pronounced on 24th April, 1973. In this, the Hon'ble SC had held that democracy and federalism are also part of the 'basic structure' of the Constitution¹. This doctrine has stood the test of time. If it were to be challenged, perhaps the SC would rule that Part IX and Part

IXA inserted by the 73rd and 74th Constitution Amendment Act (CAA) are part of 'basic structure' of the Constitution and so any Central or State law which go against the spirit of the aforesaid provisions would be ultra vires of the Constitution and liable to be struck down. However, this principle remains to be tested.

Gram Sabha

In the aforesaid background, Gram Sabha (GS) has emerged as the 'key' institution designed to strengthen democracy at the grassroots. Gram Sabha has been defined in Article 243 (b) 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"² and in Article 243 (g) village has been defined as "specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified". Further, Article 243 A stipulates that a Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

Specific mention and definition of 'Gram Sabha' in the Constitution

has meant that it is the 'only' institution in the Indian Constitution which reflects the concept of 'direct' and 'participatory' democracy. This comes closest to the idea of Gram Swaraj - grassroots democracy - advocated by Mahatma Gandhi. It is also in sync with the ideas propounded by Jayprakash Narain in his seminal essay, 'A Plea for the Reconstruction of the Indian Polity', written for the Akhil Bharat Sarva Seva Sangh (Kashi) in 1959. To quote, *"The highest political institution of the local community should be the General Assembly – the gram sabha – of which all the adults should be considered members...."*

All the State Panchayati Raj Acts incorporate this definition of Gram Sabha and the experience of working of Panchayati Raj in the last three decades show that Gram Sabha is one Panchayati Raj institution about which people are, in general, most familiar.

However, similarity in the conceptualisation of Gram Sabha in different State Panchayati Raj

Acts does not extend beyond its constitution. There is wide variation in how the meetings of Gram Sabha would be convened and the number of such meetings; the subjects that would be taken up for discussion and decision; whether the decisions of the Gram Sabha would be recommendatory or mandatory in nature for the Gram Panchayat; the relationship between the Gram Sabha and the Panchayat etc.

It is interesting to note that Gram Sabha was not only recognized as the 'highest' political institution in the community, JP, as Jayprakash Narain was widely known, viewed the Gram Sabha as an institution akin to Vidhan Sabha at the State level and Lok Sabha at the National level. He looked upon the Panchayat as the 'executive' organ of local government. To quote, *"...The selection of the Executive – the panchayat – should be by general consensus of opinion in the sabha. There should be no 'candidates', i.e. no one should 'stand' for any post. There should be clear-cut qualifications, as in ancient times, laid down for*

all selective posts. No individual should hold the same post for more than a defined period of time. The panchayat should function through subcommittees charged with different responsibilities. There should be no official or member appointed or nominated by the state government in the panchayat or its sub-committees."

From this it can be inferred that the Gram Sabha also had electoral functions, where it selected the Panchayat members. However, the Constitution provides for direct elections of Panchayat members and Gram Sabha has no role in the election of GP members. The Standing Committees of GP may be construed as something akin to what JP had in mind but, in practice, in most States they remain on paper and all executive powers are vested in the President/ Sarpanch/Mukhiya and the Panchayat Secretary.

Gram Sabha as Legislature of the Panchayat

It may also be noted that the year 1999-2000 was declared as the 'Year of the Gram Sabha' by Government of India. The then Minister of State (Independent Charge), Ministry of Rural Development, Government of India, Shri Babugowda Patil had in his letter addressed to Chief Ministers of all States, exhorted them, *inter alia*, to include the following provisions in the State Panchayati Raj Acts:

i. Provide for more than one



Gram Sabha in each Gram Panchayat so that there is one GS for each village;

- ii. *Relationship between the Gram Sabha and the Gram Panchayat should be akin to that between the legislature and the executive wherein the Panchayat is responsible and accountable to the Gram Sabha and enjoys the confidence of the Gram Sabha;*
- iii. Power to fix the priority of projects and approve budget of the Gram Panchayat should be vested in the Gram Sabha;
- iv. Management of natural resources like land, water and forest by any authority must be with the consent of Gram Sabha & Gram Sabha must mandatorily be consulted before land acquisition for public purpose;
- v. Gram Sabha must have full power relating to production, sale & transportation of intoxicants in the Panchayat and should have the power to enforce 'full prohibition' if they so desire;
- vi. Necessary provisions should be made for ensuring quorum in meetings of Gram Sabha and participation of women, scheduled caste and scheduled tribes should be made mandatory;
- vii. Gram Sabha should be authorised to take all decisions following the principles of natural justice and frame their own rules for organizing meetings of Gram

Sabha and rules and instructions framed by State Government should only be in nature of guidelines.

Here the most important exhortation was the one likening the relationship between the Gram Sabha and the Gram Panchayat to that between the legislature and the executive. This was in tune with the Gandhian and Sarvodaya philosophy. These suggestions continue to reverberate with practitioners but not with the mainstream political parties and the bureaucracy.

Later on 24th July, 2004, a roundtable conference of State Panchayati Raj Ministers was organized in Kolkata and a '*Kolkata Resolution*'^(II) was adopted wherein it was unanimously resolved that since Gram Sabhas are the foundation for participatory democracy and good governance, steps would be taken to create the environment and conditions necessary for participation by the voters in the villages and hamlets; to enable Gram Sabha to function as a watch dog on the Panchayat; to empower Gram Sabha and to take steps and devise mechanisms so that women voters in each Gram Sabha are enabled to 'voice' their

needs and priorities at the Gram Sabha meetings³."

The year 2009-10 was again declared as the 'Year of the Gram Sabha' by Ministry of Panchayati Raj, Government of India and attention was again focused upon the functioning of Gram Sabha. Experts, officials, practitioners deliberated on various aspects of functioning of Gram Sabha in a National Workshop organized in Mysuru and made several recommendations so as to empower the Gram Sabha.⁴ However, till date, these exhortations remain largely on paper in most States.

Duties & Responsibilities of Gram Sabha

Since local government is a State subject and the Constitution had left it upon the State Legislatures to assign functions and duties to Gram Sabha, it would be instructive to look at the major duties and responsibilities assigned to Gram Sabha in different State Panchayati Raj Acts & Rules. In Table 1, the duties and responsibilities assigned to the Gram Sabha in different States/Union Territories have been enumerated.

Table 1: Duties & Responsibilities of Gram Sabha in different States/UTs

Duties and Responsibilities	Name of States/ UTs
Fixing Priority for Development Activities	Maharashtra, Kerala, Chhattisgarh, Goa, Madhya Pradesh, Haryana, Daman & Diu

Discuss/ Approve Development Plans.	Maharashtra, Kerala, Chhattisgarh, Sikkim, Gujarat, Tripura, Punjab, Arunachal Pradesh, Assam, Bihar, Goa, Jharkhand, Himachal Pradesh, West Bengal, Rajasthan, Tamil Nadu, Madhya Pradesh, Haryana, Manipur, Karnataka, Daman & Diu
Grant Permission to Incur Expenditure	Maharashtra, Daman & Diu
Suggest Locations for Public Utilities	Kerala, Chhattisgarh, Gujarat, Tripura, Goa, Jharkhand, Haryana, Karnataka, Daman & Diu
Conduct Social Audit	Maharashtra, Kerala, Chhattisgarh, Goa, Jharkhand, Rajasthan, Tamil Nadu, Madhya Pradesh, Karnataka, Daman & Diu
Mobilize Voluntary Labour	Uttar Pradesh, Kerala, Chhattisgarh, Uttarakhand, Sikkim, Gujarat, Punjab, Arunachal Pradesh, Andhra Pradesh, Assam, Bihar, Goa, Jharkhand, Himachal Pradesh, West Bengal, Rajasthan, Madhya Pradesh, Manipur, Karnataka, Daman & Diu
Promotion of Literacy / Health etc.	Uttar Pradesh, Kerala, Chhattisgarh, Uttarakhand, Arunachal Pradesh, Bihar, Jharkhand, Himachal Pradesh, Rajasthan, Manipur, Karnataka, Daman & Diu
Right to Recall	Chhattisgarh, Haryana, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Uttar Pradesh & Uttarakhand

Source: State of Panchayat Report 2016-17, CRM, Kerala

In almost all States, the selection and validation of beneficiaries of different Centrally Sponsored Schemes and State schemes is undertaken by the Gram Sabha. Telangana has come out with a new State Panchayati Raj Act in the year 2018 and the same has obviously not been examined in the aforesaid Table. However, a cursory examination reveals that there is no major departure in the powers and functions of the Gram Sabha.

Gram Sabha Se Lok Sabha Tak

Gram Sabha is the cradle of democracy wherein voters (all citizens above the age of 18) can theoretically receive training in articulation of their views, deliberation on matters of interest to the community, placing their demands for consideration and approval and, above all, ensure accountability of the Gram Panchayat and transparency in its functioning. Gram Sabha thus can be the nurse for

nurturing potential leaders in the art of democratic functioning and thereby contribute to strengthening roots of democracy in the country. The tagline 'Gram Sabha se Lok Sabha tak' encapsulates the journey of democratic ideals from the over 2.5 lakh Gram Panchayats to Vidhan Sabha in State capitals of 28 States and finally culminating in the Lok Sabha in New Delhi^(III). However, we need to critically examine whether every voter is really a legislator in the Gram Sabha and whether Gram Sabha is akin to Vidhan Sabha?

Functions of a Legislator

A Member of Legislative Assembly (MLA) or a Member of Parliament (MP) typically performs four types of functions in the Vidhan Sabha - law making; deliberative function; approval of budget; and electoral college function. Further, the executive is accountable to the Vidhan Sabha in the States and Lok Sabha at the national level. There are various tools of parliamentary practice such as Question hour, Zero hour, Calling Attention motion, Adjournment motion, No-confidence motion, working of the Parliamentary and Legislative Assembly Committees, most notably, the Public Accounts Committee, the Estimates Committee which serve to ensure accountability of the executive to the legislature. It is the duty of the executive to ensure that 'wrong' replies or submissions are not

made in the State legislature or Union Parliament. The working of the Parliament and State Legislature is guided by codified Rules and Procedures and it is the duty of the Speaker of Lok Sabha and Vidhan Sabha, as the Head of the independent Lok Sabha/ Vidhan Sabha Secretariat to ensure smooth and orderly transaction of business in the House and adherence to rules by both the Treasury Benches as well as the Opposition.

Meetings of Gram Sabha

Before we examine the issue of applicability of various tools of parliamentary procedure

in the Gram Sabha, we need to address some basic issues. First is regarding procedure for convening the meetings of Gram Sabha, the number of meetings of Gram Sabha in a year, the duration of these meetings etc. Procedure for convening meeting of Gram Sabha including special Gram Sabha is usually found to be laid down in the State Panchayati Raj Acts and Rules. The meeting is usually convened by the Sarpanch or the designated authority after giving due notice period as specified in law. Usually this varies from 7 to 14 days. The agenda is also prepared by the Gram Panchayat. However, the agenda

of GS meeting is rarely formally circulated. Announcement regarding the proposed meeting is usually made by putting up notice on the notice board in the Gram Panchayat Bhawan, through traditional forms of beating of drums, distribution of handbills etc. It is also done through ‘word of mouth’ especially when selection of beneficiaries is to take place. The minimum number of meetings of Gram Sabha has been specified in the Act and Rules. It varies between two to six per annum. Chhatisgarh and Telangana have specified one GS meeting every two months. State wise details can be viewed at Table 2.

Table 2: Frequency of Gram Sabha Meetings Mandated

S.N.	Number of Gram Sabha Meetings mandated	States /UTs
1	2 or less	A&N Islands, Arunachal Pradesh, Andhra Pradesh, Gujarat, J&K, Karnataka, Lakshadweep, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh, Tripura, West Bengal
2	3	Haryana
3	4	Assam, Bihar, Daman & Diu, Goa, Jharkhand, Himachal Pradesh, Kerala, Madhya Pradesh, Maharashtra, Uttarakhand
4	6	Chhatisgarh, Telangana

Source: State of Panchayat Report 2016-17, CRM, Kerala

It may be noted that the ‘minimum’ number of Gram Sabha meetings has been taken as the ‘maximum’ number in practice in almost all States. Since there is provision for removal of Sarpanch if he fails to convene and organize meetings of Gram Sabha in almost all State Panchayat Acts, by and large, the minimum number of meetings

of Gram Sabha are held. The quorum for the GS meeting has also been prescribed and in most States it is one-tenth of the total number of electors. In case of non-fulfilment of quorum, procedure for adjournment of meeting and convening of GS meeting on another date has been prescribed in the Act. It has also been provided that in

case of ‘adjourned’ meetings, the prescription of quorum would not apply. In the Telangana Panchayati Raj Act 2018, it has been provided that adjourned meeting can be convened as early as two hours later!⁵

Venue & Duration of the GS Meeting

In some State Panchayati Raj

Acts, the venue for holding the meeting of Gram Sabha has been specified, i.e. Bihar's Panchayati Raj rules stipulate that Gram Sabha meetings must occur at the Panchayat Bhawan / Panchayat Sarkar Bhawan or another suitable location that is open, well-lit, and conducive to accommodating attendees from diverse backgrounds (Bihar GS (CMPC) Rules 2012: Rule 4). In most others it is in the Gram Panchayat Bhawan or in the premises of some public building. It is essential to have a 'neutral' venue for meetings of Gram Sabha keeping in view the spatial dispersal of various caste groups in Indian villages and tendency of dominant castes to hold it in spaces where they are numerically superior. It is essential that the venue should be suitable enough to comfortably accommodate at least the prescribed quorum if not more. Unlike the Vidhan Sabha, in most Gram Panchayats the 'venue' is not a 'fixed venue' for all meetings of the Gram Sabha. Further, there is hardly any instance of a Gram Sabha meeting which has spilled over to second day on the grounds of not being able to complete the Agenda items! Generally meetings of Gram Sabha are held during day time and, more often than not, the time fixed is to suit the convenience of 'officials' and not the 'members' of the Gram Sabha: all voters.

Presiding Officer for Gram Sabha Meetings

It is well known that a Speaker,

selected from among the elected members, presides over the meetings of the Vidhan Sabha and Lok Sabha. His term is co-terminus with the term of the Vidhan Sabha /Lok Sabha. Usually, election of the Speaker is the first and foremost work of the elected MLAs/MPs after they have been sworn in by the Pro-tem Speaker, who is generally the senior most MLA/MP. Speaker is expected to be non-partisan and responsible for smooth and efficient functioning of Vidhan Sabha/Lok Sabha. The Chief Minister/ Prime Minister do not preside over the meetings of the Vidhan Sabha/Lok Sabha. This is also based on the theory of 'separation of powers' wherein Legislature is supreme and distinct from the executive and the Government stays in office as long as it enjoys the confidence of the Vidhan Sabha /Lok Sabha.

However, in case of Gram Sabha it is the President of the GP/ Sarpanch/ Mukhiya/ Pradhan who presides over the meetings of the Gram Sabha. Since he is also the head of the executive - the Gram Panchayat - which theoretically is responsible and accountable to the Gram Sabha, his role as presiding officer of the Gram Sabha poses 'potential conflict of interest' scenario. It has been seen that, more often than not, when groups opposed to the Sarpanch try to raise their issues or grill the Panchayat officials, the meeting degenerates into a '*Jhagda Sabha*' and then in the chaos, either the meeting

is adjourned abruptly or business is deemed to be completed. Quite often, a large number of members of Gram Sabha begin to feel that attending the meetings of Gram Sabha is 'waste of time' as everything is decided beforehand by the Sarpanch and the Panchayat Secretary and issues raised by them are not 'heard' properly. This results in depleting attendance in meetings of Gram Sabha and this unfortunate trend is visible in most GPs in almost all States.

Ward Sabha / Mahila Sabha

In some States the State Panchayati Raj Statutes provide for holding meetings at habitation, village or ward level. These are called by different names and are organized before meetings of Gram Sabha (Table 3). This would facilitate larger participation of voters when these meetings are held in their localities and their decisions are expected to be taken into account by the Gram Sabha. The provision to also organize Mahila Sabhas as prelude to meetings of Gram Sabha so that their voices and concerns can be considered by the Gram Sabha have also been included in certain States like Kerala, Tamil Nadu, Odisha, Bihar, Jharkhand and Madhya Pradesh. In 110 districts of 10 States which are covered under Panchayat Extension to Scheduled Areas Act 1996, the GPs have more than one Gram Sabha - one Gram Sabha for each village under the GP. Ward Sabha comes nearest to

approximating the arrangement as advocated in the Kolkata made for PESA areas and Resolution adopted in 2004.

Table 3: Meetings of Voters at Habitation/ Village/ Ward level

S.N.	State	Name of Sub Sabha
1	Karnataka	Habitation Sabha & Ward Sabha
2	Kerala	Neighborhood Group
3	Maharashtra	Ward Sabha & Mahila Sabha
4	Odisha	Palli Sabha for each Ward
5	Rajasthan	Ward Sabha
6	West Bengal, Tripura	Gram Sansad

Source: State of Panchayat Report 2016-17, CRM, Kerala

Record Keeping of Gram Sabha

Both the Vidhan Sabha and the Lok Sabha have a well laid down system and institution in place for recording the proceedings. Decision of the Speaker is final in deciding what would get ‘expunged’ from the proceedings of Vidhan Sabha or Lok Sabha. However, same is not the case with the Gam Sabha. In Bihar, proceedings are recorded by the Panchayat Secretary and signed by the Mukhiya. The B.D.O. also signs the proceedings and these are returned to the concerned GP within 15 days. In Uttar Pradesh, the rules are silent on who is responsible for maintaining the records or who signs the proceedings (Shrivastava 2023: Rule 36) However, a copy of proceedings is sent to the authorised officer (Assistant Development Officer) within 7days of the meeting. In most States, it is the Panchayat Secretary who prepares the records and it is jointly signed

by both the Sarpanch and the Secretary. Perusal of the records show that mostly it contains the gist of the decisions taken as per the agenda items and omits including points made which were ‘critical’ or at variance with the agenda items. This can be attributed to the perceived ‘conflict of interest’ of both the Sarpanch and the Panchayat Secretary who happen to be the lynchpin of GP executive.

Gram Sabha as a Legislative Body

Before we examine the role of voter as a legislator, it is necessary to examine how Gram Sabha fares as a legislative body. Legally, Gram Sabha has no law making power. This is the exclusive preserve of the State & Union Legislature. Although, not specifically mentioned, Gram Sabha can formulate ‘rules’ to be followed by all residents within the Panchayat area. Recently, a proposal banning use of mobiles by children below age of 18 was

approved by the Gram Sabha on 11th November, 2022 in Bansi GP in Yavatmal district of Maharashtra⁶. Violators of the rule would be fined Rs.200 as per the decision of the Gram Sabha. Further, Gram Sabha can take decisions which are binding on their residents as long as they do not violate any State or Union law.

There is also the successful and widely acclaimed model of Gram Sabha in Hiware Bazar, Ahmednagardistrict,Maharashtra. Through a collaborative and community-driven approach, the Gram Sabha, comprising elected representatives, government officials, and community members, found innovative solutions to the water crisis and other challenges. It passed crucial resolutions, such as banning tube wells for irrigation and prohibiting water-intensive crops. Water budgeting, undertaken annually by students, guided cropping patterns based on water availability. The Gram Sabha’s emphasis on sustainable water conservation and prudent usage has resulted in prosperity, eradication of poverty, and the return of migrated families. Banning use of tubewells for irrigation is something which State Governments and State Legislative Assemblies have been unable to enforce or legislate upon even in case of ‘dark zones’ where depletion of groundwater has assumed alarming status. This shows the importance of Gram Sabha as a key institution of decentralized governance.

Gram Sabha as a Deliberative Body

There are several instances of Gram Sabha functioning as effective deliberative bodies. Chapparapedavu GP in Kannur District of Kerala is one such example where lead was taken in construction of people's bridge, bus stand, micro-hydel project through judicious generation and use of social capital. Contributions poured in from the people in terms of cash, material and labour as these projects had the support of the local community and the Gram Sabha⁷.

Scholars have also observed that "no political party encourages the people to attend Gram Sabha unlike the quantum of efforts made during the elections to vote.... And there is every likelihood that the participation of the people during Gram Sabha meeting is managed, generated or even engineered to a certain extent"⁸. However, the consensus is that despite all shortcomings, Gram Sabha has promoted some deliberative democracy at the grassroots

level and with guidelines for uploading video-recordings of Gram Sabha meetings as proof of deliberative democracy, the local vested interests are forced to hold GS meetings and allow some participation⁹.

Accountability of the Gram Panchayat to Gram Sabha

It has been noted that there are several parliamentary practices and tools which serve to make the executive accountable to the Legislature. However, these seem to be severely lacking in case of Gram Sabha. Although Rule 39 of Uttar Pradesh Panchayati Raj Rules mention that questions can be submitted ten days prior to the scheduled meeting to the Pradhan, Up-Pradhan or the Secretary, there is no mention of whose responsibility it would be to table the answers in the GS meeting and there is certainly no concept of a specific 'Question Hour' in any State. As regards the 'right to recall', the provision exists, as indicated earlier in the article, in the Panchayati

Raj Acts of at least eight States. Since 1994, provision of no-confidence motion exists in Punjab and 'right to recall' has been recently incorporated in the Panchayati Raj Act in Haryana as well. However, its usage has been relatively more in Madhya Pradesh and Chhatisgarh where Sarpanch and Ward Members have been removed by the Gram Sabha before the expiry of their term. This has been mainly on grounds of corruption and/or non-performance. However, a time limit has been set before which this provision cannot be used. This varies between one to two and a half years in different State statutes where this provision exists.

It must be borne in mind that in almost all States, State Government has retained the right to suspend and dismiss the Sarpanch/Ward Members and this provision has been used much more than the 'right to recall' or 'no-confidence' motion by the Gram Sabha. Accordingly, the elected representatives seem to be more accountable to the officers of State Government than the members of the Gram Sabha: their voters!

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Control Over GP Budget

The power of the legislature to approve the budget of State and Union Government and authorize all expenditure is a very important tool for exercising legislative control over the executive. This power is missing in case of most Gram Sabhas. Most State Acts speak of

the Gram Sabha being 'informed' about the Statement of Accounts rather than empowered to approve the GP budget. Their role is recommendatory rather than substantive. For instance, Section 6(5) of the Telangana Panchayat Raj Act, 2018 reads as under:

The Gram Panchayat shall place before the Gram Sabha a report on the developmental programmes relating to the Gram Panchayat during the previous period and those that are proposed to be undertaken during the current period, and the expenditure therefor, the annual statement of accounts, audit report and the administration report of the preceding year. If in any circumstances, any decision of the Gram Sabha could not be implemented, the Sarpanch shall report the reasons therefor, before the Gram Sabha.

This clearly indicates that the Gram Sabha has no control over the Gram Panchayat finances and this considerably weakens the 'accountability' of the GP executive to the Gram Sabha.

Social Audit

Social Audit by Gram Sabha can

be a very effective tool for ensuring accountability of the executive. Certain schemes like MNREGS provide for compulsory social audit by Gram Sabha. However, in practice, it has been reduced to a mere 'formality'. A report of the Planning Commission in 2005 noted that their primary research revealed that "only 25% of the sampled people living in villages, across India, can ask questions and seek information on various subjects....Most of the beneficiaries seek information related to "Details about Scheme" closely followed by the "Benefits from the scheme". About 36% of the beneficiaries seek information about the Modalities (Whom to Approach, Where to Approach and Procedures) of a scheme. A negligible number of beneficiaries seek other information related to a scheme, like Name of the contractor, Estimate of the scheme, Expenditure involved in implementation and Materials used for undertaking the work..."¹⁰ If people are not asking these questions then the quality of social audit can very well be imagined! Hence, it can

be safely concluded that the institution of gram sabha has not yet developed into genuine institution of Social Audit and public accountability.¹¹

Voter as a Legislator

In the light of the above, it is abundantly clear that while it was hoped that Gram Sabha would evolve into something like the Vidhan Sabha or legislature and the executive - Gram Panchayat comprising of the elected representatives and the village level functionaries - would be accountable and responsible to Gram Sabha, same has not been realized. On the contrary, the Gram Sabha is not equipped to control the 'autocracy of the bureaucracy'.^(IV) In my view, there are serious structural and design flaws in the way the institution of Gram Sabha has been carved out in the different State Panchayati Raj Acts and Rules. The existing legal provisions in State PR Acts do not permit Gram Sabha to realize its potential as the key institution for participatory democracy. It seems that the State Governments, both the political leadership and the bureaucracy, are not 'overly' enthusiastic for realizing the spirit of 73rd CAA. Hence, while every voter can potentially assume the role of a legislator - making rules, approving proposals and decisions of Gram Panchayat, laying down the priorities and demands of the community for inclusion in the Gram Panchayat Development Plan (GPDP),

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controlling the executive by asking 'pointed' questions, seeking relevant information, approving GP budget, undertaking effective social audit, the fact remains that voters or members of Gram Sabha are ill equipped to perform the role of a legislator. They neither have the tools or the capacity to use even the limited 'tools' that they possess as members of Gram Sabha or as citizens.

Suggested Way Forward

Shri Jayprakash Narain had dreamed that "... it should be the responsibility of the gram sabha and its panchayat to ensure that no one in the village goes without food, clothing and shelter; no child without primary education; every one receives primary medical care. The sabha and panchayat should see that the village becomes self-sufficient in the matter of food and clothing as soon as possible. Further, they should so plan that within five years, let us say, there is no unemployment in the village and every family reaches a minimum standard of living. Self-government, to be real, should be about essential problems of life..."¹² Realization of this dream as also those linked to localisation of Sustainable Development Goals (LSDGs) would envisage a very strong local government and strong institutions like the Gram Sabha and Gram Panchayat. There cannot be a strong Gram Sabha if

the Gram Panchayat is weak and bureaucracy overbearing!

Towards this end the following steps may be undertaken:

- i. Review and implement the Kolkata Resolution adopted in a meeting of all State Panchayati Raj Ministers in July 2004;
- ii. Undertake review of State Panchayati Raj Act & Rules and identify and delete design flaws which tend to weaken the PRIs;
- iii. Existing provisions relating to Gram Sabha covering all facets of its functioning need to be critically examined and defects removed, omissions attended to so as to make the Gram Sabha a strong, independent institution conforming to theory of 'separation of powers';
- iv. An independent secretariat for Gram Sabha ought to be provided with specified budget for meeting all expenditure of the Gram Sabha;
- v. A well - equipped 'neutral' venue for conducting meetings of Gram Sabha and Ward Sabha may be notified for each GP;
- vi. A President / Speaker may be elected by the Gram Sabha in the first meeting to be convened immediately after the Gram Panchayat elections where in the GP Sarpanch/ President/Pradhan and all Standing Committee

members may be introduced to the Gram Sabha;

- vii. Provision for holding meetings of Ward Sabha before meeting of Gram Sabha may be made and the Gram Sabha secretariat would be responsible for organizing the meetings of Ward Sabha too;
- viii. Simplified rules and procedures for conducting meetings of Gram Sabha & Ward Sabha may be codified on pattern of Parliamentary Rules & Procedures which would guide the President/ Speaker as well as the executive and the members;
- ix. Gram Sabha should be authorised to constitute its own committees, namely the Budget & Planning Committee; Vigilance Committee (as in Bihar); and Social Audit Committee to critically examine the proposals of the GP and submit its report to the Gram Sabha for consideration and approval;
- x. Provision for payment of honorarium to all members attending the meetings of Ward Sabha & Gram Sabha may be made;

It may be remembered that Alexis De Tocqueville had written in his famous book 'Democracy in America' way back in 1835 that "Local institutions constitute the strength of nations. A nation may establish a system of free

government but without local institutions, it cannot have the spirit of liberty.”

This remains true to this day. Gram Sabha is an institution that needs to be nurtured and strengthened as it is the only institution where every voter can come face to face and experience the nuances of governance. Expenditure on such institutions are well worth the money spent as

they enhance civic consciousness and rein in ‘bureaucratic autocracy’.

Conclusion

Gram Sabha is the key institution in India’s multilevel governance structure as here every voter can be a legislator. It envisages active civic participation and engagement in governance, but this still remains a work

in progress. For enhanced accountability, transparency and effective delivery of services, it is necessary that the Local Government set-up in rural areas is strengthened and the governance structure reimagined from the Local Government, State to Union level and implicit therein is the urgent need to strengthen the Gram Sabha. ●

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End Notes

Gram Sabha is the key institution in India’s multilevel governance structure as here every voter can be a legislator. It envisages active civic participation and engagement in governance, but this still remains a work in progress. For enhanced accountability, transparency and effective delivery of services, it is necessary that the Local Government set-up in rural areas is strengthened and the governance structure reimagined from the Local Government, State to Union level and implicit therein is the urgent need to strengthen the Gram Sabha.

- I) This has been alluded to by Ashoka Mody in his book *India is Broken: And Why it's hard to fix*. He has concluded that "Decentralization of governance - the shift of authority and financial resources from the central and state governments to city and village governments - is the most plausible way of promoting vibrant civic regions.....Despite its challenges, local self-government is the most promising way to establish social norms that induce cooperative behavior and political accountability". p. 406-408
- II) Realizing the importance of Gram Sabha, National Round table Conference of Ministers of Panchayats from States of India and Union Ministry of Panchayati Raj resolved in Kolkata on 24th July 2004 that "Whereas this conference is convinced that Gram Sabhas are the foundation for participatory democracy and good governance: Therefore it resolves: to create the environment and conditions necessary for participation by the voters in the villages and hamlets through:
- defining Ward Sabhas where meaningful participation is possible;
 - fixing frequency and periodicity for the meetings of the Ward Sabhas and Gram Sabhas;
- c) ensuring that voters at the Ward level have continuous access to information on the meetings of the Ward/ Gram Sabhas and the agenda to be taken up such meetings.
- to enable Gram Sabha to function as a watch dog on the Panchayat by
 - mandating the association of Gram Sabhas in all major aspects of decision making and specially those decisions which relate to
 - need assessment before public expenditure is undertaken for development and poverty alleviation;
 - identification of beneficiaries to be covered under the schemes of poverty alleviation;
 - authorization of issue of 'Utilization Certificates' for funds allocated to different projects of Panchayats
 - to empower Gram Sabha so that
 - all plans of the Panchayats (for economic development and social justice) require the approval of Gram Sabhas;
 - the accounts of the Gram Panchayat are subject to social audit by Gram Sabha;
 - that natural resources (water bodies, forests, wastelands, minor mineral, commons) at the local level are subject to management and control of Gram Sabha
 - to take steps and devise mechanisms so that women voters in each Gram Sabha are enabled to 'voice' their needs and priorities at the Gram Sabha meetings"

Source: P 12-13, OP/2005/001E
Gram Sabha Mobilisation
- III) George Mathew has written in his article- Political Decentralisation-Role of political parties from colonial times' in Handbook of Decentralised Governance and Development in India, Ed. by D.Rajasekhar that "The Gram Sabha in our Constitution is the most meaningful aspect of democracy being direct democracy to the fore. Gram Sabha to Lok Sabha is the best model one can think of in democratic governance." p.59
- IV) In the seminal essay titled 'A Plea for the Reconstruction of the Indian Polity', written for the Akhil Bharat Sarva Seva Sangh (Kashi) in 1959, Shri Jayprakash Narain had, inter alia, mentioned about the autocracy of the bureaucrat, which is difficult to fight because it 'works in the shadows' and is hard to get at. He had also suggested that "...the only answer to the problem of bureaucracy is more and more decentralization so that the people directly participate in the administration of their affairs and control the civil servants who owe their jobs and are directly responsible to them."



Dr. Seema Singh



Ruchi Rawat

Tracing the Roots of Panchayati Raj in Bharat: A Comprehensive Study

Abstract

The 73rd Constitutional Amendment Act of 1992 is regarded as the milestone in the history of political decentralization in Bharat, which established the three-tier Panchayati Raj system by giving constitutional mandate to the rural local self-government after four decades of adoption of the Indian constitution. However, it is interesting to note that the introduction of Panchayati Raj under constitutional setup was not a new concept; rather, it was already deeply rooted in Bharatiya tradition since the Vedic period. The Panchayats have always been an integral part of our social fabric for centuries, where villages have been the pivot to local administration, reflecting the sense of continuity to our ancient traditions. Subsequently, the village panchayats underwent numerous political changes and upheavals during the Muslim invasion and British colonization. Therefore, it took almost 4 decades to institutionalize the village panchayats under constitutional setup. Through this paper, efforts have been made to

understand the historical evolution of the Panchayati Raj Institution in Bharat since the Vedic age. By analyzing the ancient Bharatiya texts, including the Vedas, Ramayana, Mahabharata, Dharmashastras, and Arthashastra, this paper assesses the changing nature of local self-government in Bharatiya society within different political arrangements. Further, it helps the readers to understand that the political decentralization introduced by the colonial government was not to decentralize democracy but to facilitate colonial administration in Bharat. While highlighting the Gandhian vision of Gram Swaraj in pre- and post-independent Bharat, this paper further contributews to an in-depth analysis of constituent assembly debates on panchayati raj that provides a constitutional base for the institutionalization of political decentralization at the grassroots level.

Keywords: Panchayati Raj, Democratic Decentralization, Village Panchayat, Local government.

The Panchayats have always been an integral part of our social fabric for centuries. A look into the annals of history

Introduction

The Panchayati Raj signifies a decentralized form of rural local self-government, prevalent in our country since ancient times. The word Panchayat is derived from the Sanskrit word "Panchayatan," which means "a group of five persons (assembly (ayat) of five (panch) and raj (rule)." In traditional rural settings, panchayats consisted of respected elderly members of the village community, chosen directly to oversee the local administration by having effective control over civil and judicial matters. Panchayats were viewed as a vehicle for driving socio-economic transformation in rural society, with Village (Grama) as the epicenter for rural development, where through grassroots community involvement, they not only guaranteed democratic values but also widely engaged the local participation of people in political processes.

Yet, if we look into different eras of Bharatiya history, we can

find remnants of the Panchayati Raj system of local governance in rural society in some form or another. However, its structure has not always been the same and evolved over time, making it more significant to inquiry into certain questions throughout our study: What might have been the historical process of development of rural self-government from the Vedic age to modern times? How did foreign dominations, especially the centralized administration of British colonialism, negatively impact our village panchayat system? How did the Gandhian principle of Gram Swaraj during our freedom struggle play a role in revitalizing the ancient tradition of our Panchayati Raj system? And, how did it take four more decades, even after our independence, for Panchayati Raj institutions to get constitutional status? Thus, from ancient rural self-governing units to constitutional recognition, this study intends to show that the tradition of democratic

decentralization is not new to Bharat. Rather, the process of institutionalizing village institutions has begun long ago and has undergone changes from time to time.

With more than 4000 years of our glorious past, our ancient scriptures refer extensively to the self-sufficient local government at the grassroots level, i.e., village councils (Panchayats) or *Gram Sanghas*, characterized by the agrarian economic society that existed in Bharat from the earliest time. In the Vedic period, states were relatively small, which further heightened the significance of the village; even as larger kingdoms emerged later, the village's importance remained unchanged, as it served as the natural center for social life and economic stability, thereby preserving the country's foundation of national culture, wealth, and administration. Villages were depicted as the self-sufficient and autonomous village republics in Vedic and post-Vedic literature that have survived through the rise and fall of many empires. This fundamental aspect gave a sense of continuity to our political history.¹

With more than 4000 years of our glorious past, our ancient scriptures refer extensively to the self-sufficient local government at the grassroots level, i.e., village councils (Panchayats) or *Gram Sanghas*, characterized by the agrarian economic society that existed in Bharat from the earliest time. In the Vedic period, states were relatively small, which further heightened the significance of the village; even as larger kingdoms emerged later, the village's importance remained unchanged, as it served as the natural center for social life and economic stability, thereby preserving the country's foundation of national culture, wealth, and administration

However, the Britishers' centralized administrative policies and forceful socio-economic changes during Colonialism undermined the importance of these village panchayats, and their attempts to introduce reforms to increase local participation in administrations

yielded unsatisfactory results. Meanwhile, during the national freedom struggle, Gandhiji advocated in favor of the revival of Panchayati Raj as the foundation of the Bharatiya political system. He proposed the concept of Gram Swaraj, also known as village self-government, with the aim of cultivating self-sufficiency, and autonomy within village communities. He advocated for each village to act as its own republic and collaborate peacefully for mutual benefits. According to him, villages are the backbone of our nation, where the real Bharat lives, as he strongly believed that the true essence of India lies in its seven hundred thousand and odd villages and that for India to have a meaningful future, these villages must contribute significantly to the nation's life.²

After independence, when Gandhiji discovered that there were no specific provision mentioned for the establishment of Panchayats in the initial draft of the constituent assembly, he urged assembly members to include it in the received draft by emphasizing the need for the revitalization of village panchayats reflecting his vision for the future of Bharat. His endeavour culminated in the inclusion of a provision in Part IV of our constitution—to organize village panchayats by the state under Article 40 as *Directive Principles of State Policies*, which are *non-justiciable* (not legally enforceable by a court of

law).

At various times, the Panchayati Raj institutions established numerous committees to make recommendations for strengthening them. In 1992, however, these Institutions were given constitutional recognition through the 73rd Constitutional Amendment Act, which established a three-tier Panchayati Raj system (*Gram Panchayats* at village level, *Panchayat Samiti* at intermediate level, and *Zila Parishad* at district level). The 73rd Constitutional Amendment Act also incorporated Part IX (Article 243 to Article 243 O) into the Constitution, establishing 'The Panchayats' and the Eleventh Schedule, which encompasses 29 subjects. With the provisions of institutionalizing *Gram Sabha* as the epicenter of local governance, regular elections, and financial resource generation by setting up a state finance commission, decentralizing planning mechanisms, and establishing a state election commission to oversee the local elections, the Panchayati Raj has created a silent revolution by providing reservation to SCs, STs, and women at grassroots levels for the first time in our political history.

Based on available literature, we have divided this paper into four different sections. Our study's first section delves into the origins of village institutions, deeply rooted in our ancient political culture, and explores their evolution as self-reliant local units of government

through various historical transformations over time. The second section examines how the traditional character of village institutions deteriorated during British colonialism and the various unsuccessful reforms that attempted to revive them. The third section of our paper provides an in-depth analysis of the Gandhian principle of Gram Swaraj during and after the national freedom struggle, elaborating on the Constitutional Assembly Debates regarding Panchayati Raj. At last, after independence, focusing on the four decades of struggle to institutionalize Panchayati Raj in our study, we analyze all the measures and the committees formed, which became the constitutional basis for the three-tier Panchayati Raj in Bharat.

Village Institutions in Vedic and Post-Vedic Period

The traditional institution of village self-government, embodied by panchayats (or village councils), has been deeply rooted in our ancient political culture of Bharat, where self-governing village communities were central to local administration. Dating back to the Vedic age, villages (*Gramas*) have been pivotal in local administration,³ fostering the community-based governance and socio-economic development that have been continued for centuries, embodying the essence of decentralized democracy

in Bharat. *Rigveda*, the oldest book in the world (unanimous opinion), has mentioned the word 'gram' many times, where its general meaning was taken as the residence of a group of people or community of humans.

We found people frequently praying for the prosperity and protection of villages in various Vedic hymns, indicating their importance as the centers of community life. As *Rigveda* 1.44.10 mentions prayers to Agni (God of fire):

Agne Pūrvā Anūśaso Vibhāvaso Dīdetha viśvadarśataḥ|

Asi Grāmeṣyavitā Purohito'si Yajneṣu Mānuṣaḥ||

Meaning: *Resplendent Agnidev! Visible to all, blazed after many preceding dawns. You are the protector(of people) in villages to the east (of the altar), you are the associate of man plural ceded.*⁴

The above sloka represents the ancient traditions of offering sacrifices to the Agni (fire) in the morning and evening, as the Vedic society believed that this fire would protect their

village. Villages functioned as an organized system and served as the foundational unit of local administration. The headman of the village, called *Gramini* (*Gram Mukhiya*), was responsible for administering a Grama. Gramani had to adhere to the advice of village elders (*Gram Vridhas*), who in turn were selected by the village assembly. The earliest texts mention the *Gram Vridhas*, members of the ex-executive Village Panchayat, without any explicit mention of their election. *Gramani* was in charge of the defense of the village; additionally, with the assistance of villagers and *Gram Vridhas*, he collected taxes for the state.⁵ According to Altekar, *Gramani* held the highest status in the village, evidenced by the fact that the king's entourage during royal consecration consisted of... *Gramani*, a Suta (charioteer), and a Bhagdugha (collector of taxes)." As one Indian historian has written:

"Gramani was probably the head of the village

*administration... The post carried considerable prestige and is described to be the object of the highest ambition of a Vaisya, The king exercised his powers over the village through the ... Gramani."*⁶

Then society had immense faith in *Gramani*, and he was their favorite leader. Vedic society had agricultural-based village economies, which, along with the cooperative village communities, there must have been equal participation of the society in the formulation of policies at the grassroots level, as evidenced by the Sloka of *Rigveda* (10.191.2-3-4).

Sam Gacchadwaṃ Sam

Vadadhwaṃ Sam Vo Manānsi Jānatām

(*Rigveda* 10.191.4)

SaSamāno Mantraḥ Samitiḥ

Samānī Samānaṃ Manaḥ Saha Citteṣām|| (Rigveda 10.191.3)

Samānī Ākūtiḥ Samānā

Hṛdayāni Vaḥ|

Samānamastu Vo Mano Yatha

Vaḥ Susahāsati||

(*Rigveda* 10.191.4)

Meaning: *Meet together, talk together, let our minds think alike; Let everyone's thoughts, prayers, purpose, and desires at heart should be the same. Let us unite our aim, harmonious feelings, collective mind in the way as everything in the universe exists in togetherness and wholeness.*⁷

These slokas help in understanding the collective approach of problem-solving mentioned in the *Rigveda*, which

The above sloka represents the ancient traditions of offering sacrifices to the Agni (fire) in the morning and evening, as the Vedic society believed that this fire would protect their village. Villages functioned as an organized system and served as the foundational unit of local administration. The headman of the village, called *Gramini* (*Gram Mukhiya*), was responsible for administering a Grama. Gramani had to adhere to the advice of village elders (*Gram Vridhas*), who in turn were selected by the village assembly *Gram Vridhas*, members of the ex-executive Village Panchayat, without any explicit mention of their election

resembles equal participation along with liberty and fraternity in the minds of all. K.P. Jayaswal, a notable historian, have uncovered from the Vedas that “the National life and activities in the earliest times on record were expressed through popular assemblies and institutions”.⁸ The tenth mandala of the *Rigveda* mentions the most remarkable features of Vedic polity: Democratic institutions of popular assemblies—*Sabha*, *Samiti*, and *Vidhatha*—(agreed by both Jayaswal and Altekar) deserve special mention. Both *Samiti* and *Sabha* are treated as The two daughters of Prajapati in *Atharvaveda* (7.13) served as the important centers for discussion and deliberation. The *Samiti*, a popular assembly, vanished during the later Vedic period while the *Sabha* shrank into a body that was similar to the king’s Privy Council.⁹

Apart from Vedic literature, references to an organized system of rural local administration, i.e., the panchayati system, can be extensively found in *Ramayana*, *Mahabharata*, *Dharmashastras*, *Artha Shastras*, *Jatakas*, and others. The Valmiki *Ramayana* and the *Mahabharata* mention the *Ghosh* and the *Gram*—two types of villages, the former being smaller than the latter. The heads (*Mukhiya*) of the villages were called *Ghosh-Mahattar* and *Gram-Mahattar*, as mentioned in *Ayodhya-Kand* (*Sloka 15, Sarga 83*) as ***Grāmaghōṣa Mahattarāḥ***||¹⁰ In *Yuddha Kanda* (*Sloka 16, Sarga 120*) the term

Gramani is used to refer to a village official¹¹ of significant esteem. So highly respected is he that the happy gods, while singing praises to *Lord Rama* when he killed *Ravana*, compared him to a *Gramani*.¹²

The earliest reference to the word ‘Panchayat’ derives from the ***Panca Panca Swanuṣṭhitāḥ***, which refers to an institution of five and has referred to the existence of *Gram Sanghas*, or rural communities (semantically close to panchayat), mentioned in the *Sabha Parva* of the *Mahabharata*.¹³

Dharmshastras emphasized rural self-government with decentralization of power instead of concentrating it upon the ruler, as Manu’s king was merely an instrument for implementing the law (*Dharma*) in society and limited to monitoring only. For the convenience of governance, administration from village to center was in direct control of the king.¹⁴ Manu has mentioned the village as the primary unit of administration. We encountered two words used for the head of the village: one is *Gramika* (*Manusmriti 7.116*), and the other is *Gramadhipati* (*Manusmriti 7.115*).

These village officials were appointed by the King as his paid employees to look over the defense of the village. *Gramadhipatis* are further categorized into *Gramadhipati Dashi* or *Das-Gramapati*, *Vishanti* or *Vimsatisa*, *Shati* or *Shat-Gramadhipati*, and

Sahasra- Gramadhipati as defined in the *slokas* (*Manusmriti 7.115 -16-17*). -

Grāmasyādhipatiṃ Kuryād Daśagrāmapatiṃ Tathā| Vinśatīśaṃ Śateśaṃ Ca Sahasrapatimeva Ca||115||
(*Manusmriti 7.115*)

Grāmadoṣān Samutpannān Grāmikaḥ Śanakaiḥ Swayam| Śansed Grāmadaśeśāya Daśeśo Vinśatīśine||116||
(*Manusmriti 7.116*)

Vinśatīśastu Tat Sarvaṃ Śateśāya Nivedayet| Śansed Grāmaśateśastu Sahasrapataye Swayam||117||
(*Manusmriti 7.117*)

Meaning: *He (King) shall appoint the Gramadhipati (the head of one village), Dashgramapati (the head of ten villages), Vimsatisa (the head of twenty villages), Śateśa (the head of hundred villages), and Sahasrapati (the head of thousand villages). On any troubles in the village that the village head can’t handle himself, he should inform the head of Ten villages and the head of Ten villages to the head of Twenty. The head of Twenty shall communicate it all to the head of Hundred, and the head of Hundred himself shall report it to the head of Thousand.*¹⁵

In a nutshell, the above *Slokas* refer to the village administrative arrangements of Manu, where each village head has control of the village officer above him. The same arrangements are mentioned in the *Shanti Parva* of the *Mahabharata* also. These

village officials were no doubt appointed by the state to look over the administrative functions, including collecting taxes on behalf of the king. Along with this, they were accountable to the minister appointed to inspect them (*Manusmriti* 7.120).¹⁶ Manu (*in Manusmriti* 7.118-119)¹⁷ even clearly mentioned their monthly salaries in coins or enjoyed the sixth or eighth part of the produce from the land.¹⁸

Arthashastra, the most excellent book on statecraft written by Kautilya, provides details insights into how village communities operated during the Mauryan period. The basis of the entire administration was the village organization, where the village head referred to as the *Adhyaksha* (*Grameen*), was responsible for collecting taxes and managing other village-related affairs. At the lowest level of the village hierarchy, The *Gopa* (the record keeper) was in charge of the 5 or 10 villages. (*Arthashastra* 2.35.2),¹⁹ however in smaller villages this number could increase to as many as 20 or even 40. Similarly, there was a group leader of four village groups (*Gops*), whose ruler was called *Sthal*, and the ruler above him was called *Nagrik*. *Nagrik* means the head of the capital. The officer appointed to look after all these was called *Samaharta*.²⁰ The text has mentioned four different terms for the village officials as *Gramakutam* (*Arthashastra* 4.4.11),²¹ *Gramaswami*

(*Arthashastra* 4.13.14),²² *Gramika*, and *Gramabhritaka* (*Arthashastra* 3.10.26-27-28),²³ but their functions vary. However, *Gramakutam* appears only once, possibly by mistake. *Gramaswami*, the master of the village, was responsible for compensating traders for losses during attacks. *Gramika* and *Gramabhritaka* refer to the village headmen and village servants, though *Gramabhritaka's* role is inconsistently applied throughout the text. Another important village official mentioned in *Arthashastra* was *Gramavidhas* (the village elders), responsible for addressing the boundary disputes and serving as trustees for overseeing the property of the both temple and minors.²⁴

The entire system of administration was molded by the needs of agriculture at that time. Kautilya even prescribed the size of the villages, fixed at a number ranging from 100 to 500 families. Village was considered the smallest settlement in the district, and to apply the principle of decentralization, Kautilya mentioned organizing the union of ten villages named *Samgraha*, expanded to include two hundred villages known as *Khavantak*, then grew to four hundred villages called *Dronmukh*, ultimately leading to the creation of *Mahagram* constituting the eight hundred villages (*Arthashastra* 2.1.4).²⁵

An administrative term, *Sthanak* (from which the modern term *Thana* likely derived,

referring to the area governed by a police station), was historically utilized as a center for fair trade.²⁶

Chandragupta Maurya, who founded the vast Mauryan empire, established the centralized government for the first time in ancient Bharat, but with less interference towards these ancient village communities; hence, villages remained largely self-governed under the Mauryan rule. Dr. Satyaketu Vidhyalankar, in his renowned book, *Maurya Samrajya ka Itihas* (History of the Mauryan Empire), provides a detailed description of the self-governing village administration of the mauryas as:

“Every village had its own *Sabha* (assembly) which debated all matters relating to the village; rules helpful to the entire community were framed, and the offenders were punished through regular trials and judgements. The *Sabha* was the center of the multifarious activities of the village. It discussed religious and social matters. It arranged numerous types of entertainment ... The *Sabha* met under a shady tree... Representatives of village families, the elders, and other experienced folk gathered there... The Indian people lived independently in these self-governing village republics.”²⁷

Over the centuries, these village communities underwent constant adjustments and modifications in their structure. Over time, they evolved into

the bodies of panchayats, which began to manage the village's affairs and continued to serve as the center for local administration. Customs and religious beliefs granted them revered roles and authority within village communities. Besides this, caste-based panchayats also existed in ancient times. The Indo-Gangetic plains commonly hosted this system. Conversely, in Southern regions, the village panchayats consisted of a village assembly, where executive members represented various groups and castes. These village institutions had been the pivot to administration in both the northern and southern Bharat and served as the center of social life and community solidarity.²⁸

In the 16th century, Muslim incursions by Afghans and Mughals divided the country against itself during the later medieval period. Despite the absence of centralized authority, the village administration continued to function robustly. Panchayats, composed of village elders, governed villages during Sher Shah's reign, ensuring the welfare of the people, administering justice, and enforcing punishment. The village headman, functioning as a semi-government official, coordinated efforts between the village panchayat and higher administrative bodies. Akbar adopted this system, making it a fundamental aspect of civil governance. During this period, villages continued to

The Villages in ancient Bharat were able to achieve significant importance within the administrative structures largely because of the tight-knit community fostered by the institutions of panchayats, the population's keen awareness of their rights and responsibilities, and the panchayats' effectiveness, fairness, and justice which earned them trust and respect from the villagers. The state's grant of full autonomy to the village administration made this possible. Due to the rise of casteism, the feudal system of governance under Mughal rule gradually eroded village self-government

be autonomous and capable of sustaining themselves as local administrative units with its panchayat, exercising authority over the local taxation, administrative controls, and enforcing justice and penalties.²⁹

The central administration divided itself into provinces, provinces into sub-provinces, sub-provinces into districts, districts into parganas (clusters of villages), and parganas into villages. The officials were known as Muqaddam, responsible for village management, and Patwari, responsible for revenue-related tasks. *Choudhary* (who used to help the Panchas and resolve disputes), and *Chowkidar* (who used to patrol the village and contribute to the general administration). An officer named Kotwal, who exercised supreme authority in magistrate, police, and financial matters, in addition to performing many municipal functions, was in charge of town administration.³⁰

Thus, we can conclude that from the Vedic period through the Mauryas in ancient Bharat to the

end of Mughal rule in the mid-nineteenth century, the village administrative mechanism and the essence of the Panchayats remained largely intact.

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government in Bangladesh. The East India Company defeated the Mughals in the Battle of Buxar in 1765. Following this defeat, the Mughal Emperor granted the East India Company diwani rights, which allowed them to collect taxes, paving the way for British dominance and their trade monopoly in Bharat.

Panchayati Raj Under British Rule

The British Colonial rule brought about a significant transformation in the cultural, socio-political, and economic profiles of the villages in Bharat. With the primary focus on trade, the British didn't prioritize the village panchayats.³² Instead, their objective was to establish such institutions in Bharat (initially under the company rule) that would help them boost their tax revenue by collecting a maximum amount of tax from the local populace. Upon the establishment of the British Dominion in Bharat, the local people relinquished all power and

responsibilities to the Governor Generals, who subsequently came under the control of the British Parliament. The interference of the British parliament in Bharat had increased so much that in 1786, Lord Burke (a member of the British parliament) brought an impeachment motion against Warren Hastings, the then Governor General, accusing him of disrupting the village Panchayat machinery in Bharat. Later, in 1830, the then Governor General Charles Metcalfe presented a report concerning the village-level panchayat system to the House of Commons' select committee. In which he stated that:

“The village communities are little republics, having nearly everything they can want within themselves...They seem to last where nothing else lasts. Dynasty after dynasty tumbles down, revolution succeeds revolution ... but the village community remains the same ... This union of the village communities, each one forming a separate little

state in itself, has ... contributed more than any other cause to the preservation of the peoples of India ... and the enjoyment of ... freedom and independence.”³³

The British introduced a centralized system of administration, characterized by an excessive concentration of executive and judicial power, which significantly weakened the traditional autonomy of villages by taking away their economic and administrative functions. The British, through the deliberate imposition of landlordism and the Ryotwari system, took direct control over village administration, severely crippling the village panchayats and eliminating any possibility for traditional village autonomy. The British replaced the village councils, which previously controlled land revenue collection and distribution, with a system where they dealt directly with the tenant. They found it more beneficial to directly engage with the tenants, thus sidelining the established village machinery.³⁴ James Bryce, a noted political philosopher, while analyzing British administration in Bharat, has commented that:

“There was under Rome and there is in British India no room for popular institutions or popular interference with the acts of rulers from the Viceroy down to a district official.”³⁵

The British considered Indians to be uneducated, uncivilized, backward, and lacking in governance skills, making them

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unfit and incompetent to work in democratic institutions. With this attitude, they had not developed any substantial plan for inducing local bodies in Bharat. Nevertheless, later, it was only after the transfer of power to the British crown that they realized the efficacies of the traditional self-governing village system.

However, realizing the effectiveness of the traditional system of village based self-administration, the British government later made attempts to grant certain autonomy to the villages with limited functions under the direct eyes of the British bureaucracy, further easing the burden of managing highly centralized local administration, largely to make governance more convenient for themselves. The forthcoming discussion will provide insights into the various resolutions proposed during British Colonialism, analyzing their success or failure in bringing about reforms in the Village Panchayat bodies.

Lord Mayo's Resolution, 1870

Lord Mayo, as viceroy of British India during his tenure from 1869 to 1872, recognized the necessity for decentralizing authority to enhance administrative efficiency. In 1870, prompted by the financial strain resulting from the 1857 revolt, which necessitated local services to be funded through local taxation, Mayo initiated a significant reform by introducing a system of

elected representatives in urban municipalities, aimed to enlarge the responsibilities of provincial governments, allowing for greater attention to local matters like public infrastructures, healthcare, sanitation and education, marking a pivotal step in the development of local self-government in India. In the wake of this resolution, the Bengal Chaukidari Act of 1870 marked the first major effort to revive the traditional village panchayat system in Bengal. This act granted the district magistrate the authority to form panchayats with nominated members responsible for collecting taxes to fund the chowkidars. In 1871, the British central government further decentralized power by devolving certain authority to the provinces, leading to local governance reforms in various regions, including Bombay, Punjab, and Bengal. These efforts collectively contributed to the significant development of local self-government in British India.³⁶

Lord Ripon's Resolution, 1882

On 18 May 1882, Lord Ripon, often referred to as the father of local self-government in India, introduced a significant resolution that laid the foundation for democratic decentralization in British India. This resolution has suggested financial decentralization and establishes a system of locally elected self-governing bodies, by limiting the official representations to one-

third of the total membership. Ripon aimed to train Indians in the art of governance as a means for effective improvements in administration and to enhance political participation among educated citizens. He called for the immediate establishment of local boards not only in urban but also in rural locales. As he opposed the government's control over the local bodies, he underscored that these local bodies should primarily comprise a majority of elected non-official members, a non-official chairman, and flexible and adequate financial resources.³⁷

However, this resolution failed to achieve its objectives and went to cold storage. At that time, it was not practically feasible to implement Ripon's model in rural India, along with other factors like the obstructive tactics of bureaucracy, the denominations of the Deputy Commissioner over the institution, and Lord Curzon's antagonistic attitude towards the local bodies after succeeding Lord Ripon.³⁸ Thus, Thus, Ripon's Resolution, which often considered as the *Magna Carta* for democratic decentralization in British India, remained unimplemented and existed only on paper.

Royal Commission Report, 1907

In response to the Indian National Congress's call for 'self-government,' led by Dadabhai Naroji in 1906, the British government established a Royal

Commission on Decentralization in the year 1907. The commission included five English members and one Indian, Romesh Chandra Dutta, who was instrumental in developing the principles outlined in Ripon's resolution. The commission's report, issued in 1909, highlighted the significance of village panchayats as:

*“throughout the greater part of India the village constitutes the primary territorial unit of Government organization, and from the villages are built up larger administrative entities.”*³⁹

The commission recommended the formation of panchayats to manage local affairs and involve the people in administrative tasks. At its 24th session in Lahore in 1909, the Indian National Congress adopted a resolution that called for the government to take immediate steps *“to make all local bodies from village panchayats upwards elective with an elected non-official chairman”* and *“to support them with adequate financial aid.”*⁴⁰ However, caste and religious conflicts, along with the self-interested motives of the landlords, meant that the recommendations put forth by royal commissions remained mostly unfulfilled. Mrs. Anne Besant pointed out how British attempts to organize village panchayats had made local officials subordinate to the higher government officials, thereby eroding the traditional village framework.⁴¹

Montagu-Chelmsford Reforms Act, 1919

The Montagu-Chelmsford Reforms introduced the dyarchy scheme in India, a progressive development in local administration that transferred local self-government to Indian ministers in the provinces. The reform had suggested establishing as much as possible control over the local bodies and granting them maximum independence from outside control to achieve full representation and responsibilities. Despite having clear objectives, the Montagu Chelmsford Reforms were unable to create truly democratic and vibrant Panchayat institutions at the village level due to various organizational and fiscal constraints. Nevertheless, a number of provinces and native states enacted legislation to establish local panchayats in villages. By 1925, only eight provinces had passed such acts, but the functions and responsibilities of these statutory panchayats limited them.⁴²

Government of India Act, 1935:

The Government of India Act of 1935 further advanced the evolution of panchayats in the country by introducing provincial autonomy. With the establishment of popularly elected governments in the provinces, most of the provincial administration felt an obligation to pass legislation to make village panchayats more democratic.

Following their popular election, nearly all provincial governments recognized the necessity of enacting laws to further democratize local self-governance bodies including village panchayats. However, the onset of the Second World War in 1939 led to the resignation of the Congress provincial government. A single man, the governor, ruled the provinces from 1939 to 1946, a situation that persisted until India gained independence in August 1947.⁴³

Despite having little interest in village autonomy, the British government felt it necessary to endorse it to sustain their control in India and address their financial requirements. Prior to British rule, our rural republics flourished but they suffered significant setbacks during this period. The highly centralized British rule appears to have destroyed the self-sustaining village communities and their traditional panchayats, replacing them with formally structured village administrative institutions.

Gandhian Idea of Gram Swaraj & Constituent Assembly Debates

During the national struggle for freedom, although the Indian National Congress had already accepted “self-government” or *Swaraj* (self-rule) as a political goal for the country in 1906 under the leadership of Dadabhai Naoroji, it was the advent of Mahatma Gandhi in the national

movement that provided the real ideological thrust to the idea of greater autonomy for rural local bodies. Gandhi advocated the revival of traditional panchayats so that *Swaraj's* self-rule could become a reality. He envisioned self-sufficient village republics, modeled after the ancient Bharatiya panchayat system, as the only means to achieve national development. Throughout the national movement, village panchayats, based on the principle of democratic decentralization, were central to his ideological framework. In his various speeches and writings, Gandhi advocated for democratic decentralization, describing his ideal village as a self-sufficient unit of administration, capable of resolving tensions between internal autonomy and external requirements and between individual freedom and community without any external interference.⁴⁴ He articulated his main idea of *Gram Swaraj* in an article titled "Village Swaraj," published in Harijan magazine in 1942, which was later compiled

into a book with the same title by H.M. Vyas after his death. It is here that we find his clearest and most frequently cited explanation focused on the traditional village community and its self-governance when he wrote about *Gram Swaraj* that:

"My idea of village swaraj is that it is a complete republic, independent of its neighbors for its vital wants and yet interdependent for many others in which dependence is a necessity... As far as possible every activity will be conducted on a cooperative basis. There will be no castes such as we have today, with their graded untouchability. Non-violence with its technique of satyagraha and non-cooperation will be the sanction of the village community...The government of the village will be conducted by a Panchayat of five persons elected annually by the adult villagers, male and female, possessing minimum prescribed qualifications. ..Since there will be no system of punishments in the accepted sense, this Panchayat will be the legislature, judiciary,

*and executive combined to operate for its year of office... Here there is perfect democracy based upon individual freedom. The individual is the architect of his own government. The law of non-violence rules him and his government. He and his village are able to defy the might of a world. For the law governing every villager is that he will suffer death in the defense of his and his village's honor..."*⁴⁵

Gandhian approach to democratic decentralization is firmly rooted in the principles of non-violence, truth, non-exploitation, individual liberty and the moral compass of Indian society. He rejected the centralized power systems of the West, advocating for the decentralization of economic and political power to the village level. Gandhi envisioned a village government led by the panchayat of five individuals, both men and women, elected annually by villagers, would exercise legislative, executive, and judicial functions, fostering a genuine democracy based on individual liberty. However, as the nationalist movement progressed, Gandhi's vision for village autonomy became even more ambitious.

On February 14, 1946, while addressing a missionary conference in Madras, Gandhiji emphasized that the essence of India lies in her villages. He advocated for the empowerment of the rural masses, through the decentralization of power,

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by highlighting the importance of people's democracy and sovereignty in India, which he called Panchayati Raj. For him, giving more authority to the panchayats, would result in better outcomes for the people. He believed that improving the agriculture, rural and cottage industries, Khadi, handloom, etc., would improve the economic condition of our masses and thus lead to the establishment of *Gram Swaraj*. He emphasized *Swaraj* from below, saying:

*"Independence must begin at the bottom. Thus, every village will be a republic or Panchayat having full powers. It follows, therefore, that every village has to be self-sustained and capable of managing its affairs even to the extent of defending itself against the whole world."*⁴⁶ (*Harijan*, 28-7-1946)

Decentralization, according to Gandhi, was vital for creating an ideal democracy, in which everyone could participate in both the decision-making process and its implementation. This democracy contained the basic principle of self-reliance and the absence of exploitation regarding the basic needs of people. However, after independence, it is regrettable that the founding fathers of our Constitution did not incorporate the Gandhian vision into their final draft. Nehru did not mention Panchayats when he moved the Objective Resolution in the assembly. During the fourth session on 24th July 1947, Ramnarayan Singh moved an

amendment to the proposed Objective Resolution outlining the objectives of our constitution, where he argued for the meaning of democracy in India:

*"What does democracy mean? It means, "Panchayati Raj"- the peoples' government ... In India it is believed that the "Panch", is God Himself and Its rule is God's rule."*⁴⁷

Ramnarayan Singh emphasized democratic decentralization, entrusting the people with governance, by seeking to incorporate the ancient Bharatiya traditions of village panchayats. When the drafting committee proposed its first draft on 21st February 1948, they were subjected to the criticism that no part of it represents the ancient village institutions. After reviewing the draft of the constitution, Gandhiji found no mention or direction about the Panchayats and deemed it an omission that required immediate attention from the assembly. This further led to a significant ideological clash between Gandhi and the drafting committee members regarding the forms of the new government. Gandhi advocated for the *Swaraj*, emphasizing self-government through panchayats, while the drafters of the constitution, viewed a strong centralized government as necessary to address the India's long-lasting socio-political and economic inequalities.⁴⁸

The majority of critics who pointed out the draft's

omission of Panchayats had genuine Gandhian roots. In his capacity as the president of the Constituent Assembly, Dr. Rajendra Prasad, voiced his support for establishing village republics as the cornerstone of the constitution. When he realized that village panchayats were missing, he referred this issue to constitutional advisor B.N. Rau on 10th May 1948, proposing some changes to the draft Constitution.

Dr. B.R. Ambedkar, who chaired the drafting committee, strongly defended the omission of villages on the grounds that the basis of the draft is 'individual' and not 'village'. On November 4, 1948, he candidly expressed his dissatisfaction about the state of villages, ruffling the sentiments of many in the Constituent Assembly by stating bluntly that:

*"I hold that these village republics have been the ruination of India.....What is the village but a sink of localism, a den of ignorance, narrow-mindedness and communalism? I am glad that the Draft Constitution has discarded the village and adopted the individual as its unit."*⁴⁹

His apathetic statement for the village was severely criticized by several members of the Constituent Assembly. During the debate on this matter in the Constituent Assembly, the discontentment of some members became evident in their statements. The eminent member Shri Damodar Swaroop Seth, while advocating for

local government, criticized the centralized approach of Ambedkar, asserting that it does not reflect the grassroots nature of Indian society and undermines Gandhi's principles of decentralization. While outlining the local government as the foundational principle for a free nation, in his speech, stating that:

*"We have seven lakh villages in our country and the village is its smallest unit. Thanks to Mahatma Gandhi, our struggle for freedom reached the villages and it was because of the villages and because of their might that India became free. I want to ask whether there is any mention of villages and any place for them in the structure of this great Constitution. No, nowhere. The constitution of a free country should be based on 'local self-government.'"*⁵⁰

Similarly, H.V. Kamath also criticized Ambedkar's attitude as that of an 'urban highbrow'. By highlighting the critical role of villages in the development of the country, he further said that:

*"We do not cultivate sympathy and love and affection for our villages and rural folk. I do not see how we can uplift our country. Mahatma Gandhi taught us in almost the last mantra that he gave in the last days of his life to strive for panchayat raj. If Dr. Ambedkar cannot see his way to accept this, I do not see what remedy or panacea he has for uplifting our villages."*⁵¹

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drafting committee missed an important aspect of India's traditional system of governance by not giving them any place in the initial draft. In line with this, Shri T. Prakasam also advocated in the Constituent Assembly for a modern system of panchayats, giving them real governing power, saying that:

*"Village panchayat should be one which is up-to-date, which gives real power to rule and to get money and expend it, in the hands of the villagers."*⁵²

Further considering Ambedkar's views against the idea of democratic constitutions, Sir RK Sidhwa has mentioned that:

*"Dr. Ambedkar has negated the very idea of democracy by ignoring the local authorities and villages. Sir, local authorities are the pivots of the social and economic life of the country and if there is no place for local authorities in this Constitution, let me tell you that the Constitution is not worth considering."*⁵³

On 6th November 1948, Professor Shibban Lal Saksena in his speech mentioned the Gandhian ideal of Ram Rajya

so that the modern constitution would not be ignorant of "our ancient traditions of village cultures," saying:

"I personally feel that, if we bring to these village panchayats all the light and all the knowledge which the country and the world have gathered, they will become the most potent forces for holding the country together and for its progress towards the ideal of Ram Rajya".⁵⁴

Shri Gokulbhai Daulatram Bhatt also protested against Ambedkar's views as a committed Gandhian by advocating for inculcating the provision of local democracy and decentralization in the constitution, as he said:

*"When there is no such provision, it can never be the constitution of India. To forget or spring the system of village Panchayats, which has lifted us up and which has sustained us so far and to declare boldly that it has been deliberately spurned - will in all humility I lodge my protest against it."*⁵⁵

Dissatisfied with Ambedkar, Proff. N.G. Ranga had similar views, saying that the Draft Constitution did not include the

Gandhian principles of village panchayats, which, according to him, were fundamental for decentralization. He stated that:

*“Without this foundation stone of village panchayats in our country, how would it be possible for our masses to play their rightful part in our democracy? Sir, Do we want centralization of administration or decentralization?We as Congressmen are committed to decentralization. Indeed all the world is today in favor of decentralization.”*⁵⁶

In line with Gandhian principles, Shrimati Renuka Ray emphasized the empowerment of village panchayats to make them significant within the constitutional framework by stating that:

*“I feel that freed from the shackles of ignorance and superstition, the panchayat of the Gandhian village will certainly be the backbone of the structure of this country’s Constitution. I do not think there is anything in the Constitution that can bar it.”*⁵⁷

From the statements of the aforementioned members, it became evident that they all advocated for the establishment of panchayats as a system of local self-rule and wanted them to get acknowledged in the new constitution. Shri K. Santhanam’s amendment on 22 November 1948 ultimately reflected their shared viewpoint. Santhanam proposed to add Article 31A after Article 31, stating that the state shall take steps to establish village panchayats and provide them with the essential authority to function effectively as self-governing entities. The House unanimously accepted the proposal without any opposition after some debates. Dr. Ambedkar also supported the motion, remarking, “I have nothing more to add.” Thus, a compromise was forged, leading to the inclusion of village Panchayat in the non-justiciable part of the constitution, and Article 31A ultimately became Article 40 within the Directive Principles of State Policy.

Three-tier Panchayati Raj Institution Under Constitutional Setup

Since the Constitution came into operation on the 26th of January 1950, significant attention has been placed on the advancement of village panchayats in the country. As panchayats were included in Part IV (Directive Principles of State Policy) of the Constitution, which falls under the jurisdiction of states, individual states enacted laws to determine the structure, powers, functions, and resources of these local governing bodies. However, because the Directive Principles of State policy are not legally binding on the government, there was a lack of uniform implementation of these bodies across the country.

The Village Directives guided the launch of the Community Development Programme on 2 October 1952, marking the first organized efforts towards democratic decentralization. This program was initially launched in 55 selected blocks, focusing on the integrated approach to various rural development. It included provisions for the appointment of block development offices (BDOs) and village-level workers (VLWs). Its main emphasis was on ensuring socio-economic progress in the rural areas through democratic and cooperative efforts by the people, with the government offering technical assistance, supplies, and financial aid. Under this program, groups of 100 to 150 villages were

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organized to form a Community Development Block, where the active community involvement became essential, reinforcing the foundation of democracy at the grassroots level.⁵⁸

However, the plan did not progress as anticipated due to the absence of effective methods to ensure public participation. The first five-year plan reflected the same approach, highlighting the need for “the establishment of panchayats for villages or groups of villages within a few years” and also considering the socio-economic development of the village community as part of the main responsibility of the panchayats. This was then, in 1952, integrated into the Community Development programs.⁵⁹

In 1953, to support rural development, the National Extension Service was introduced, functioning as an upgraded version of the Community Development Programme designed to disseminate scientific and technological knowledge in agricultural, animal husbandry, and rural craftsmanship.⁶⁰ The government initiated it after recognizing that insufficient funding hampered the country’s Community Development Programme’s implementation.

To evaluate the effectiveness of the Community Development Programme (1952) and the National Extension Service (1953) as well as to suggest measures for their improved functioning, the government of

India appointed the Balwant Rai Mehta committee in January 1957. Under the chairmanship of Balwant Rai G. Mehta, the committee delivered its report in November 1957, advocating for the scheme of democratic decentralization in India that eventually became known as Panchayati Raj.

The report proposed two broad recommendations: first, the administration should be decentralized to facilitate the effective implementation of development programs and place the administration under the jurisdiction of local governing bodies. Second, it proposed that the Community Development Programme and National Extension Service blocks be structured as democratic administrative units across the country, with elected Panchayat Samiti serving as the core for developmental activities in the area.⁶¹

The committee specifically recommended the establishment of a three-tier Panchayati Raj system consisting of the *Gram Panchayat* at the village level, *Panchayat Samiti* at the intermediate level, and *Zila Parishad* at the district level, organically connected by the indirect elections. Elected members would constitute village panchayats, while direct elections would elect members of *Panchayat Samiti* and *Zila Parishad*. The *Panchayat Samiti* would serve as the decision-making body, while

the *Zila Parishad*, chaired by the District Collector, functions as the advisory, coordinating, and supervisory body. The committee also stressed the need for a legitimate shift of power, resources, and responsibilities to these democratic bodies, along with a strategy to encourage further decentralization over time. It also recommended the reservation for ST/SC and women. In January 1958, the National Development Council accepted the recommendations of the Balwant Rai Mehta committee, followed by the enactment of Panchayati Raj legislation in a number of states.

However, there was no uniformity in the pattern followed by the panchayats in different states; the council had left it to the state to develop its own framework tailored to local conditions, while ensuring that the village remained the fundamental unit of administration consistently throughout the country.

Rajasthan became the first state to establish the Panchayati Raj institution based on the recommendations of the Balwant Rai Mehta committee. The then Prime Minister Jawaharlal Nehru inaugurated it in the Nagaur district of Rajasthan on 2 October 1959. Nehru, in his inaugural speech, hailed the panchayats as “the most revolutionary and historical step in the context of new India.”⁶² Followed by Andhra Pradesh as the second state to adopt the Panchayati Raj system in the same year. By the

mid-1960s, most of the states had implemented the Panchayati Raj system in Bharat.

The newly formed Janta Party government, in 1977, set up a committee under the leadership of Shri Ashoka Mehta to oversee the workings of the Panchayati Raj and to recommend measures to bolster their role as efficient local bodies for planning and decentralized development in rural communities. This is regarded as vital in light of the government's focus on rural advancement, including the need for improved agricultural output, poverty eradication, and employment.⁶³ In August 1978, the Ashoka Mehta Committee released its findings, presenting 132 recommendations designed to revitalize Panchayati Raj and completely embed it in the democratic framework. The key recommendation was to replace the three-tier Panchayati Raj as introduced by the Balwant

Rai Mehta Committee with the two-tier system, including Zila Parishad at the district level and, below it, the Mandal panchayats. The committee proposed giving compulsory taxation powers to the Panchayati Raj institutions to mobilize their resources and reduce their reliance on state government funds. It also supported the engagement of political parties in panchayati affairs. Additionally, the establishment of monitoring forums to protect the interests of vulnerable sections of groups in villages was also encouraged.⁶⁴ However, the recommendations made by the Ashoka Mehta committee were not implemented owing to the collapse of the Janata Party government. Under this influence, some years later, in between 1983 and 1985, two states, Karnataka and Andhra Pradesh, largely remodeled their respective panchayat raj structures.

Rajiv Gandhi formed two committees immediately after taking office as Prime Minister in 1985. Under the leadership of G.V.K. Rao, the Planning Commission appointed the first committee to evaluate the administrative framework for rural development and poverty alleviation. This committee published its report in 1985, recommending the revitalization of Zila Parishads (district councils) and also proposing the appointment of a District Development Commissioner as their chief executive officer. The second committee was the L.M. Singhvi committee, constituted in 1986, on 'Revitalization of Panchayati Raj Institutions for Democracy and Development'. This committee primarily investigated the challenges faced by the Panchayati Raj system and recognized a necessity for constitutional safeguards for them. Meanwhile, in 1988, the Thungan committee, a subcommittee of the consultative committee of parliament, was established to determine the political and administrative power structure in the district for effective district-level planning.

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In other efforts to consider the question of "how best Panchayati Raj institutions could be made effective", the Congress party constituted a committee on policy and programs in 1988, chaired by V.N. Gadgil. The committee made the recommendation for providing constitutional status to Panchayati Raj institutions advocating for a

three-tier structure of Panchayati Raj (at the village, block, and district level) with direct elections at all three levels, a fixed five-year tenure, and reservations for scheduled castes, scheduled tribes, and women. It also suggested the creation of the State Finance Commission and the State Election Commission. These recommendations from the Gadgil Committee subsequently formed the foundation for drafting the constitutional amendment bill.⁶⁵

In May 1989, to constitutionalize the Panchayati Raj institutions, the Rajiv Gandhi government finally brought forth the 64th Constitutional Amendment bill in Parliament. This bill recommended making it legally mandatory for all the states to establish a three-tier Panchayati Raj framework. While the Lok Sabha successfully passed the bill at its first attempt with a two-thirds majority, the Rajya Sabha failed to approve it on 15 October 1989, losing by just two votes. In 1990, the National Front government, during its short tenure in office, introduced a combined constitution amendment bill including both panchayats and municipalities, but with the dissolution of government, this bill was never taken up for discussion and too lapsed.⁶⁶

Finally, in September 1991, the Congress government led by P. V. Narasimha Rao, the then Prime Minister, introduced a fresh bill in the parliament, in the shape of the 73rd Amendment, of course, with some major modifications

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in the previous proposals. The Lok Sabha approved it on 22 December 1992, and the Rajya Sabha passed it the following day. Later, 17 out of 20 states with functioning elected legislative assemblies ratified it. The President conferred his approval on the bill on 20 April 1993.

The new Act added Part IX to our constitution by including Articles 243-A to 243-O and the new Eleventh Schedule encompassing 29 subjects related to the operation of panchayats. The salient features of the 73rd Constitution Amendment Act are : (i) Organization of Gram Sabhas (Article 243-A); (ii) Creation of a three-tier framework of panchayat at the village, intermediate, and district levels (Article 243- B); (iii) The state legislature shall enact provisions for the composition of Panchayats (Article 243-C); (iv) Reservation of seats for Scheduled castes (SCs) and Scheduled Tribes (STs) in proportion to their population in the panchayats (Article 243-D), along with one-third of the total number of seats reserved for women candidates; (v) A

fixed tenure of five years with fresh elections to be conducted within six months if dissolved earlier (Article 243-E); (vi) Establishment of State Finance Commission to review financial position of panchayats (Article 243 -I); (vii) Establishment of the State Election Commission, to oversee the conduct of elections for the panchayats (Article 243-K); (viii) Duties and responsibilities of panchayats on 29 subject listed in the 11th Schedule of the Constitution (Article 243-G).

Thus, the 73rd Amendment Act marked a significant milestone in the journey of administrative institutions at the grassroots level, bringing uniformity in the structure, composition, powers, and functions of Panchayats across the country for the first time, driving forward the cause of Panchayati Raj to enhance social and economic development in rural Bharat.

Conclusion

To summarize, we can conclude that the Panchayati Raj System in Bharat is as old as its ancient civilization, representing a

significant model of democratic decentralization for centuries. From the beginning, this system has been a vibrant and effective mechanism of self-governance at the grassroots level. However, during the English rule, they transformed this system into an instrument of centralized authority, thereby destroying it. Ultimately, following the attainment of independence, to establish the India of Gandhi's dreams and bring his concept of Gram swaraj to life, recognizing the significance of panchayats, the 73rd Constitutional Amendment Act was introduced in 1992, which proved to be a milestone in the journey of democratic decentralization in India by strengthening the institutions of panchayats through its constitutional mandates. This amendment ushered in a new era in our federal democracy by providing constitutional validity to Panchayati Raj Institutions (PRIs). Under this provision, the panchayats were entrusted with the power and responsibilities of a total of 29 subjects at the lower levels of governing bodies.

These powers enable them to contribute to key sectors like education, health, water supply, sanitation, agriculture, and rural development. This amendment not only accelerated the development process in rural areas but also ensured the participation of women, Scheduled Castes, Scheduled Tribes, and Other Backward Classes by providing a total of one-third of reservations at the grassroots level. Panchayats, through democratic decentralization, brought these groups into the national mainstream, granting them political rights and thereby implementing and reinforcing a truly democratic system.

However, despite this, India's experience with the Panchayati Raj system has not been as smooth as expected; over time, it has grappled with significant challenges, including excessive interference by state governments in their functioning, bureaucratic control, financial dependency, and the influence of party politics, which has undermined its effectiveness and independent decision-making at the local

level.

To strengthen and enhance the effectiveness of panchayats, it is crucial to maintain equilibrium between state governments and local bodies. By ensuring adequate resources, granting autonomy, promoting capacity building, fostering social inclusion, and leveraging technology, we can strengthen the Panchayati Raj system in Bharat, thereby further empowering the local village communities.

In the present age of e-government, the efficiency of local administration can be improved by monitoring rural areas through the effective utilization of IT tools.

Today, there is a pressing need for effective coordination and implementation of various government initiatives at the grassroots level to prevent the Gram Panchayats from becoming entangled in a political battleground. If this occurs, it could weaken the roots of the Panchayati Raj system, ultimately jeopardizing the democratic principles that are fundamental to Bharat. ●

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Teṣāṃ Grāmyāṇi Kāryāni Prthakkāryāṇi Caiva Hi|| Rājñ'nyaḥ Sacivaḥ Snigdhasṭāni Paśyedatandritaḥ|| (*Manusmriti 7.120*)
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Yāni Rājapradeyāni Pratyahaṃ Grāmvasibhiḥ| Annapānendhanādīni Grāmikastānyavāpnuyāt||118|| (*Manusmriti 7.118*)
Daśi Kulam Tu Bhuñjita Vinśi Panca Kulāni Ca| Grāmaṃ Grāmaśatādhyakṣaḥ Sahasrādhipatiḥ Puram||119|| (*Manusmriti 7.119*)
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Muśītaṃ Pravāsīm Kaiśāmaṇinirgataṃ Ratrau Grāmaswāmī Dadyat|| (*Arthshastra 4.13.14*)
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Grāmārthena Grāmikaṃ Vrajantamapavasāḥ Paryayenanugaccheyuḥ|| Grāmīkashya Grāmdastenapāradārikam Nirasyataścaturvinśatipano Danḍaḥ Grāmastyottamaḥ|| (*Arthshastra 3.10.26-27-28*)
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Bāladravyaṃ Grāmavṛddha Vardayeyura Vyavahāraprāpanātdevadravyaṃ Ca|| (*Arthshastra 2.1.32-33*)
Aprāptavyāvaharaṇam Deyaviśuddhaṃ Mātrbandhusu Grāmavṛddhesu Vā Sthāpayeyuḥ Avyahāraprāpanataprośitasya Vā|| (*Arthshastra 03.5.19*)
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Aṣṭāṣṭagrāmya Madhye Sthānīyaṃ Catuśatagrāmya Droṇamukhaṃ Dviśatagrāmyaḥ Karavāṭikaṃ Daśagrāmīsangraheṇa Sangrahaṃ Sthāpayet|| (*Arthshastra 2.1.4*)
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Milind Thatte

Constitution, Our Tradition of Self-Governance & PESA Act

Colonial rule had ended our tradition of village self-governance, but its writ did not run in the tribal areas. Hence, they declared those areas as 'Excluded'. In independent India, new arrangements were made for it in the Fifth and Sixth Schedules of our Constitution. Here is an analytical study

The words 'Gram' (village) and 'Sabha' (assembly) are both thousands of years old. The description of what a Sabha should be like is also found in the Vedas, Jatakas, Smritis and the Arthashastra.¹ "It is not a Sabha in which there are no experienced elders, those are not elders who do not speak of Dharma (ethics and law), it is not Dharma the basis of which is not truth, and it is not truth in which there is deceit." This was said by Draupadi in a full assembly.

Kautilya's Arthashastra says that only the assembly of village elders can decide about the boundaries of two villages, maintenance of the water bodies and resolving the disputes. This is not the work of the government. On the stone inscriptions found in Navsari of Gujarat inscribed during the reign of a king in the first century, it is written that the village will be run by the village's 'Mahattar' (the better ones) and these Mahattars will have representatives from all castes and tribes. In Chhatrapati Pratap Singh's 1836 code, it is written that if a matter is not resolved in the 'Kul Panchayat' (clan/community meet) in a village, then the village's 'Got',

i.e. gathering, will take the final decision. The king's court will not take up the matters coming under the jurisdiction of a Got.

In one of the stories described in 'Gatha Saptashati', a first century text of Andhra Pradesh, it is told that the 'Gramani' (village head) used to take decisions only after consulting everyone. The person, who used to maintain the records of the village assemblies and write all the decisions and rules for the village, was given a piece of land by the villagers. The profession is known as 'Lekhanvriti' or 'Sanad' (record keeping). The position has been described as 'Gramlekhak' (village writer) in the Smritis while in the Maratha empire, it was called 'Kulkarni'. In the stone inscriptions found in Uttaramerur village of Tamil Nadu, the process of forming committees by the Gram Sabha is engraved. The rights of the village assembly and everyone's role in the village self-governance are well defined and there are thousands of examples of this in our history.

'Scheduled', not 'Excluded'

This root of our independence was broken during the British rule.

Village self-governance was abolished. Neither the right to justice, nor land management, nor forest management -- nothing was left in the hands of the village. But wherever there was tribal society, the British had to accept defeat. They chose not to implement many laws there by naming those tribal dominated areas as 'Excluded Areas' and 'Partially Excluded Areas'.² Due to this reason, the Government of India Act 1919 and 1935 were also not implemented there, and the people there did not even get the right to vote in the State Assembly elections. However, owing to this reason, the system of traditional village self-governance remained alive in these Excluded and Partially Excluded areas. The village assembly, unanimous decision in the assembly and the decision taken there being accepted by all -- this system continued. That is why the tribal roots of Indian democracy are still safe today.

Two sub-committees were formed in the Constitution Committee on the subject of Excluded and Partially Excluded areas -- one under the chairmanship of Thakkar Bappa and the other under the chairmanship of Gopinath Bordoloi.³ Both believed that no one can remain 'excluded' in independent India, but some protective provisions are needed so that exploitation can be stopped. For this reason, the Partially Excluded Areas were renamed as 'Scheduled Areas'. Hence,

provisions were made for this in Article 244(1), which came to be known as the 'Fifth Schedule'. Similarly, the Excluded Areas of Northeast India were renamed as 'Tribal Areas', which came to be known as the 'Sixth Schedule', for which provisions were made in Article 244(2).⁴

Our team conducted studies in the villages of Maharashtra, Madhya Pradesh, Chhattisgarh, Rajasthan, Gujarat, Jharkhand, Odisha and Assam. Some things common in all the villages that came to light are as follows:

The Living Tradition of Village Self-governance

1 – All the castes and tribes residing in the village sit together and discuss issues in hand. This custom is prevalent everywhere. There are some days (or dates) fixed in the year when the traditional assembly of the village takes place. Generally, some or other festival comes between the onset of the monsoon and the sowing season. While the villagers worship the village deity, they also use the occasion to hold the assembly alongside. Similarly, another major festival comes after the harvesting season and the assembly is held once again around Dussehra or Diwali. Other festivals are celebrated within families throughout the year, but these two festivities are held collectively in the village, and the motive behind this is to hold the assemblies and take decisions related to the interests of the village there.

2 – If any contribution money is taken in the assembly, then the same amount is collected from all the households. The accounts of the contributions so collected remains transparent and everyone in the village is aware of its details. The money is spent to buy materials needed for the worship and musical instruments etc as well as to pay honorarium to those who render their services there. The rest of the money is used for the collective work of the village and that money is considered as the 'village fund'.

3 – Resolution of disputes takes place at two or three levels. First, the people of the clan/community in which the dispute has arisen sit together and try to resolve it. If they are unable to do so, then the dispute goes to the village 'Panch' (group of eminent persons). Panch does not consist of some select people, but all the adults of the village. Whatever the dispute may be, unless someone from the disputing parties brings a complaint, the village assembly does not interfere in that dispute. The dispute resolution meeting is held in an open space and there is no restriction on anyone's participation in it. Women also participate in this meeting and speak. Once the dispute is resolved, both the parties in dispute will have to bear the expenses incurred for the Panch like serving tea, cold drink or jaggery and coriander or even liquor to everyone attending the meeting.

4 – Decisions about the

community natural resources of the village are taken in the assembly meeting. Issues like how to keep the water of the wells potable, in which pond clothes should be washed and where not to wash, after which date fishing has to be stopped or from what date the cattle should be left open -- all such decisions are taken by the village assembly. In some tribal societies, there is a practice of giving money to the girl's family from the boy's side in marriage. In many villages, the assembly decides how much money will have to be paid for marrying a girl of that village.

We observed all these common points in our 2023 study. Some 28 years ago, the committee formed under the chairmanship of Shri Dilip Singh Bhuria had also given some suggestions keeping in mind these realities.

Why was the Bhuria Committee Formed?

When Panchayati Raj was included in the Constitution through the 73rd Amendment, it was said in it that no part of this Article will be applicable to the areas falling under the Fifth Schedule [243 (M) (1)]. But the legislature will make a separate law to expand Panchayati Raj in the areas under the Fifth Schedule [see Article 243 (M) (4) (B)]. Parliament constituted the Bhuria Committee to draft such a law.

The main suggestion of that committee was “wherever there is a community that sits together

and takes decisions (face-to-face community), that should be considered as a ‘Gram’ (village) and a ‘Gram Sabha’ (village assembly) should be formed there.” Such a Gram Sabha should have the rights to resolve the disputes, manage the resources and control the Panchayats under it. These things were later promulgated in the Panchayats Extension to Scheduled Areas (PESA) Act in 1996. Sections 4 (b) & (c) of this Act give the definition of village.⁵

According to Article 243 (G), ‘village’ means a village or a group of villages notified by the Governor. But Article 243 (M) says that this is not applicable in Scheduled Areas. Section 4 (b) of PESA Act gives the definition of village as “wherever there is a community running its business according to tradition and customs, such a settlement or hamlet or a group of settlements and hamlets will be called a village.” Then Section 4 (c) repeats the same definition of Gram Sabha as in Article 243 (b) -- every village will have a Gram Sabha consisting of all the persons in the voters’ list of that village.

This means that even if a settlement or hamlet in the Scheduled Area is not declared as separate by the Governor, it will still be called a village and the Gram Sabha will meet in that village only. If a Gram Panchayat is formed by merging several villages, even then the Gram Sabha will not be held in the

Panchayat Bhawan, but separately in each village. This has been clarified to some extent in the PESA rules of the States. For example, the complete procedure for the formation of a separate Gram Sabha has been given in Rule 3 of the Madhya Pradesh PESA Rules 2023. In Rule 4 of the Maharashtra PESA Rules 2014, the voters of the settlement or hamlet can give a proposal to get a separate village notified and the Divisional Commissioner can notify the village. In the rules of Chhattisgarh PESA, the same work can be done by the Sub-Divisional Officer (SDM) and after the formation of the new Gram Sabha, the geographical jurisdiction of the remaining Gram Sabha is also reduced by demarcating its boundaries.⁶

This means that there can be many Gram Sabhas in a Panchayat. Every Gram Sabha will be a self-governing civic body in itself. The Gram Panchayat will be the executive committee of all these Gram Sabhas. The Gram Sabha can also have its own office in any government building in the village. (See State PESA rules of Maharashtra, Rajasthan, Gujarat, Madhya Pradesh and Chhattisgarh.)

Rights of Gram Sabha under PESA Still Remain a Pipe Dream

The rights of a Gram Sabha under PESA Act include:

- 1) Resolution of disputes in traditional way
- 2) Ownership over minor forest

- produce
- 3) Control over minor minerals
 - 4) Control over money lending and loans
 - 5) Market control
 - 6) General control and supervision over the Panchayat
 - 7) Control over all schemes, projects and plans, including the Tribal Sub-Plan
 - 8) Restriction on illegal transfer of land
 - 9) Protection of their customs and traditions

If all these rights were in the hands of the Gram Sabha, then on one hand, exploitation could have ended while on the other hand, there could have been proper selection of development works. But this did not happen.

Till 2011, no State had promulgated the PESA rules. By making minor changes in their respective State Panchayat laws, the States showed utter constitutional disregard to the intention of the PESA Act. Then, the States of Rajasthan, Gujarat, Maharashtra, Himachal Pradesh and Andhra Pradesh notified their rules by 2017. When Telangana became a separate State, the new State also adopted the rules of Andhra Pradesh. Chhattisgarh brought the rules in 2022 and Madhya Pradesh in 2023. Odisha and Jharkhand published draft rules in 2024, but these rules have not been implemented till today. The Union government had to put pressure on the last four States to frame their rules. Jharkhand

and Odisha drafted the rules only when the Union Ministry of Panchayati Raj threatened to stop the funds to their Finance Commissions.⁷

What could be the reason behind so much of hesitation? After all, the last four States are at the top in the country in terms of mineral wealth. In minor forest produce also, these are the States which run trade of Tendu (or Kendu) leaves worth billions of rupees.⁸ The PESA law has talked about handing over this right to Gram Sabhas. So, if the PESA Act comes into effect, then these resources will be freed from the clutches of the bureaucracy. And which bureaucracy will allow this to happen? In the political hierarchy, Sarpanch or Pradhan is the smallest position of power. Which party would like the Gram Sabha to have control on his unlimited power?

As per the PESA rules of Gujarat, the Chairman of the Gram Sabha will always be the Sarpanch and if any villager wants to raise any question in the Sabha, then he will have to apply in writing to the Gram Panchayat five days in advance. Such applications must have to be always positive. In this case, Sarpanch will have the final say whether to allow the villager to raise questions or not. Think what will happen if the Chief Minister also becomes the Speaker of the State Assembly. In such a situation, no legislator can ask a question without the permission of the Chief Minister, and the

MLA will always have to speak positively. Obviously, doing so would be like making a mockery of democracy. But the fact is that these are the rules under the Gujarat PESA Act. That too, the rules have been framed for such citizens, in whose tradition the agenda is decided in the village assembly itself and everyone is free to speak.

In their rules, the States of Rajasthan, Himachal, Andhra Pradesh, Telangana and Gujarat have adopted the interpretation of 'village' in the PESA Act as it is. No doubt they have lifted it as it is, but no process has been laid down in the rules as to how such a village will be formed. In the Odisha draft, they have gone to the extent of saying that the District Collector can form a village if he deems it necessary. In the Chhattisgarh rules, it is said that the village will be formed on the basis of minimum population. In its rules of 1998. Madhya Pradesh had given a very lengthy process for the formation of a separate Gram Sabha, but it was not mentioned how the process would start. When we asked the Principal Secretary of the Panchayati Raj department of the State as to how many villages were notified through this process so far, he said 'not even one'.

Now, there is a good process in the 2023 PESA rules of Madhya Pradesh, in which the voters of the village themselves propose the formation of a separate Gram Sabha and the Sub-Division Officer (SDO) notifies for such a

Gram Sabha after obtaining 'No Objections' from other villages. There is a similar process in the 2014 PESA rules of Maharashtra too, but the key to calling the meeting of the voters and sending their proposal to the SDO has been placed in the hands of the Panchayat Secretary. It is observed that many Panchayat Secretaries keep such proposals pending for a year or two.

What Happens If Every Village does not have a Separate Gram Sabha

The secretaries of Panchayats in Rajasthan told us, "People do not attend the Gram Sabha at all. The government puts up notice for holding the Gram Sabha at its own will. Then why would people come to attend it? People know well as to who listens to them in the Gram Sabha!" In Maharashtra, common citizens of a village told us, "We go to the Gram Sabha only when the beneficiaries of a scheme are to be selected. Otherwise, what is our job there? That is the work of the political people." The reason behind the condition of Gram Sabhas being like this is -- holding the Gram Sabha meeting in the Panchayat Bhawan. There are 'group Gram Panchayats' in all tribal areas. Each Gram Panchayat consists of 7 to 20 small villages or hamlets. These villages are scattered within a radius of 10 km (or even more in Odisha) from the Panchayat Bhawan. Going to attend a Gram Sabha being held in the Panchayat Bhawan is an

arduous task, and expensive as well. Moreover, the Panchayat Bhawans are generally so small that even if all the voters or even 25 per cent of the population of the village really attend, it is not possible to accommodate them all in the building. People who come from far away have to listen to the Gram Sabha proceedings by peeping from the window or standing in the verandah. The voices of those who are not even given a place to sit will hardly be heard in the meeting. Therefore, people do not go to attend the meeting at all. In most of the villages, the Panchayat clerk or constable goes from house to house and collects the thumb impressions or signatures of 25 per cent people required for quorum, as the actual meeting does not happen at all.

On the contrary, whenever a meeting or gathering is held in one's own hamlet, everyone including women and elders attend it. Why should there be any hesitation or fear in one's own village? Speaking up was also a tradition there in the form of a habit. Women and even illiterate citizens do not shy away from speaking in their village meetings. PESA too wanted this kind of Gram Sabhas to be the statutory ones. Tradition and the latest concept of democracy should meet each other to bring out the best.

This can Also Happen

'Vayam Chalwal', a voluntary organisation working in

Palghar and Nashik districts of Maharashtra, made a successful effort in this direction. The first step was to get a separate Gram Sabha notified for every hamlet using PESA rules. For this, first 42 villages and then gradually 80 more villages submitted their proposals to the Sub-Divisional Officer. When no action was taken for six months, all the villagers organised a 'Gram Sabha Jagran' (awareness) rally and forced the then Tribal Minister to promise that the Gram Sabhas would be notified at full pelt. Then an effort was also made to have a Gram Sabha meeting in every village every month. First 12 villages did this for three years continuously, then other villages also started learning from them, and now there are 55 such villages conducting Gram Sabha every month. The villagers also learned to write the proceedings or chronicles of the Gram Sabhas.

The PESA fund, which the Governor of Maharashtra started giving to PESA villages from 2016 as direct transfer, used to get stuck in the Panchayats. After two years of continuous agitation, the Vayam organisation succeeded in bringing it directly to the Gram Sabha fund. The habit of keeping a clear account of every penny and reading it out in front of everyone was already there in the traditional Gram Sabhas. Now, the Vayam organisation brought back this habit to the present-day Gram Sabhas. People spent 100 per cent of the PESA fund and also maintained a transparent

account. The Gram Sabhas by now got the moral right to ask the question that “When we can do it, why can't the Panchayats?” For the next three years, a movement was carried out to make the income and expenditure of the Panchayats transparent. Now, the Panchayats, at least where the Gram Sabhas are alert, have started becoming transparent to an extent. Many Gram Sabhas have even brought in rules regarding forests and water, and they are also being properly followed. All this is not the story of any one ideal village or an unusual leader. This is the story of ordinary citizens of dozens of villages. The Vayam activists successfully created the belief that “People can do it!”

New Initiative from Panchayati Raj Ministry

From last January, the Union Ministry of Panchayati Raj has started a new initiative. First, a meeting of the Principal Secretaries of the Panchayati Raj departments of all PESA States was held in Delhi. After that, a council of officials

and representatives of NGOs from Rajasthan, Gujarat, Maharashtra, Madhya Pradesh and Himachal Pradesh was held in Pune in February. Similarly, another council of officials and representatives of NGOs from Andhra Pradesh, Telangana, Jharkhand, Odisha and Chhattisgarh was held in Ranchi in March.

A self-evaluation was done on every aspect of PESA in both these councils. There were seven aspects in it:

- 1) Empowerment of Gram Sabhas
- 2) Ownership on minor forest produce
- 3) Control on minor minerals
- 4) Traditional dispute resolution
- 5) Control on money lending, market and liquor trading
- 6) Control on land transfer and acquisition
- 7) Control on Tribal Sub-Plan and other schemes

It was expected in PESA that Gram Sabhas should have authority on these seven aspects, but it was not happening. Its treatment was done in these two

council meetings. Committees were also formed to prepare guidelines on every aspect. The issues on which they can learn from other States also came to the fore. It was also placed before the States as to where it is necessary to change the rules. Union Ministry of Panchayati Raj has also made changes in the portal of Panchayats. The Panchayats of PESA areas will have to upload separate data for each Gram Sabha. Photos of the Gram Sabha meetings will also have to be uploaded.

No doubt the efforts of the Union government are in the right direction, but they are not enough. Panchayat is a State subject, so the States have to take this seriously and it is very important to form Gram Sabhas based on hamlets and settlements. That apart, it is also necessary to provide funds and personnel to the Gram Sabhas. Only after doing this work on a mission mode for a few years, the prevailing ‘paper democracy’ will get connected to the real roots of democracy in the country. ●

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Dr. Chandrashekhar Pran

Nyaya Panchayat in India - History & Current Status

In India, Panchayat has been the most effective institution in providing easy and quick justice. Here is an overview of this institution in the current perspective

Historically speaking, Panchayat was originally established as an institution for deliverance of justice, in the village culture of India. The village society of India was based on mutual relations and a spirit of cooperation. This system was developed to prevent the relations from breaking, which became the basis of prosperity and self-governance in the villages of India for centuries. Behind the prosperity that India enjoyed till the 17th century, which has been praised by many foreign travellers and historians, was the might of the village society of India, and that village society was protected and developed by the Panchayat system. The great concept of 'Panch Parmeshwar' (the best five - chosen on the basis of experience and merit) had emerged from the excellent sense of justice and conduct of this system only. The Nyaya Panchayats have been the most effective option for providing cheap, easy and quick justice to the people.

Panchayat is Basically a Judicial Institution

As is well known, in the history of India and its village culture,

Panchayat was basically functioning as an institution for dispensing justice. The meaning of 'Panchayat' referred to a village meeting, which was usually held only when there was a dispute within a family or between neighbours. To resolve this dispute, the village Panchayat was called by any of the affected parties. However, this Panchayat was not a permanent or elected body, but it was a meeting of the people of the village, wherein the 'Panchs' (members of a group of five) and 'Sarpanch' (head of the group) were chosen at the same time by the plaintiff and the defendant, separately or by mutual consent. After deep deliberations by the Panchs, a final decision was taken on the basis of mutual consent. This decision generally comes more in the form of a mutual agreement. The concept of 'Panch Parmeshwar' has emerged from such Panchayats only. This tradition and style of Panchayat was born out of the mutual relationship and spirit of cooperation in the village society of India. This sentiment was the basis of the entire village life, which was connected with mutual relations.

The British had started recognising this strength of the village society

very well. From Lord Metcalfe to Lord Ripin, everyone had planned to find the way for the development of India and the stability of the British rule here through these Panchayats. Due to this, Panchayati Raj was started in India after 1915 with legal recognition on the basis of the report of the Royal Commission.

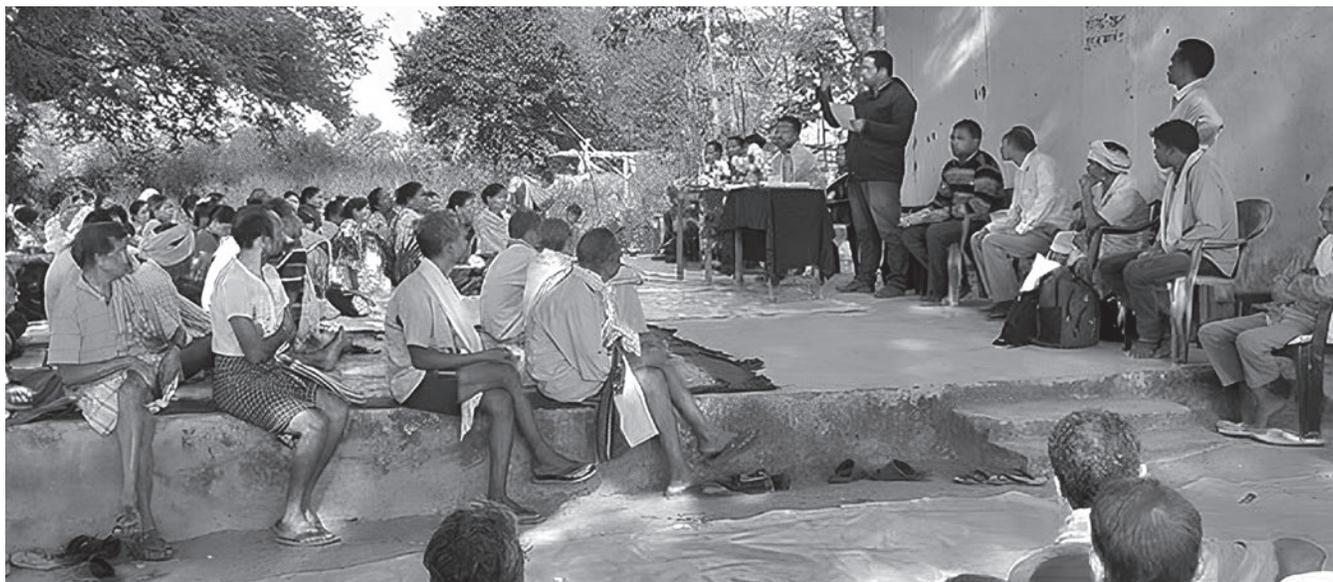
During the British period, when various provinces started making their own Panchayati Raj rules, the question of the traditional justice system of Panchayat became important for all of them. Because the British government was only using it as a medium for its so-called development agenda, whereas it did not have much to do with the local judicial system. Because this local judicial system was run on the basis of mutual relations and consensus, while they were developing a framework of the legal justice system which was beyond the comprehension of the common people. Therefore,

in almost all the provinces, this traditional local justice system was kept separate from this government-made Panchayat system. However, the Panch Parmeshwar-based Panchayat system continued to run in villages on the basis of social relations, separate from the Panchayati Raj system. When new provisions were made in the Constitution to form States in the place of provinces, this new legal system of Nyaya Panchayat was included as an important part in most of the States.

After the Constitution came into effect, the subject of Panchayat was put in the State list and the Panchayats started functioning in their own ways in different States. Since the Panchayati Raj Act and rules were enacted by the States individually, there was no uniformity in them. There were differences in these Acts in terms of structural framework, nomenclature of officials, determination of

responsibilities, distribution of rights and availability of resources. It is very important to mention here that at that time, by Panchayat it meant only 'Gram Panchayat'. Till then, there was no system like 'Block' or 'District' Panchayat. The Panchayat system was expanded at the block and district level by Pandit Jawahar Lal Nehru in 1959 on the basis of the recommendations of the Balwant Rai Mehta Committee formed to review the community development program. Before this, the entire focus was on Gram Panchayat only.

Another important fact worth mentioning here is that when the Constitution of India was being drafted, the question arose as to where the issue of Panchayat stood in this entire governance system. As is well known, after a long drawn debate in the Constituent Assembly, presenting a reply to this question was postponed for the future and it was included in Article 40 under



the Directive Principles of State Policy. Article 40 says - "The State shall take steps to organise Gram Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government."¹ The 'self-government' mentioned in Article 40 had, in a way, sown the seed of another layer of governance, i.e., a third government, in the Indian political system, and it was identified as 'self-government'. A self-government in the true sense is a government of the people, for the people and by the people. In fact, this is where the door to real freedom and true democracy opens.

In this sense, it is natural that if it has to become another government, i.e., self-government, then like other governments, it should also have a legislature, executive and judiciary. The intention expressed in the Directive Principles of the Indian Constitution has more or less been fulfilled by the 73rd Constitutional Amendment, wherein provisions were made for a legislature in the form of a 'Gram Sabha' and an executive in the form of a Panchayat. However, the question of judiciary was left out there.

Status of Nyaya Panchayat in the New Panchayati Raj

It is true that in the year 1989 when the new Panchayati Raj Bill was presented in the Lok Sabha for the first time and many

questions and protests were raised from the State level, then on 7th August 1989, while presenting the Municipality (65th Amendment) Bill, the then Prime Minister Rajiv Gandhi had also raised the question of Nyaya Panchayat and while addressing the House, he had said that "our work regarding Panchayats is still incomplete because till now, we have not included Nyaya Panchayats." Taking this matter forward, he had disclosed the future plan in this regard and said that "on the lines of Nyaya Panchayat in rural areas, it will be necessary to provide speedy justice in urban areas as well, as a supplement to responsible administration. This will be a major priority work for our government in the ninth Lok Sabha."² But, as we all know, Rajiv Gandhi's resolution remained incomplete at that time. Later, when the 73rd and 74th Constitutional Amendments were passed in the Parliament in 1992, there was no mention of the judiciary angle of this 'self-government'.

As mentioned earlier, before Independence, there was a formal provision for Nyaya Panchayat in the Gram Panchayat Act of all the provinces. However, after Independence, when States were formed in place of provinces and their Panchayat Acts were enacted, many States removed Nyaya Panchayat from it. At present, the States in the country where the provision of Nyaya Panchayat (or by some other name with similar provision)

still exists include Jammu and Kashmir, Himachal Pradesh, Punjab, Bihar, Chhattisgarh and West Bengal. Nyaya Panchayat was also present in the Uttar Pradesh Gram Panchayat Act till June 2017. It is a different matter that it could not be constituted after 1977. In Bihar and Himachal Pradesh, this system is still operating effectively.

Law Commission and Supreme Court are in Favour of Nyaya Panchayat

Whenever there was a serious discussion about the improvement and development of the governance system in independent India, Nyaya Panchayat has always been an important subject in it. In this regard, there are many references right from Law Commission to Supreme Court which have been continuously propounding the need and importance of Nyaya Panchayat. For example - whatever committees were formed in this context after Independence (the main ones among them are G.R. Raj Gopal Committee and P.N. Bhagwati Committee), all have unanimously accepted the need of Nyaya Panchayat system and have given it full recognition. In the report of the 14th Law Commission, establishment of Nyaya Panchayats have been considered the most important thing in the context of Article 39A of the Constitution (which instructs the States to provide easy and free justice to the

citizens).

Not only this, after Independence, the High Courts of different States and the Supreme Court of India have also given many decisions in this regard, all of which are in favour of Nyaya Panchayats. These include *Marwa Madhani vs Sangram Sampatt* case of Punjab High Court in 1960, *Baleshwar Singh vs District Magistrate of Varanasi* case of Allahabad High Court in 1959. Similarly, *S. Rangaswamy's* case of Madras High Court in 1964 and *Ram Prakash vs. Nyaya Panchayat* case of Himachal Pradesh High Court in 1967 are notable too. In this regard, the State of Uttar Pradesh & others vs. Pradhan Sangh & others case of Supreme Court in 1995 is important, in which the apex court has referred to it in the order of Article 39A, calling it completely "constitutional".

At present, with the burden of cases on the courts increasing, the issue of establishing Nyaya Panchayats has started to arise again. In this sequence, it is noteworthy that though the draft Nyaya Panchayat Bill was presented in the Parliament by the then government for enactment in the year 2009, it is still pending with a Standing Committee of the Parliament!

Burden of Cases on Courts is Humongous

No doubt, the burden of cases on the courts in India is increasing day by day. According to the National Judicial Data Grid

According to a study, a person fighting a case in India spends an average of Rs 519 to appear in court. In that case people fighting cases in the whole country spend about Rs 30,000 crore annually in total. The study also shows that court appearances are also causing huge productivity loss. On an average, a loss of about Rs 873 occurs when one person appears in the court once.

Overall, the country is losing about Rs 50,387 crore every year on this count, which is 0.48 percent of India's GDP. Information on the criminal justice system was also collected under this study

(NJAD-31 Deck Dec 2022), more than 5 crore cases are pending in the courts across the country while about 70,000 cases are pending in the Supreme Court alone. Out of the total, around 60 lakh cases are pending in High Courts while about 4.5 crore cases are lying with the district and taluka courts. About 9.7 lakh out of these cases are more than 20 years old, about 6.5 percent cases are 10 to 20 years old and 18.94 percent cases are 5 to 10 years old while only 20.57 percent cases are 3 to 5 years old. Of the cases pending in High Courts, 1.23 percent cases are more than 30 years old, 3.71 percent cases are 20 to 30 years old and 19.07 percent cases are 10 to 20 years old. About 7,400 new cases are being filed in the courts across the country every day, the data reveals.

Of the more than 5 crore cases pending in the courts at various levels in the country, about 24 percent cases are from Uttar Pradesh alone. About 70 percent, i.e. more than 9.33 lakh, cases of them are pending in fast-track

courts in the State.³ If we look at it in the context of the Nyaya Panchayat of Uttar Pradesh, most of the cases are related to the same 39 Sections of the Indian Penal Code (IPC), which are given in the jurisdiction of the Nyaya Panchayat. If Nyaya Panchayats were working in Uttar Pradesh, the pressure of pending cases would have obviously been much less.

Rs 30,000 Crore is Spent Every Year

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under this study. According to the data, due to long legal battles, 28 percent of the accused had to spend more time in jail than the prescribed sentence. Because they did not have money for bail.⁴

In such circumstances, when the courts of the country are acutely burdened with cases and even the President of the country has emphasised on the availability of speedy justice, then the issue of establishing Nyaya Panchayats becomes more relevant.

The Judicial Process of Nyaya Panchayat Continues in Two States

As mentioned earlier, at present, there are six States in whose Panchayati Raj Act there is a provision of 'Nyaya Panchayats'. Out of these, there are only two States - Bihar and Himachal Pradesh - where the process of justice is still going on at the village level. In both these States, disputes related to about 40 Sections of Indian Penal Code are still being resolved at the village level itself.

In **Bihar**, the Nyaya Panchayat system is known as Gram Kachhari. Along with the Gram Panchayat polls, the election of Gram Kachhari is also conducted by the State Election Commission. At the level of each Gram Panchayat area, the Panchs and Sarpanchs are elected from each ward who constitute the Gram Kachhari. Every five years, along with the Panchayat elections, the Sarpanchs and Panchs of the Gram Kachhari are also elected.

To run the judicial process smoothly, there is a provision of appointing Secretary and 'Nyaya Mitra' (friend of justice) in each Gram Kachhari. The process of resolving each dispute is started through a 5-member judicial bench. According to Section 102 of the Bihar Panchayati Raj Act, provisions have been made to settle all disputes initially through amicable agreement. For this, the judicial bench has been granted some legal privileges too. However, there is provision to start litigation process only in case no settlement could be reached. Disputes related to the Sections which have been included under the Gram Kachhari are prohibited from being taken cognizance of by any other court. The presence of a legal practitioner in the judicial process of the Gram Kachhari is also prohibited.⁵

With regard to the Gram Kachhari of Bihar, a study of 32 Gram Kachharis of Gaya and Patna districts conducted by the Kaushik Charitable Trust in collaboration with the Ford Foundation, shows that 90 percent of the disputes that come to the Gram Kachhari in the State are resolved through settlement. In the remaining 10 percent, a fine of Rs 100 to Rs 1,000 was imposed. In most of the cases, the culprit has readily paid the fine. Only about 3 percent of the disputes have gone to the higher courts for appeal. Most of these cases have been related to Dalits and weaker sections pertaining to

land related or family disputes. Of the 26 disputes that were specifically studied by the Trust, 14 were related to land, 4 were road disputes, 2 were family disputes, 3 were related to witchcraft, 2 were divorce cases and 1 was a fraud case. Out of these, 18 were settled and 3 were compensation related cases while 2 were being heard at that time.⁶

In **Himachal Pradesh**, this local level judicial function has been put under the Gram Panchayat. Initially, it was included in Chapter IV of the Panchayati Raj Act 1952 of the State. According to its Section 47, the State government used to constitute a 'Nyaya Panchayat' for a group of determined Gram Sabhas. For this Nyaya Panchayat, the concerned Gram Sabhas used to elect 15 Panchs. The names and details of these 15 Panchs were sent to the Panchayat Inspector, Sub-Divisional Judge and District Judge with their comments. The District Judge used to select five names from those 15 short listed ones after a detailed investigation. These five Panchs used to select the Sarpanch and Naib Sarpanch from among themselves. These Nyaya Panchayats mostly used to work through settlement committees.⁷

But later when the Panchayati Raj Act of Himachal Pradesh was amended in 1977, the Nyaya Panchayat was merged with the Gram Panchayat. Under the new system, the Gram Panchayat was given the right to judicial work. Also, it was made mandatory to

have a woman member in the judicial process.

According to another study conducted by the Central government on the judicial work of the Gram Panchayats of Himachal Pradesh, 100% of the cases in the State were found to be settled by the Nyaya Panchayat. Immediate decision was taken in 16% of the cases, 32% are settled in 2 to 3 days and 29% within a week's time while the rest were settled within 15 days. All parties seemed satisfied with the decision of the Nyaya Panchayat.⁸

Nyaya Panchayat Bill, 2009

As mentioned earlier, the draft Nyaya Panchayat Bill was presented in the Parliament by the then government in the year 2009. Due to the adverse comments of the Law Ministry on the draft, it was handed over to a Standing Committee of the Parliament for examination and suggestions. However, it is still stuck there. In this Bill, a proposal has been made to establish Nyaya Panchayats in the entire country in a very systematic and logical manner. The provisions made in the 7 Chapters and 54 Sections of this Act for providing simple, quick and accessible justice in rural areas is very useful for the people.⁹

The objective of this Bill is to “provide a system for fair and speedy resolution of disputes arising in rural areas by providing a platform for dispute resolution through people's participation

and to provide access to justice dispensation to citizens at the grassroots level in both civil and criminal cases.”¹⁰

The need for this Bill is presented in a very logical manner in this Bill. On one hand, Article 39A of the Constitution has been mentioned, while on the other hand, the establishment of a ‘decentralised dispute redressal system’ through mediation, conciliation and settlement as well as certain standards of provisions relating to Nyaya Panchayats under the laws of various States have been referred to as a constitutionally mandated requirement.

This Bill proposes to constitute a Nyaya Panchayat in every Gram Panchayat area or a group of them thereof. In each Nyaya Panchayat, provision has been made for the election of five Panchs by the voters of the concerned area. Provision has also been made for reservation for women and weaker sections in it. Its election is proposed to be conducted by the State Election Commission along with the Gram Panchayat elections every five years. Each of these five Panchs will get the opportunity to work as ‘Nyaya Panchayat Pramukh’ (head of the body) for one year respectively. This order will be decided on the basis of rotation according to the seniority of age.¹¹

Every dispute coming before the Nyaya Panchayat will be heard by a bench, which will include the Nyaya Panchayat head and two Panchs thereof. Along

with this, two other persons who will be from the panel of names suggested by the appealing side and the opposition.

In this Bill, on one hand, the minimum age of 25 years has been fixed for determining the eligibility of the Panchs while on the other hand, standards like criminal background, misconduct and negligence have been kept in the category of disqualification. There is also a provision of a ‘Nyaya Sahayak’ (assistant judicial official) and a ‘Chowkidar’ (janitor) to assist each Nyaya Panchayat. The responsibilities of both of them have been mentioned in detail in the Bill itself.¹²

Along with 58 Sections of the Indian Penal Code, major Sections of the ‘Cattle Trespass Act of 1871’ and ‘Public Gambling Act’ are included. Similarly, a long list of ‘Civil Jurisdiction’ has also been included. Under the Consumer Protection Act of 1986, disputes involving up to Rs 1 lakh have also been included in the jurisdiction of consumer disputes.

The Bill also provides that Nyaya Panchayats will initially resort to persuasion, conciliation and mediation to resolve disputes and will be guided by the principles of ‘natural justice’. While hearing the cases, it will have powers similar to that of a civil court under the Civil Procedure Code, 1908. Every proceeding of this body will be considered judicial.

In Section 22 of the Bill,

there is a provision for the Nyaya Panchayat to make efforts for settlement at the primary level. The whole process of reconciliation has been duly mentioned in the Bill. To make the proceedings of the Nyaya Panchayat transparent, a provision has also been included for its public announcement one week in advance and conducting it publicly.

If the reconciliation efforts fail, the Nyaya Panchayat will start the process of adjudication of the dispute at the request of the plaintiff. The decision of this judicial process will be taken within three hearings or within a period of two months from the date of commencement of the case, whichever is earlier.¹³

According to Section 32(2) of the Bill, in case there is no consensus among the Panchs during the judicial process, there is a provision for the decision to be taken on the basis of majority. There is also a provision that the opinion of the Panch expressing disagreement will be mentioned in the verdict and in the record of

the Panch as well.

Gram Nyayalaya Act - 2008

This Act was passed by the Parliament on 2nd January 2009. A provision has been made in this Act to establish Gram Nyayalaya at the headquarters of intermediate Panchayats at the rural level to provide access to justice to the citizens at their nearest place.

After consultation with the High Court of the concerned State, the State government will appoint a person as Judicial Officer for each court who is eligible to be appointed as a First Class Judicial Magistrate (JMFC). He will get salary, allowances and other facilities similar to that of a JMFC. This Judicial Officer will visit the villages under his jurisdiction from time to time and will conduct the judicial process at a place as per the convenience of the parties. There is a provision to widely publicise the date and place when and where the mobile court is going to hold its hearing sessions. The Gram Nyayalaya

has been entrusted with the responsibility of resolving both criminal and civil disputes at the village level.¹⁴

The Act also provides for the State government to provide the Gram Nyayalaya with the other required officers and employees as well as all facilities for discharging its duties.

The complainant can avail the services of an advocate at his own expense before the Gram Nyayalaya. But for this, it will be mandatory to take permission from the Gram Nyayalaya. Along with this, there is a provision for providing the services of an advocate from the panel of advocates nominated for the special Gram Nyayalaya by the State Legal Services Authority to the accused, who is unable to appoint an advocate on his own.¹⁵

An appeal against any decision, sentence or order of the Gram Nyayalaya can be made in the Sessions Court. However, the appeal cannot be made in two situations: (1) if the accused himself has confessed his guilt and (2) if the Gram Nyayalaya has imposed a fine of less than Rs 1,000 on any party.¹⁶

The jurisdiction of the Gram Nyayalaya includes certain Sections of the Indian Penal Code of 1860 (45), Animal Trespass Act of 1841 (1), Wages Protection Act of 1936 (4), Minimum Wages Act of 1948 (11), Protection of Civil Rights Act of 1955 (22) and Protection of Women from Domestic Violence Act of 2005 (43).¹⁷ Thus, it covers a total of

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126 Sections of different Central Acts.

Similarly, the crimes under the State Acts are also included in the jurisdiction of the Gram Nyayalaya. The crimes or disputes included in the jurisdiction of the Gram Nyayalaya include civil and property related disputes such as right to purchase property, use of common pastures, regulation and time of taking water from sources of irrigation, village and farm house possession, right to take water from wells and tube wells, etc.

Current Status of Gram Nyayalaya

The Gram Nyayalaya Bill was passed by the Parliament on 22nd December 2008 and it came into force on 2nd October 2009. A lump sum of Rs 18 lakh per Gram Nyayalaya was fixed as Central assistance for the establishment of Gram Nyayalayas. Along with this, the Central government had also decided to bear 50% of the recurring expenditure under the limit of Rs 3,20,000 per year during the first three years.¹⁸

It was decided that about 5,000 Gram Nyayalayas would initially be established in the country and even the period of its establishment was also fixed for each State. But only 208 Gram Nyayalayas could be established in the whole country by September 2019, i.e. in first 10 years. Only 11 States out of 28 had taken the initiative in this regard. In February 2020, on the appeal of the 'National

Federation of Societies for Fast Justice', the Supreme Court had also issued a directive to expedite it. But even after that, its progress has been very slow in the last 4 years. Till now, only 481 Gram Nyayalayas have been established in the country while only 314 of them are working.¹⁹

According to the information released on the dashboard of the Justice Department's portal, all these working Gram Nyayalayas are from only 10 States of the country. Out of these, the maximum (93) are in Uttar Pradesh and the least (1) is in Jharkhand, whereas now around 6,000 Gram Nyayalayas are required to be established throughout the country.²⁰

In this regard, the said National Federation once again filed another petition in the Supreme Court in July 2024. Hearing the fresh plea, the bench of Justice B.R. Gavai and Justice K.V. Vishwanathan has directed the Chief Secretaries of the States and the Registrar General of the High Courts to file an affidavit within six weeks and give detailed information about the establishment and functioning of the Gram Nyayalayas in their respective States.

It is important to mention here that in 2009, the Justice Department had objected to the Nyaya Panchayat Bill on the ground that after the provision of Gram Nyayalayas, there is no justification for this Bill. But the record of the last 16 years is very regrettable. Due

to the indifference of the State governments and the weakness of financial management, this effort has been ineffective. On the other hand, it is worth pondering over that how it would be possible to appoint 6,000 and more judicial officers at a time when thousands of posts of judges vacant in the present judicial system are still not being filled up, whereas simultaneously the number of pending cases is increasing menacingly.

In comparison to the village courts, the system of Nyaya Panchayat meets the expectations of Article 39A in many ways. In the said Article, the question of equal justice and free legal aid has been very clearly kept at the centre. In this context, the Law Commission report and the comment of the Supreme Court expect easy and speedy justice. In other words, giving priority to the principle of natural justice, the tradition of people-based judicial system, which was run by Nyaya Panchayats, and its impact used to affect all walks of life.

Constitutional expert Subhash Kashyap has said that "The Preamble of the Constitution places justice above other principles of freedom, equality and fraternity. The concept of justice in the Preamble is in fact very broad. It is not limited to narrow legal justice administered by the courts." Article 38 of the Constitution embodies the concept of justice in the Preamble. The social order that the society establishes for the promotion of

public welfare requires socio-economic and political justice to inspire all the institutions of national life.²¹

The Supreme Court of India has also clarified that the constitutional concern of social justice as a flexible continuous process is to provide justice to all sections of the society so that the dignity of its personality can be protected.²²

The 114th report submitted by the Law Commission of India in 1986 also referred to Article 40 along with mention of 39A. According to it, "Article 40 which directs the State to take steps to organise Gram Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government, has to be viewed in the light of the mandate of the new Article 39A."²³

In another report, while referring to the amicable settlement of disputes before Nyaya Panchayats, the Law Commission has observed that such settlement becomes easier when the person empowered to

decide them has the advantage of knowing the disputants, the subject matter of the dispute, the manner in which the dispute arose and other facts relating thereto.²⁴ In fact, this understanding plays the most important role in dispute settlement in villages where legal knowledge becomes secondary.

In these contexts, the Nyaya Panchayat system is more effective than the Gram Nyayalayas from the point of view of village life. If we look at it comparatively, many important differences are visible.

First - The number of Nyaya Panchayats, which are entirely composed of Panchs and Sarpanchs democratically elected from among the local citizens. On the other hand, the Gram Nyayalayas are formed by the officers appointed by the State government. This democratic participation of the local people makes them well aware of the facts, while on the other hand, being a part of the same local society, they are also concerned about maintaining harmony in their society. In such a situation, they are more concerned about

protecting the relations between the two parties in dispute.

Second - The budget required for the establishment and operation of the Gram Nyayalayas is quite high. After 16 years, only 5% of the Gram Nyayalayas are functional in the true sense, which shows that the high expenditure in this is also an important reason. Whereas, in contrast to this, the Gram Kachheri of Bihar, whose number is more than 8,000, has been working regularly for the last 20 years. Similarly, the Gram Panchayats of Himachal Pradesh are also continuously resolving the common disputes of the village at their level in an amicable manner. The expenditure on both of these is acceptable to the State governments too as it is normal.

Third - Accessible justice is linked with locality. Being easily accessible to the people increases its utility and importance. Nyaya Panchayat is the most suitable format from this point of view. This fact has also been kept in mind in the concept of Gram Nyayalaya. But at the practical level, it is quite difficult because about 90 villages are covered under this court, established at the block level. Whereas about 7 to 8 villages are included under Nyaya Panchayats. It is true that Gram Nyayalaya has been planned as a mobile court, but still its reach to 90 villages will be limited.

Fourth - As of today, in the 10 States where Gram Nyayalaya is functional, more than 2 lakh cases are pending²⁵ (Dashboard

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20th September 2024, 10.10 am, Gram Nyayalaya, Department of Justice, Government of India). Whereas, in contrast, the number of pending cases in the Gram Kachharis and Nyaya Panchayats in Bihar and Himachal Pradesh can be counted on fingers. As mentioned earlier, the conclusion of the study of the Gram Kachhari of Bihar and Nyaya Panchayat of Himachal Pradesh has been given.

Fifth - The justice system of the Gram Nyayalay is under the State government whereas the Gram Kachhari or Nyaya Panchayat is a part of the local self-government. In a way, the ownership of making and running this system lies with the citizens of the village. It is indirectly under their control.

Sixth - In the Gram Nyayalay Act, only the provision of justice has been made at the block level whereas in the Nyaya Panchayat Act, provision of 'District Nyaya Panchayat Agency' and 'Lokpal' has also been made, in which the 'District Nyaya Panchayat' is the appellate agency and the Lokpal is also authorised to consider and decide on the misuse of any public office or embezzlement of funds or any deficiency in the implementation of the scheme of the Central or State government or corruption or bad governance by any public servant or Panchayats within the Nyaya Panchayat area.²⁶

Thus, the Nyaya Panchayat Bill has been determined to have interference and influence

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in every sphere of village life. The objective of the authority and responsibility entrusted to the Panchayats by the 73rd Constitutional Amendment specifically refers to economic development and social justice. This makes it clear that the function of the Panchayats at every level is to provide administration and justice in the local village society, a constitutional mandate.

Clarifying this further, thinkers like D. Bandopadhyay argue that social justice will not only mean a package of positive actions in the social, economic and political spheres, but it also includes enforcement of civil rights including providing relief to the victim and initiating appropriate action against the violators of civil rights. Thus, the concept of dispensation of justice is fundamentally inherent in the primary function of Panchayats under Article 243-G(A).²⁷

It would be relevant to mention one more fact in this regard. A comment passed

by the Supreme Court, while examining the legal and constitutional validity of the 'Nyaya Panchayat' included in the Uttar Pradesh Panchayati Raj Act of 1947, is important. "The last argument of the respondents was that this Act provides for Nyaya Panchayats whereas the amended provisions of the Constitution do not ask for establishment of such Panchayats and hence it is outside its jurisdiction. The argument cannot be dismissed on this ground. It is true that the basis of establishment of Nyaya Panchayats under the Act is different from the basis of establishment of Gram Panchayats and the functions of both are also different. Nyaya Panchayats are in addition to Gram Panchayats. The Constitution does not prohibit the establishment of Nyaya Panchayats. On the other hand, establishment of Nyaya Panchayats is different from the basis of establishment of Gram Panchayats. This will promote the Directive Principles of State

Policy contained in Article 39 of our Constitution.”²⁸

Similarly, in 1996, when the election of the Gram Kachheri of Bihar conducted by the State Election Commission was challenged in the Patna High Court, the court rejected the challenge and said that “as far as the appointment of the members of the Gram Kachheri through election is concerned, I do not see any illegality in it. It is for the legislature to decide the mode of appointment.”²⁹

The Justice P.N. Bhagwati Committee on ‘Juridicare: Equal Justice - Social Justice’ constituted by the Government of India, which submitted its

report in 1977, probably had in view these very features of the Nyaya Panchayat while it observed: “If we want distributive justice to become a reality for the people, who now share abject deprivation and poverty, one of the fundamentals should be easy access to the institutions of justice through the dispensation of justice at the village level. Keeping in view the petty nature of the subject of village litigations and the considerable bad blood that creates out of vexatious and unproductive legal battles as well as remembering that petty cases are mostly those in which at least one of the parties is at a

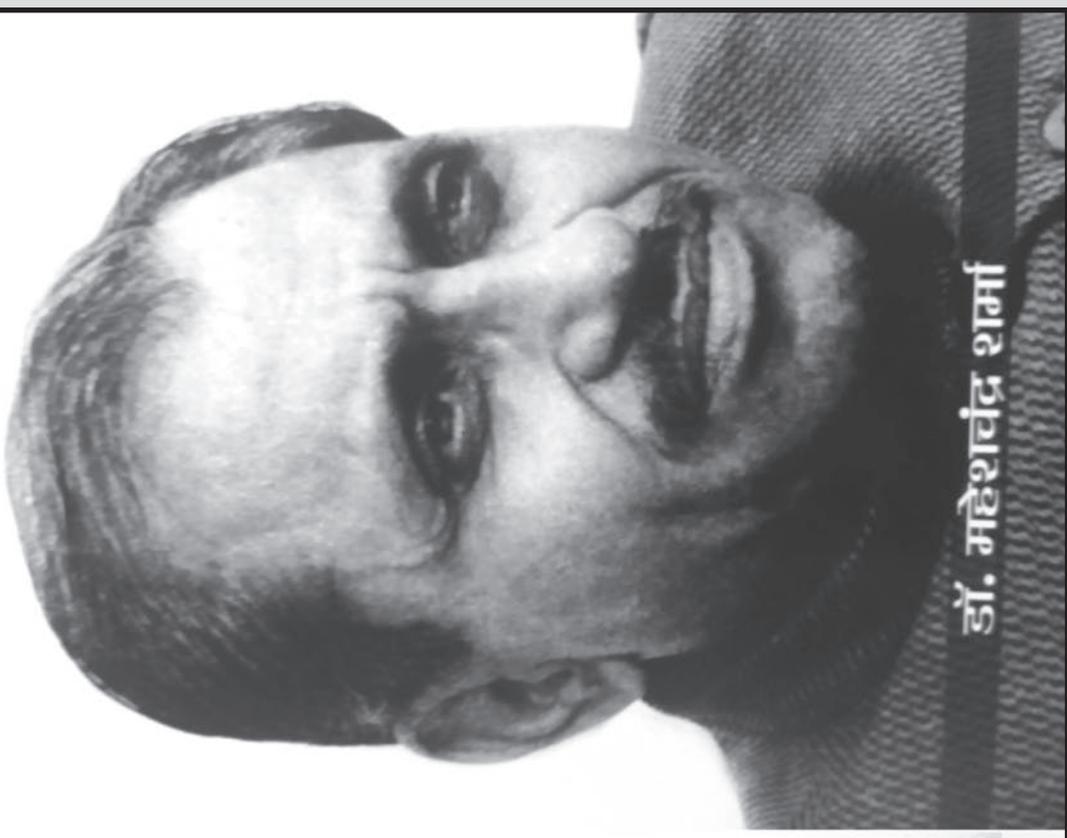
disadvantage, we should create smaller courts which will spare the poor from litigation... It is well known that litigation, whether civil or criminal, leaves a trail of bitterness and bad blood as well as heavy financial loss for both, besides long hearings and disappointments in the outcome. In Indian conditions, law and justice as reconciliation mechanism at the Panchayat level is an essential requirement. This can be achieved only by having a suitable forum for reconciliation and justice with a low cost and informal process without any delay which is only in accordance with the law. There is only one answer.”³⁰

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पं. दीनदयाल उपाध्याय

कर्तृत्व एवं विचार



डॉ. महेशचंद्र शर्मा

पं. दीनदयाल उपाध्याय

कर्तृत्व एवं विचार

डॉ. महेशचंद्र शर्मा



“पंडित दीनदयाल उपाध्याय के विषय में जानकारियाँ बहुत ही सीमित हैं। डॉ. महेशचंद्र शर्मा ने इस विषय पर गवेषणात्मक अध्ययन किया है। इस शोध-ग्रंथ का प्रकाशन न केवल जनसंघ की राजनीति व विचारधारा के प्रति लोगों को लाभदायक जानकारियाँ देगा वरन् राजनीति शास्त्र की वैचारिक बहस को भी आगे बढ़ाएगा। दीनदयाल उपाध्याय व भारतीय जनसंघ को समझने के लिए यह शोध-ग्रंथ प्रामाणिक आधारभूमि प्रदान करता है।”

—डॉ. इकबाल नारायण

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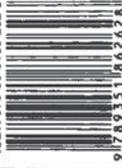
“यदि मुझे दो दीनदयाल मिल जाएँ, तो मैं भारतीय राजनीति का नक्शा बदल दूँ।”

—डॉ. श्यामा प्रसाद मुखर्जी

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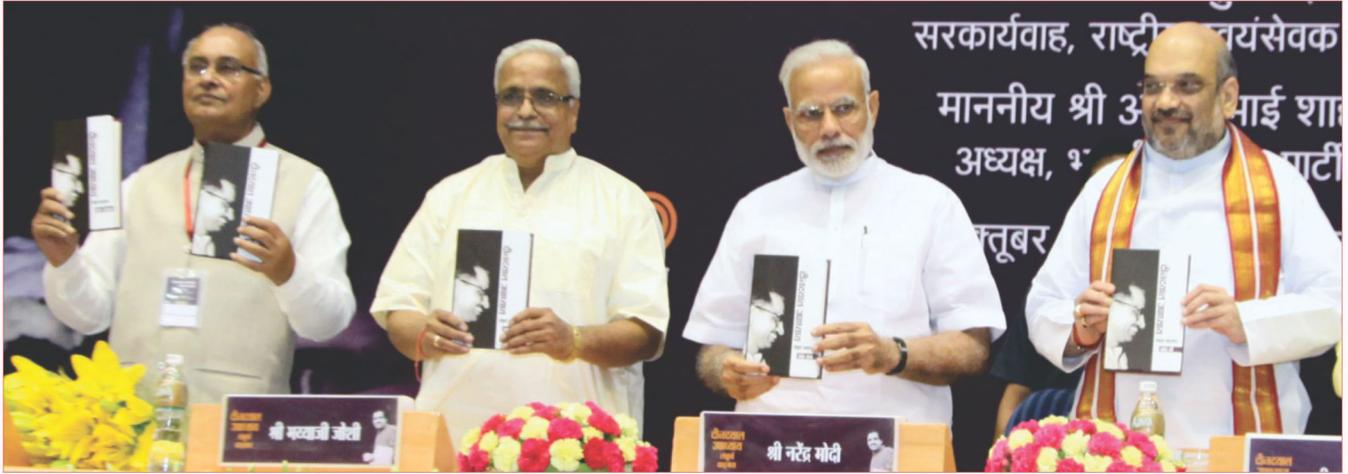
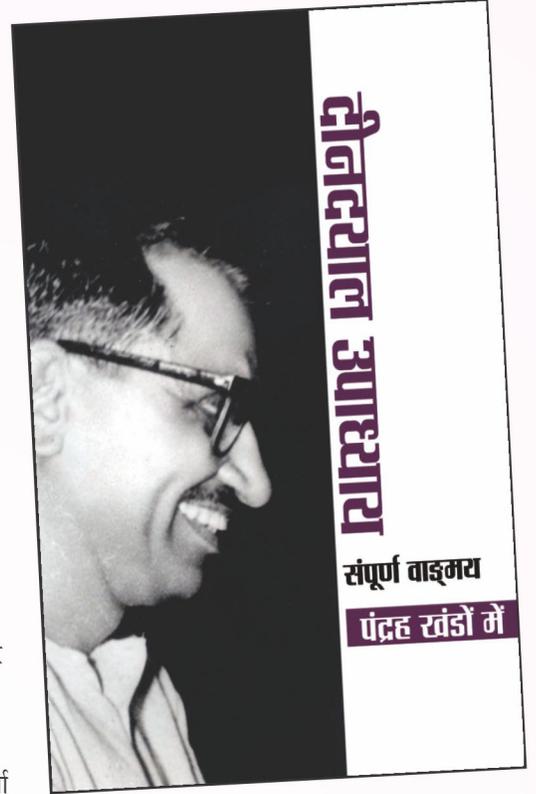
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9 अक्टूबर, 2016 को नई दिल्ली के विज्ञान भवन में पं. दीनदयाल उपाध्याय जन्म शताब्दी वर्ष के अवसर पर डॉ. महेश चंद्र शर्मा द्वारा संपादित एवं प्रभात प्रकाशन द्वारा प्रकाशित 'दीनदयाल उपाध्याय संपूर्ण वाङ्मय' के पंद्रह खंडों का लोकार्पण भारत के प्रधानमंत्री मान. श्री नरेंद्र मोदी, राष्ट्रीय स्वयंसेवक संघ के सरकार्यवाह मान. श्री सुरेश (भय्याजी) जोशी व भारतीय जनता पार्टी के राष्ट्रीय अध्यक्ष मान. श्री अमित शाह के करकमलों द्वारा संपन्न हुआ।

“यह पंडितजी की जीवन-यात्रा, विचार-यात्रा और संकल्प-यात्रा की त्रिवेणी है। यह दिन इस त्रिवेणी का प्रसाद लेने का दिन है। पं. दीनदयाल उपाध्यायजी कहा करते थे कि अपने सुरक्षाबलों को मजबूत किए बिना कोई राष्ट्र अपनी स्वतंत्रता को अक्षुण्ण नहीं रख सकता, इसलिए सुरक्षा-तंत्र मजबूत होना ही चाहिए। पंडितजी द्वारा कही गई बातें आज भी इतनी ही प्रासंगिक हैं।”

—श्री नरेंद्र मोदी, प्रधानमंत्री, भारत

“विचारों का छोटा सा बीज पं. दीनदयालजी ने बोया था, आज वह वटवृक्ष के रूप में खड़ा होकर न केवल भारत बल्कि पूरे विश्व की समस्याओं को सुलझाने की दिशा में अग्रसर है। उनका साहित्य उनकी सरलता, दूरदर्शिता और संकल्पशक्ति का परिचय कराएगा।”

—श्री अमित शाह, राष्ट्रीय अध्यक्ष, भाजपा



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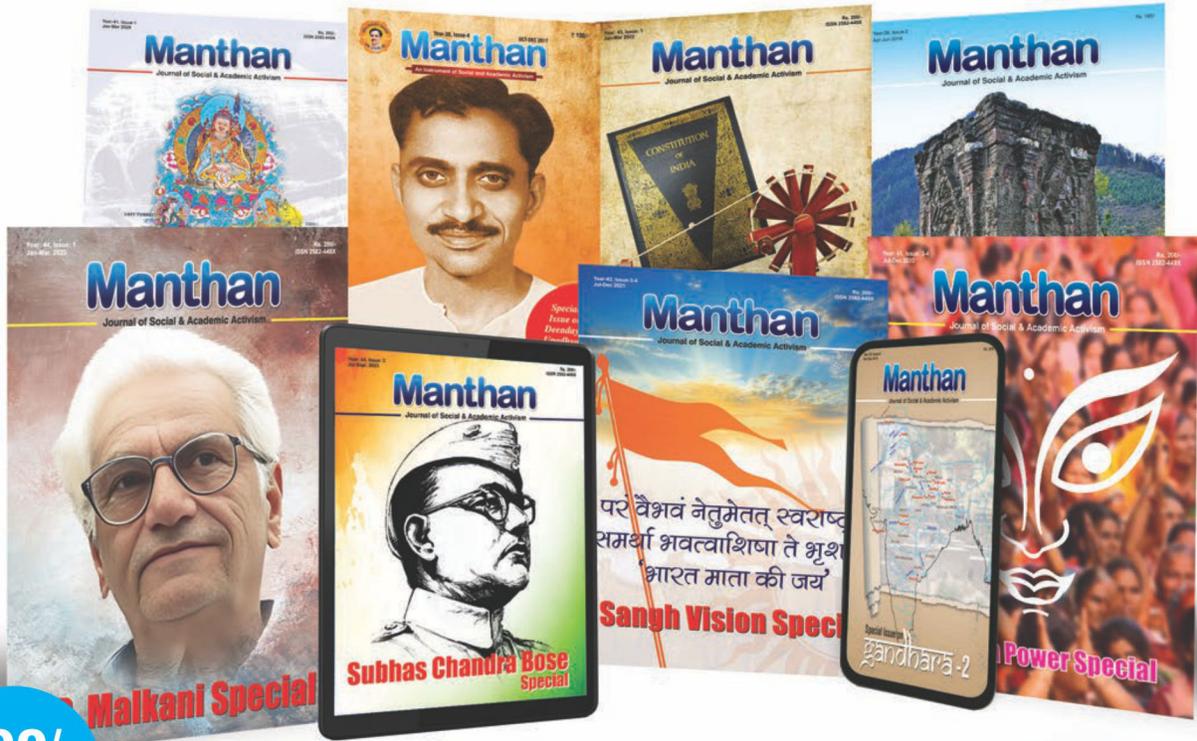
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