

**A DRAFT CONCEPT PAPER
ON
REVITALISATION OF
PANCHAYATI RAJ INSTITUTIONS
FOR
DEMOCRACY AND DEVELOPMENT**



**COMMITTEE FOR THE CONCEPT PAPER
ON
PANCHAYATI RAJ INSTITUTIONS
(C.C.P.P.R.I.)**

**Department of Rural Development
Ministry of Agriculture
Government of India
November 28, 1986**

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Annexure 2 Towards Roots of Democracy
(Including the Text of the Draft Constitution Amendment Bill)

I. THE COMMITTEE AND ITS APPROACH TO THE CONCEPT PAPER

1.1 The appointment of the Committee to prepare a Concept Paper on the revitalisation of the Panchayati Raj institutions owes its origin to the Prime Minister's responsive interest and emphatic initiative on proposals for securing people's democratic participation and their active involvement in local level planning and implementation of schemes reflecting the felt needs of the people through elected Panchayati raj bodies. The Prime Minister has stressed the need to give Panchayati raj institutions adequate administrative powers and financial backing and to hold regular elections. The Concept Paper seeks to respond to the need for institution-building at the grass-root level evocatively articulated by the Prime Minister.

1.2 The Committee was constituted by the Government of India, Department of Rural Development by an office memorandum dated 16th June 1986 to prepare a Concept Paper on the revitalisation of Panchayati raj institutions. A copy of the Memorandum is annexed.

1.3 The purpose of the Concept Paper would be to reflect on the process of democratic decentralisation, review the growth and present status and functions of Panchayati raj institutions and consider the measures required to revitalise these institutions to make them truly effective instruments of self-employment in the constructive task of rural development and nation building.

1.4 The Committee started functioning on 28th July, 1986. Despite the extreme paucity of staff assistance, the Committee has been able to hold six meetings and the Chairman has addressed nearly 400 letters and communications to individuals and institutions throughout the country to elicit their views on the basic theme of Panchayati raj institutions and on specific questions relating to the analysis and evaluation of their working as well as remedial measures for reinforcing the fabric of democratic development through those institutions.

1.5 At its meeting held on 5th November 1986, the Committee decided to submit for the consideration of the Government a Draft Concept Paper in anticipation of the Government's concurrence to the work programme proposed by it vide the Chairman's letter dated 23rd September 1986.

1.6 The present Draft Concept Paper is essentially synoptic and provisional in nature and seeks to encapsulate rather than to elucidate, and to outline rather than to map out, the remedial strategies and approaches to the main issues relating to Panchayati raj institutions. The Committee continues to receive responses on the questions formulated by it and expects to finalise the Concept Paper in the light of these responses, and more particularly in the light of the deliberations of the proposed National Workshop on Revitalisation of Panchayati raj institutions. The Committee has also accepted, in principle, the responsibility of preparing a Draft Model Bill after the National Workshop.

II. THE UNFINISHED TASK OF OUR DEMOCRATIC CONSTITUTION

2.1 The concept of panchayats was a part of the philosophy of '*Purna Swaraj*' and '*Gram Swaraj*.' Mahatma Gandhi and Jawaharlal Nehru breathed into those concepts an inexorable and practical patriotic impetus during the era of India's struggle for Independence. Indeed, at the seed time of our Constitution, the concept of village panchayats was not a remote and hoary historical concept. It was a part of the legacy of India's struggle for freedom and its quest for its own traditions and identity.

2.2 The Constitution of India was enacted, adopted and proclaimed in the name of the people of India as an organic document of democratic self-government and rule of law. It enshrines for democratic faith and resolve of the resurgent people of India committed to the philosophy of "Swaraj" not only in the sense of emancipation from the colonial yoke of an alien imperial power but in the sense of self-government and the protection of the fundamental rights and dignity of the individual as a way of life and social habit. The fabric of our constitutional philosophy is woven with the warp and woof democracy and rule of law.

2.3 The Constitution of India provides for republican democracy at the national level in the form of its bicameral Parliament and by making the Council of Ministers collectively responsible to the House of the People. The same basic pattern of Parliamentary institutions is replicated at the level of States which form the Union of India. In the quasifederal framework of India's Parliamentary democracy, the creation of PanchayatiRaj institutions and their organisation was, however, left to a general directive embodied in Article 40 of the Constitution in the following terms :

"Organisation of village Panchayats—The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as unit of self-government."

2.4 Article 40 came to be discussed and inserted somewhat belatedly on 22nd November, 1948 as Article 31(A) in the Draft Constitution of India and now renumbered as Article 40 in the Chapter IV of the Constitution of India. It is significant to recall that at one point of time, the omission of village panchayats from the draft constitution was sought to be justified on the ground that the village communities in India which had survived through many vicissitudes were not fit to be units of self-government. On that issue, there was considerable furore and ferment among Members of the Constituent Assembly. A modus vivendi was then worked out behind the scenes. As a result, Shri K. Santhanam's amendment which eventually became article 40 of the Constitution came to be accepted in a somewhat reticent and quiescent manner. No controversial statements were made. The debate in the constituent Assembly on this provision occupies less than eight pages and does not fully reflect the range of conflict out of which the accord was fashioned. Earlier, Dr. Rajendra Prasad has also expressed the view somewhat wistfully that the Constituent Assembly should have attempted to adopt village republics as the basis of the Constitution. The Constitutional Advisor, Shri Benegal Narsaing Rau, while sympathising with the idea,

has pointed out that it was too late to make an attempt to change the basis of the Constitution, the preparation of which had already progressed considerably. As Shri T. Prakasam implied during the debate in the Constituent Assembly Shri K. Santhanam's amendment was a belated but welcome attempt to salvage the Constitution from the fundamental standpoint of Mahatma Gandhi's philosophy of grass-root democracy. In the speeches made in the Constituent Assembly, there were echoes of the Gandhian concept of village self-government and eloquent references to India's ancient republican and democratic traditions.

2.5 Clearly, the inclusion of Article 40 as a Directive Principle of State Policy did not more than accommodate a conceptual viewpoint. It did not enact it in a mandatory and constitutive form as an integral and operating part of the constitution. Article 40, however, does contain in it the seeds of a constitutional mandate and unequivocally projects the concept of village panchayats as units of self-government and requires that they should be endowed with all necessary powers and authority to enable them to function as units of self-government.

2.6 The true potential of Article 40 lies not merely in its directive to the Indian State at all levels as a part of constitutionally formulated principle of State Policy to organise village panchayats but in its significant concomitant mandate that panchayats should be endowed with "such powers and authority as may be necessary to enable them to function as units of self-government. "The message of that mandate is clear and clarion. It means that the task and the tryst of the founding fathers of the Constitution would remain incomplete unless village panchayats begin to function as units of self-government as a part of our democratic polity. An attempt to conceptualise the framework of panchayat institutions is to take its inspiration from the constitutional mandate to complete that unfinished task. The teleological emphasis of that constitutional mandate is structural, operational and functional with its implicit ramifications for our democracy and development, for freedom and welfare, and for justice, liberty, equality, individual dignity, national unity and Indian people's fraternity as integrally correlated concepts.

III. INTEGRATED VISION OF RURAL-URBAN DEMOCRACY AND DEVELOPMENT

The Basic Postulate and the Fundamental Error

3.1 The national Parliament and the Central Government, the State Legislatures and the State Governments and the whole pyramid of our judicial system are important to the working of democracy and the maintenance of the rule of law. In their own respective spheres, these legislative executive and judicial institutions provide an important infrastructure. To the common Indian villager, however, they do not represent a preoccupying part of his daily life. The revolution in communication technology does often enough lift and transport him audio-visually to the ambiance of these institutions but he cannot quite relate to them in terms of his daily needs and everyday concerns. Self-Government may mean to him only the spectacular occasion when he exercises his franchise; but his participation in the electoral process for the Lok Sabha and the Vidhan

Sabha cannot give him a sense of full and meaningful participation in the democratic process. He is unable to feel the great power and even the greater responsibility of being a citizen in the democratic republic that is India. There are gaps and anomalies in the democratic experience of the Indian citizen, particularly in the countryside. Panchayati raj institutions in our rural areas and municipal bodies in our urban areas represent, first and foremost, the possibility of a truly dependable and durable institutional assurance for overcoming those distances and gaps. Without local units of self-government, we cannot hope to establish a viable and vibrant democracy. It is in this perspective that rural and urban development are, in effect, two sides of the same coin and are parts of a composite continuum of what may be called democratic urbanisation. Self-Government necessarily subsumes and supplements Developments in all its ramifications in rural as well as urban contexts. It is with an integrated vision that they have to be reviewed, restructured, reclaimed, renewed and revitalised.

3.2 The experience of local self-government in the urban areas and in the districts in different parts of India during the period of British rule was uneven. It is true that certain ground rules of municipal self-government were evolved in the cities and towns during that period. Some of the municipal bodies acquitted themselves so creditably that they became exemplars of civic self-government at its best. There were, however, other municipalities which appeared to be insufficiently imbued with the philosophy of local self-government. The District Councils were primarily administrative structures and did not quite come into their own. One of the obvious reasons was that the country was dominated by colonial administration and its pre-emptive imperatives. In the countryside, panchayats were quite often caste institutions with a pivotal social role but they did not function as institutions of State and instruments of self-government and social change.

3.3 The constitutional vision of republican self-government at the village level enshrined in Article 40 came to be unfolded a few years after the commencement of our Constitution when it became increasingly self-evident that community development and socio-economic transformation could not be achieved without democratic participation. This compelling and inescapable realisation of the limitations of the bureaucratic models led to an enthusiastic interest in Panchayati raj institutions which was enlivened by generous impulses.

3.4 The Community Development Programme was launched in 1952. The blocks came to be established as units of development administration. The National Extension Service was established soon thereafter with a view to reinforce the administrative network to tackle the problems of growth and development at different local and functional levels. At that stage there was, relatively speaking, only nominal public participation through nominated representatives of the public. Soon, lack of public involvement and participation began to be perceived as an impediment in the successful implementation of the Community Development and National Extension Service Programmes. Based on that perception, the Second Plan document recognised the necessity for speeding up the development of democratic institutions and concluded that "unless there is a comprehensive village planning, which takes into account the needs of the entire community, weaker sections like tenant-cultivators, landless workers and artisans may not

benefit sufficiently from assistance provided by the Government." Referring to the aim of the National Extension Movement to reach every family in the village, the Second Five Year Plan reported that in order to fulfil that aim it was necessary to have "an agency in the village which represents the community as a whole and can assume responsibility and initiative for developing the resources of the village and providing the necessary leadership. Indeed, rural progress depends entirely on the existence of an active organisation in the village which can bring all the people including the weaker sections mentioned above into common programmes to be carried out with the assistance of the administration." The thinking underlying the Second Plan was that village panchayats along with co-operatives could play a considerable part in bringing about a more just and integrated social structure in rural areas. The thrust of the Second Five Year Plan was to establish statutory panchayats in all the villages though more as vehicles for national extension and community development projects and not so much as units of self-government. It was primarily from this angle that the number of panchayats was to be more than doubled by 1960-61.

3.5 This Committee is of the view that it has been a fundamental error to regard Panchayati raj institutions primarily as convenient tools for administrative programmes and development projects. That error had the effect, in greater or lesser measure, of devaluing and downgrading the role of these institutions as units of self-government and relegating them to a secondary position, harming and hampering both democracy and development.

IV. THE ASCENT AND ENNUI OF PANCHAYATI RAJ MOMENTUM

4.1 The Balwantray Mehta Study Team was appointed in January, 1957 to study and report on the Community Development Projects and National Extension Service with a view to "economy and efficiency" and, among others "for the assessment of the extent to which the movement has succeeded in utilising local initiative and in creating institutions to ensure continuity in the process of improving economic and social conditions in rural areas." Once again the approach was primarily to achieve economy and efficiency. The Balwantray Mehta Team, however, found that "Development cannot progress without responsibility and power. Community Development can be real only when the community understands its problems; realises its responsibilities, exercises the necessary powers through its chosen representatives and maintains a constant and intelligent vigilance on local administration." It was with this objective that the Team recommended an early establishment of statutory elective local bodies and devolution to them of the necessary resources, powers and authority.

4.2 The recommendations of the Balwantray Mehta Study Team came as a fresh breeze and gave a new lease to community development and extension service projects. It paved the way for a new era of Panchayati raj institutions which was inaugurated by Pandit Jawaharlal Nehru on 2nd October, 1959 at a national rally at Nagaur.

4.3 Pandit Jawaharlal Nehru described the new beginning as "the most revolutionary

and historical step in the context of new India." In a sense, it was an act of faith in republican democracy and was as important an event as the establishment of the parliamentary system itself for the people of India and by the people of India. The idea rode on the crest of the new wave of public enthusiasm which had found a sense of direction and an institutional habitat. The spirited launching of Panchayati raj institutions at Nagaur seemed to capture the public imagination. That memorable rally aroused high hopes and great expectations. The idea was not meant to be a mere counsel of convenience or as a design of an auxiliary system of development administration. Indeed, the momentum of that momentous change was lost and the Panchayati raj institutions began to decline when their status and role as units of self-government were eclipsed by a combination of several factors of decadence and disarray. When the basic premise of Panchayati Raj institutions as units of self-government was lost, these institutions also lost their capability to fulfil the promise of development.

4.4 After the Balwantray Mehta Study Team reported, legislation was enacted in different States except in the State of Meghalaya and Nagaland and UTs of Lakshadweep and Mizoram. According to the Committee set up by the Planning Commission which reported in December 1985, a three-tier system has been adopted in 12 states and 1 Union Territory, two-tier system exists in 4 states and 2 union territories. Electoral system also differs from state to state. In terms of structures, electoral procedures, powers and functions, there is a considerable variety in the Panchayat institutions adopted by the States. There are, today, more than 2,17,300 village panchayats in the country covering over 96% of about 5.79 lakhs inhabited villages and 92% of the rural population of our country. There are about 4526 panchayat samithis of different nomenclature at the block, taluka or tehsil level. There are about 330 Zila Parishads covering about 76% of the districts in the country; each Zila Parishad has on an average 13 to 14 Panchayat Samithis and about 660 Gram Panchayats.

4.5 Though there are variations from state to state, it may be broadly stated that the functions entrusted to panchayats include village roads, community wells, maintenance of public parks, tanks, irrigation works, public hygiene, drainage, and other civil services. In some states, they are also responsible for primary education and are entrusted with functions relating to rural industries primary health care, medical relief, women and child welfare, maintenance of common grazing grounds and other community lands and properties and provision of inputs of agricultural production. The extent and tempo of the involvement of Panchayati raj institutions in basic planning and implementation of development projects is also subject to wide variations from State to State and even within the States. Most Panchayati raj institutions appear to suffer from grave insufficiency of resources which generally devolve upon them from assignments in the land revenue and water rate, or additional sur-charge on cess on land revenue and water rate and various grants by the State Governments in some cases revenue is derived from octroi and assignment of forest revenue. Some of the Panchayati raj institutions also derive income from taxes on buildings and non-agricultural lands or from sur-charge on stamp duty on transfer of immovable property. Variable in terms of yield, but not unimportant in the lives of Indians in rural areas, there are local taxes, fees, cesses, tolls, licence fees and other similar levies, on trades, industries, water supply, sanitation, lighting, markets, bazars and

haats, pilgrims, fairs and festivals, exhibitions, entertainment shows, rest houses, bus stands, cart stands, camel parking, vehicle parking, animals, cattle ponds, fish ponds, slaughter houses, ferries, bridges, cattle grazing lands and commercial crops. The list of subjects on which levies may be made may not appear to suffer from brevity but the sum total of yields and collections do suffer from chronic paucity particularly in the context of the responsibilities which are or ought to be entrusted to Panchayati raj institutions and their significant bearing on the quality of life in our rural areas.

4.6 The network of Panchayati raj institutions covers the length and breadth of the country today but not in the sense and manner they were meant to. Numerically and quantitatively there are myriads of these institutions dotting the entire landscape of our country. Powers and functions have been conferred on them by legislative enactments. There is, however, a feeling that these institutions have become moribund and that they have been denuded of their promise and vitality. There is a legitimate question mark against these institutions, not because the constitutional promise has been abandoned nor because self-government is no longer an article of faith with us, not because we have lost faith in ourselves; but because we have allowed these institutions to be neglected, because we have failed to nurture them with the inputs and material and human resources necessary for them and because the operational claims and quest of political power have taken a heavy toll on the fundamental concept of self-government and public service.

V. CAUSES OF DECLINE : ABROAD SCRUTINY & EVALUATION

5.1 Initially, democracy and development seemed to march hand in hand. There was climate of optimism and resurgence, but within a few years of the inauguration of the new era, Panchayati raj institutions began to sag, stagnate and decline.

5.2 The potential of Panchayati raj institutions as centres of people's power aroused apprehensions and a jealous hostility all around. Elected representatives in Parliament and State Legislatures saw with dismay their inevitable dependence on Panchayati raj functionaries with whom they were not quite willing to share power. There was public apathy and indifference and a perceptible weakening of political will to support these institutions on a priority basis. There was chronic insufficiency of resources at the disposal of these institutions. Most of these institutions had to function in a hand to mouth predicament in a state of perpetual neglect and humiliated impoverishment. The bureaucracy was becoming alienated after the initial phase and had begun to resort to systematic by-passing of these institutions. Programme after programme was launched without involving Panchayati raj institutions in them. These programmes have become close preserves of bureaucracy undermining and frustrating the Panchayati raj institutions as units of local self-government. Facilities for training were meagre. Research and reform inputs were negligible. Political factionalism and certain public disenchantment with these institutions weakened them further and these institutions failed to nourish themselves from the reservoir of people's power because Gram Sabha as a basic institution did not become a living and pulsating reality. Corruption began to creep in. What is worse, elections to Panchayati raj institutions were not held for years together. Elected

Sarpanchas and panchas and other Panchayati raj functionaries were suspended and panchayati raj institutions were superseded frequently and indiscriminately.

5.3 This is a formidable catalogue of causes. These were and continue to be more than merely symptomatic maladies or minor ailments. These ailments which have afflicted panchayati raj institutions for nearly a quarter century are primarily the ailments of our body politic. From the very start, it was an onerous struggle for survival for the panchayati raj institutions in the face of hostile and adverse encounter with institutions of established power. Unfortunately, the elected political elite as well as the entrenched bureaucracy saw in the emerging leadership of Panchayati raj institutions a competing cadre with whom they were not particularly anxious to socialise or co-operate. The State Governments which were primarily responsible for nurturing these institutions began to look askance at them. Not surprisingly, these institutions also suffered from benign neglect at the national level, although occasional expressions of concern were not lacking. These expressions, however, proved to be cries in the wilderness.

5.4 This committee is of the view that Panchayati raj institutions declined because of lack of conceptual clarity, absence of political will and denial of national priority lack of continuous process of research, evaluation, feed back and correction at these institutions in a blind alley.

5.5 The Committee is of the opinion that the quantitative and geographical expanse of Panchayati Raj institutions throughout the country is not necessarily an asset, unless we set about purposefully to change their orientation. These institutions can be turned to good account but there are Augean stables which cannot be cleansed except by turning the waters of the river Alpheas through them. The concept of grassroot democracy for its own sake and the concept of development as an integral part of self-government can be durable inputs of catalysis and catharsis to make Panchayat raj institutions fully effective and credible.

VI. AN APPROACH TO CONCEPTUALISATION

6.1 First and foremost, this Committee conceptualises the Panchayati raj institutions as basic units of self-government. The Committee takes the Indian villages and the Gram Sabha as the republican base of our democratic nation. The Committee considers the Gram sabha as the embodiment of direct democracy.

6.2 The Committee believes that the concept of Panchayati Raj institutions must draw its inspiration from the quintessential concept of Gram Swaraj. That is the explicit mandate and background of Article 40 of the Constitution. The Committee is of the view that the concept of village panchayats as units of self-government is central and integral to the Constitutional mandate and is vital in terms of the living rural reality. The committee is of the view that villages may be reorganised and many of them may in the process be grouped and enlarged in order to make for more viable village panchayats and enlarged villages should continue to be the primary and homogenous units of self-government with a measure of direct democracy.

6.3 The Committee is conscious of the fact that demographic size of villages in our country varies considerably. According to the report of Asoka Mehta Committee, a demographic analysis of our villages shows that 26% of them have a population below 200, 52.3% has a population of more than 200 but below 1000; 20.5% of our villages have a population ranging from 1000 to 5000; a little less than 1% of our villages have a population of more than 5000 but below 10000 and nearly 2% of our villages have a population of 10000 and above.

6.4 The demographic size of the area is no doubt relevant to the effective transfer of technology, organisation of services in respect of health, education, agricultural and industrial sectors and other welfare activities. Rationalisation of territorial limits and demographic size is a highly desirable goal in the on-going process of democratic self-government, technology transfer and economic development. The Committee recommends village reorganisation in our country on the basis of relevant criteria which should take into account factors of identity, continuity, contiguity, homogeneity, communications and techno-economic, demographic and cultural factors. The Committee feels that there is a case for larger and more viable village units. Ideally, our village panchayats should have a population of five thousand or less but demographic size is only one of the relevant dimensions. These would be the villages of the future. The task of delimitation of reorganised villages should be performed preferably by a Commission in each State under the mandate of a statute on the basis of clearly enunciated criteria, the application of which would have to be carefully balanced in the light of public representations and popular proclivities. The Committee would, however, caution against the concept of large federal mandal units with numerous hinterland village as basic units of self-government. Even though federated Mandals may appear to be administratively more efficient from a planning point of view, they will be democratically less self-sufficient and less self-reliant.

6.5 Striking a balance between techno-economic viability and village identity in an optimum mix of demographic and geographical size should be a policy goal and practical endeavour keeping in mind that each village must be viewed as a unit of self-government. We are of the view that optimisation of economic growth and social justice is bound to follow in the wake of village panchayats operating as units of self government and as cradles of civic culture, social ethos, public education, poverty alleviation programmes, voluntary citizen action and constructive work. It will require considerable patience but it will pay handsome dividends.

6.6 The Panchayati Raj institutions should be organised as a part of the process of democratic decentralisation for building up the institutional edifice from the grassroots upwards and not as a gift of a devolutionary process. The Committee is of the view that the Panchayati raj institutions have to be viewed as institutions of self-government which would naturally facilitate the participation of the people in the process of planning and development flowing from and as a part of the concept of self-government. Development planning should be democratic planning. The Committee feels that bureaucratic structures and devolutionary strategies cannot achieve people's participation in a meaningful manner.

6.7 The Committee is of the view that the operational dynamics of Panchayati raj should be directed to achieve community and social mobilisation, transcending the barriers of caste, religion, sex and disparities of wealth and surmounting social disabilities and disadvantages. The Panchayati raj institutions should become vehicles for homogenisation, secularisation and socialisation of national ethos. This has to be a conscious process through specific programmes and by an effective utilisation of the media of mass communications.

VII. NEED FOR CONSTITUTIONAL PROTECTION OF PANCHAYATI RAJ AS THIRD TIER OF GOVERNMENT

7.1 The Committee envisages and recommends that local self-government should be constitutionally recognised, protected and preserved by the inclusion of a new chapter in the Constitution. Local self-government and more particularly, Panchayati raj institutions, should be constitutionally proclaimed as the third tier of Government. The Committee commends the broad framework and content of the constitutional amendments which were drafted several years ago in 1974-75 by a committee under the Chairmanship of Dr. L.M. Singhvi and comprising of Shri S.K. Dey (formerly Minister of Community Development) and Shri R.C.S. Sarkar (former Law Secretary and Chairman of Union Public Service Commission) as a starting point. A copy of that draft is annexed for ready reference as annexure-2. The Committee is of the view that a separate chapter should be added in the Constitution so as to make the identity and integrity of the Panchayati raj institutions reasonably and substantially inviolate.

VIII. INTEGRITY AND REGULARITY OF ELECTIONS AND DEMOCRATIC LEGITIMACY OF PANCHAYATI RAJ

8.1 The Committee views with concern the peculiar phenomenon of elections to Panchayati Raj bodies not being held for years after the expiry of their statutory terms in most states. The magnitude of delay in holding elections was shocking and staggering in many cases. Without the renewal of their mandate, the Panchayati Raj institutions became empty shells or mere wirepulling mechanisms. An electoral mandate is evidently the life breath of a democratic institution. To deprive the Panchayati Raj institutions of that life breath was to suffocate and asphyxiate them.

8.2 The Committee is of the view that elections to Panchayati Raj bodies should be held promptly at the end of the specified term. A constitutional provision should be made to ensure regular, free and fair elections for Panchayati raj bodies and the task should be entrusted to the Election Commission of India operating through State Commissions or similar apparatus. No Panchayati raj institution should be allowed to remain superseded for more than six or seven months. These elections should be held on the basis of the electoral rolls which are prepared for the Lok Sabha and State Assemblies.

IX JUDICIAL TRIBUNAL FOR PANCHAYATI RAJ DISPUTES

9.1 The Committee feels that in order to avoid apprehensions and charges of political bias

or interference, it would favourably consider recommendation for a Panchayati Raj Judicial Tribunal to be constituted in each State to adjudicate controversies in relation to elections, suspensions, supersessions, dissolutions and other matters relating to the working of Panchayati Raj institutions and its elected personnel.

X. MEAGRE AND RELUCTANT RESOURCE MOBILISATION A MIXED STRATEGY

10.1 The Committee is of the considered view that ways and means should be found to ensure the availability of adequate financial resources for Panchayati Raj institutions to function effectively. The Committee notes that institutions of local self-government have often been reluctant to raise revenue resources by the exercise of their taxing powers. The Committee views this tendency with concern and hopes that this would be overcome progressively. The committee would suggest a pattern of compulsory and optional levies and a list of subjects in respect of which powers to levy taxes and fees may be entrusted to Panchayati raj institutions, with a provision that for a given period, the State Governments shall levy and collect on behalf of Panchayati raj institutions and shall disburse to them, on the basis of the recommendation of Finance Commission in each State. The Committee also suggests that the Finance Commission appointed by the Union Government under the Constitution should make an adequate earmarked provision for Panchayati raj institutions. The Committee further recommends that resources budgeted for various rural development and poverty alleviation programmes should be routed through Panchayati raj institutions which would as a result gain in authority and effectiveness.

XI. PARTY POLITICS & PANCHAYATI RAJ—A PRAGMATIC CONSENSUS

11. The Committee is of the view that it is neither practicable nor desirable to injunct the participation of individuals associated with political parties in Panchayati Raj institutions by law. If a consensus is not reached and if elections are held, it does not decisively change the situation merely to provide by law that no party symbols will be allotted in the elections, so long as parties in fact remain active in the electoral process. Indeed there is something to be said in such a situation to allow the cleansing symbolisation of open electoral competition and contest which is otherwise a part of national politics. The Committee feels that the role of political parties or a self-denying self-restraint by political parties in that respect has to be evolved by a consensus among the political parties rather than making it a subject matter of legislative prohibition. Perhaps the issue should be thrashed out by the Prime Minister in the National Development Council and in consultation with leaders of different political parties. In this respect the Committee awaits responses, from political parties and others so that a pragmatic, workable and consensual recommendations may be made by the Committee. In this respect, the present situation calls for a candid and forthright reappraisal.

XII. NYAYA PANCHAYATS OR GRAM NYAYALAYAS

12.1 The Committee is of the view that the institutions of Nyaya Panchayats are a

valuable aid to the development of social habits of self-government and rule of law. Nyaya Panchayats should be entrusted with the functions of mediation and conciliation in addition to adjudication. The Committee suggests that there may be a Nyaya Panchayat for a cluster of villages constituted by election or appointed from a special panel to be prepared for the purpose. In addition, each party to the dispute may be permitted to choose a Nyaya Panch from a Panel to be presided by a professional judge as in the case of arbitration proceedings. Alternatively, they may be elected by a consensus in primary panchayat units so far as possible. It is suggested that appropriate qualification and training may also be prescribed and a permanent staff for keeping records and for service of notices or summons should be appointed. In this connection, the Committee would like to consider the full implications and ramifications of the recent recommendations of the Law Commission in respect of another variant of local justice in the form of Gram Nyayalayas.

XIII. A PLEA FOR INTEGRATED ADMINISTRATIVE STRUCTURES

13.1 The Committee concurs broadly with the recommendations made in the Report of the Committee to Review the Existing Administrative Arrangements for Rural Development and Poverty Alleviation Programmes (CAARD) in respect of integrated administrative structures for planning and Development. The Committee considers it appropriate to underline that these administrative structures for planning and development should be dynamic and independent and should at the same time be integrated with institutions of local self-government losing their dynamism and independence.

13.2 The principal technical and administrative officers of various specialised departments alongwith their line formations should be part of the organisational and administrative structure of the Zilla Parishad. The District Development Commissioner would be the chief executive officer of Zila Parishad. The District Development Commissioner should be entrusted with the task of assisting in coordinating the planning and implementation activities of various departments, agencies and institutions at the District level.

13.3 Officers of high calibre, proven competence and sympathy for Panchayati Raj institutions should be detailed to function as Panchayati Raj officials.

13.4 The Committee recommends that every official in the administration should be made to work in Panchayati Raj and rural development setting so as to sensitise our public administration to the problems of rural India.

13.5 The Committee emphasises that the administrative structures should not be top-heavy and the administrative personnel should be made aware of the importance of Panchayati Raj institutions and their accountability to them generally.

XIV. TRAINING, RESEARCH AND PUBLIC EDUCATION INPUTS

14.1 The Committee is strongly of the view that substantial training, research and public education inputs should be provided to strengthen the Panchayati Raj institutions and the performance capabilities of those who are called upon to function as voters, elected representatives, administrative officials and voluntary workers in relation to Panchayati Raj institutions. Voluntary institutions should be given the pride of place in providing these inputs. The Committee feels that this would be the most productive and profitable investment in democratic institution building.

XV. MODEL LEGISLATION

15.1 A model legislation within the framework of the proposed new chapter in the Constitution should be prepared with sufficient scope for appropriate local adaptations.

XVI. LOCAL SELF-GOVERNMENT INSTITUTES, TRAINING CENTRES AND VOLUNTARY ORGANISATIONS

16.1 The Committee recommends that National and State level Local Self-Government Institutes, and Centres for training at the district level, should be established and entrusted with training, evaluation and research responsibilities particularly in relation to Panchayati Raj and urban local Institutions. The Institutes and centres should also be a clearing house of information relating to local self-government and should monitor and report developments in that field.

16.2 The Committee is of the view that the proposed National Institute of Local Self-Government should, in respect of its research and evaluation functions, utilise universities, research bodies and voluntary organisations such as All India Panchaya Parishad which should have a consultative nexus with it and which would be an invaluable resource for dissemination of information as well as for proper motivation.

No. N. 11011 9 85—PR
Government of India
Ministry of Agriculture
(Department of Rural Development)
Block No. 11, 7th Floor
C.G.O. Complex, Lodi Road

New Delhi, dt. 16 June, 1986

OFFICE MEMORANDUM

Three decades ago in 1956, Pandit Jawahar Lal Nehru inaugurated a new era of community development and grass roots democracy through Panchayati Raj movement at Nagaur (Rajasthan). Following the Balwantray Mehta Committee Report in 1957, a pattern of Panchayati Raj institutions suited to their local situation was adopted in different parts of the country. Over the years these institutions in many parts of the country have become moribund, mainly due to the inadequate attention paid to the development and strengthening of these institutions. Elections are overdue to one or more tiers of these institutions in many states. In many states, they do not have adequate financial resources. This institutional infrastructure for democracy and development has been weak in many areas. The situation was also reviewed by the Ashoka Mehta Committee in 1978.

2. Last year, while reviewing the implementation of antipoverty and other rural development programmes, the Prime Minister has emphasised the need for people's participation through grassroot elected Panchayati Raj bodies who should be actively involved in the local level planning and implementation of schemes reflecting the felt needs of the areas and the people. While writing to the Chief Ministers on this, he has requested them to hold regular elections to these bodies whenever due and give them adequate administrative power and financial back-up to make them vibrant instruments of popular participation in the development process.

3. Recently, the Committee appointed by the Planning Commission to review the existing administrative arrangements for rural development and poverty alleviation programmes and to recommend appropriate structural mechanisms to ensure that they are planned in an Integrated manner and effectively implemented has also given its report. The role of Panchayati Raj institutions has been emphasised in this report and certain recommendations have been made in this regard.

4. At the end of the three decades from the inauguration of the Panchayati Raj movement, it is felt appropriate to focus attention and reflect on the process of democratic decentralisation, review the growth and present status and functions of Panchayati Raj institutions and consider the measures required to revitalise these institutions and make them truly effective instruments in the constructive task of rural development and nation

building. For this purpose, it is proposed to hold a National Workshop on Panchayati Raj and thereafter have a meeting of representatives of Panchayati Raj institutions all over India at Nagaur, sometime in 1956, with a view to reviving and rejuvenating Panchayati Raj institutions for decentralised planning and rural development. A concept paper is to be prepared for discussion in the National Workshop and the consensus that will emerge from the National Workshop will be an input for the National meet. Various reports of Committees set up by Government from time to time on Panchayati Raj would also be considered while preparing the concept paper.

5. In order to draft this concept paper, the Department of Rural Development has decided to constitute a Committee with the following composition.

- | | | |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| 1. | Dr. L.M. Singhvi
Chairman, Balwantray Mehta Foundation
Programme Committee, New Delhi. | Chairman |
| 2. | Dr. P.B. Dubhashi
Director, Indian Institute of
Public Administration, New Delhi. | Member |
| 3. | Dr. Jhal Narian,
Indian Council of Social Science Research,
New Delhi. | Member |
| 4. | Prof. G. Ram Reddy,
Vice-chancellor
Indira Gandhi National Open University,
New Delhi. | Member |
| 5. | Dr. L.S. Tyagi,
President, All India Panchayat, Parishad,
Vill. Gombar, Post — Jagari,
Via Ekangarsarari,
Distt. Nalanda (Bihar) | Member |
| 6. | Miss Nirmala Deshpande,
C/o Shri Keyur Bhushan, M.P.
2, South Avenue, New Delhi. | Member |
| 7. | Shri Raj Bahadur Shastri,
At & P.O. Kankar Bagh Colony (Lohiya Nagar)
Patna (Bihar). | Member |
| 8. | Shri J.C. Jetli,
Additional Secretary,
Deptt. of Rural Development,
Govt. of India, New Delhi. | Member-Secretary, |

6. The Committee may also invite people of eminence concerned with Panchayati Raj movement to assist it in its deliberations.

7. For attending the meeting of or for travel and costs, if any, by the Committee, officers will draw TA/DA from their respective Departments. Non-official members will be paid TA/DA as admissible to a Grade I officer of the Central Government by the Department of Rural Development.

8. The Committee may submit its report within four months.

Sd/-
(G. Asvatanarayan)
Joint Secretary (LR)
Department of Rural Development

To:

1. Dr. L.M. Singhvi, B-8, South Extension Part II, New Delhi 110049
2. Dr. P.R. Dubhashi, Director, Indian Institute of Public Administration, Indraprastha Estate, Ring Road, New Delhi 110002.
3. Dr. Iqbal Narain, Member-Secretary, Indian Council of Social Science Research, 35-Feroze Shah Road, New Delhi 110001.
4. Prof. G. Ram Reddy, Vice Chancellor, Indira Gandhi National Open University, YMCA Cultural Centre, Jai Singh Road, New Delhi 1.
5. Dr. L.S. Tyagi, President, Ali India Panchayat Parishad, Villg. Gomhar, Post Jagari, Via Ekangarsarari, Distt. Nalanda (Bihar).
6. Miss Nirmala Deshpande, C/o Shri Keyur Bhushan, M.P. 2, South Avenue, New Delhi.
7. Shri Raj Bahadur Shastri, At and P.O. Kankar Bagh Colony, MIG No. 82 (Lohiya Nagar), Patna (Bihar).
8. Shri J.C. Jetli, Addl. Secretary, Department of Rural Development.

Copy for information to:

1. PS to Minister of Agriculture, Krishi Bhavan, New Delhi.
2. PS to Minister of State, Rural Development, Krishi Bhavan.
3. PS to Secretary, Deptt. of Rural Development, Krishi Bhavan.
4. Secretary, Panchayati Raj, All State/U.Ts.
5. SPA to (JS(IRD), JS(A), JS(RE), JS(Moni), JS(F).
6. Director (Admn.), Deppt. of Rural Development, Krishi Bhavan.

* Since taken over as Secretary (Coordination), Cabinet Secretariat, Government of India, New Delhi.

No. N. 11011/9/85 — PR
 Government of India
 Ministry of Agriculture
 (Department of Rural Development)
 Block No. 11, CGO Complex, Lodi Road

New Delhi, dated 26th August, 1986

OFFICE MEMORANDUM

In partial modification of the Department of Rural Development O.M. of even No. dated 16.6.86, the following amendment is made.

Shri J.C. Jetli, Additional Secretary in the Department of Rural Development will now be a Member of the Committee in his place Shri Shiv Raj Singh, Joint Secretary in the Department of Rural Development will be the Member-Secretary.

This has the approval of MOS (RD).

Sd/—
 (S. BHALERAO)

Deputy Secretary to the Government of India.

To

1. Dr. L.M. Singhvi, B-8, South Extension, Part-II, New Delhi.
2. Dr. P.R. Dubhashi, Director, Indian Institute of Public Administration, Indraprastha Estate, Ring Road, New Delhi 110002.
3. Dr. Iqbal Narain, Member-Secretary, Indian Council of Social Science Research, 35 Feroze Shah Road, New Delhi.
4. Prof. G. Ram Reddy, Vice-Chancellor, Indira Gandhi National Open University, YMCA Cultural Centre, Jai Singh Road, New Delhi—110001.
5. Dr. L.S. Tyagi, President, All India Panchayat Parishad, Vill. Gomhar, Post. Jagari, Via Ekangarsarari, Distt. Nalanda (Bihar).
6. Miss Nirmala Deshpande, C/o Shri Keyur Bhushan, M.P. 2, South Avenue, New Delhi.
7. Shri Raj Bahadur, Shastri, MIG N. 82, Lohiya Nagar, Kankar Bagh Colony, Patna (Bihar).
8. Shri J.C. Jetli, Additional Secretary, Department of Rural Development.
9. Shri Shiv Raj Singh, Joint Secretary (Mon.), Department of Rural Development.

Copy for information to:

1. P.S. to Minister of Agriculture, Krishi Bhavan, N. Delhi.
 2. P.S. to Minister of State, Rural Development, Krishi Bhavan.
 3. P.S. to Secretary, Deptt. of Rural Development, Krishi Bhavan, New Delhi.
 4. Secretary, Panchayati Raj, All States/U.Ts.
 5. SPA to JS(LR), JS(IRD), JS(A), JS(RE), JS(MON.), JS(F).
 6. Director (Admn). Deptt. of Rural Development, Krishi Bhavan.
 7. Planning Commission, Rural Development Division, Yojana Bhavan, New Delhi.
 8. Ministry of Welfare, Shastri Bhavan, New Delhi.
 9. Cabinet Sectt. Rashtrapati Bhavan, New Delhi.
 10. Prime Minister's Office, South Block, New Delhi.
 11. Press Information Officer, Ministry of Agriculture, Shastri Bhavan, New Delhi.
 12. Director (BL), Deptt. of Rural Development, Krishi Bhavan.
 13. Cash Section, IF Division & Budget and Accounts Section and General Section, Department of Rural Development.
- * Since taken over as Secretary (Coordination) Cabinet Secretariat, Government of India, New Delhi.

TOWARDS ROOTS OF DEMOCRACY*

Dynamics of rural reconstruction and the growth of our democratic institutions will draw enduring strength and sustenance largely from the purposeful participation of the people through habits and institutions of self-government at the grass-roots. That was the underlying premise and promise of the Directive Principle enshrined in Article 40 of the Constitution. It was the hope and the faith of the nation when Panchayati Raj movement was launched some two decades back that genuine authority, resources and responsibilities vested in those self-governing institutions will make them bulwarks of democracy and nurseries of public leadership and civic concern.

Panchayati Raj Institutions have yet to fulfil their promise and to translate that faith into a living and pulsating reality so that people's power is harnessed from the Gram Sabha to the Lok Sabha in a steady progression. The inadequacies of the Panchayati Raj movement flow from lack of confidence in the system, emaciated by scanty resources and meagre responsibilities. These institutions have suffered a serious set-back in the absence of regular elections and due to perfunctory audit. What is more, there has been an allergy to sharing authority with these nascent institutions both at official and political levels.

It is the general consensus amongst those who have faith in democracy and in the common people of India that the time is now ripe for working out the mandate of Article 40 of the Constitution. We are of the considered view that Panchayati Raj institutions should be reconstructed, reinforced and revitalised as an organic integral part of our democratic process and that they should be accorded appropriate constitutional status and recognition. The annexed Draft Constitution Amendment Bill we have prepared is an attempt in that direction and we strongly commend it to the people, the Parliament, the State Legislatures and the Governments at the Centre and in the States

Twenty one signatures

*The Statement and the text of the Amendment Bill was approvingly annexed as Annexure 2 to the Committee on Panchayati Raj Institutions (Ashoka Mehta Committee). One of the signatories supported the proposal for constitutional status for Panchayati Raj Institutions but without commitment to the phraseology.

THE CONSTITUTION (..... AMENDMENT) BILL.....

A BILL further to amend the Constitution of India.

Be it enacted by Parliament in the year of the Republic of India as follows:

1. This Act may be called the Constitution (..... Amendment) Act.....

2. After Part VIII of the Constitution, the following Part shall be inserted, namely

PART IX
Local Government
(Panchayati Raj)

In this Part—

243. Definition "Council" means a village panchayat, a district council and includes a regional council, where such council is constituted.

243—A. Organi- In every State, the State Government shall by public notification, divide
sation of Village each district in that State into as many units of self-government as the
Panchayat State Government may think fit for the purpose of organising village
panchayats.

243—B Establish- (1) In every State, there shall be established:
ment of Councils

(a) a village panchayat for each unit of self-government constituted under Article 243—A; and

(b) a district council (by, whatever name called), by each District.

(2) Without prejudice to the provisions of Clause (1) a State Government may constitute regional councils (by whatever name called), each such council comprising such number of village panchayats within a district as it thinks fit.

243—C Compo- (1) The State Government shall make a law to give effect to the
sition of Councils provisions of the Part.
and Elections thereto

(2) Each Council shall consist of such number of elected members as may be specified in the law made under Clause (1).

(3) The members of the councils shall hold office for a term of four years from the date appointed for the first meeting of the Council after general elections to the Council.

(4) Each such council shall be a body corporate by the name of (name of the council) and shall have perpetual succession and a common seal and shall by the said name sue and be sued.

(5) The State Government may make rules to provide for—

(a) the machinery, in consultation with the Chief Election

Commissioner, for the superintendence, Direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Councils;

- (b) the delimitation of territorial constituencies for the purpose of elections to the Councils;
- (c) the qualifications for voting at such elections and the preparations of electoral rolls therefor;
- (d) the qualifications for being elected at such election as members of the councils;
- (e) the conduct of its meeting and its procedure in general; and
- (f) all other incidental matters.

243—D. Powers & Functions of Councils

- (1) The Councils shall perform such executive & administrative functions within their respective territorial jurisdiction as the State Government may, by law, confer on them including functions relating to:
 - i) the promotion of economic and social development and
 - ii) implementation of plans relating to economic and social development made by the Central Government or State Government.
- (2) The State Government shall, with a view to decentralise its powers, endeavour to devolve progressively greater powers and responsibilities on the councils to enable them to function effectively as institutions of self-government.

243—E. Power to impose taxes & funds of the Councils

- (1) The State Government may, by law, authorise a council to levy and collect in accordance with prescribed procedure such taxes and fees as the State Govt. thinks appropriate.
- (2) The State Government may also, by law, assign to a Council such duties and taxes levied and collected by it, for such purposes and subject to such conditions as may be specified in the law, and may also make grants-in-aid to such Councils.
- (3) These shall be constituted for each village panchayat, a Panchayat Fund, for each district council, a District Fund and for each regional council, if any, a Regional Fund to which shall be credited all moneys received respectively by the village panchayat, district council and regional council.
- (4) The State Government may make rules for the management of such funds and for the procedure to be followed in respect of payment of money into the said funds, the withdrawal of moneys therefrom, the custody of money therein and any other matter connected with or ancillary to the matter aforesaid.
- (5) The Accounts of the Councils shall be kept in such form as the State Government may prescribe.

- (6) The Comptroller & Auditor General shall cause the accounts of the Councils to be audited in such manner as he thinks fit and the reports of the Comptroller & Auditor General shall be submitted to the Governor who shall cause them to be laid before the legislature of the State.

243—F.

- (1) The State Government shall within two years from the commencement of this Part and thereafter at the expiration of every fifth year appoint a Commission to review the financial position of Councils and make recommendations to enable such councils to function effectively as units of local self-government.
- (2) The Governor shall cause the report of the Commission to be laid before the legislature of the State together with an explanatory Memorandum as to the action taken thereon.

243—G. Administration of Justice

- (1) In respect of areas within the jurisdiction of one or more village panchayats, the State Government may, by law, provide for the constitutions of Courts Nyaya-Panchayats for trial of suits and cases between the parties all of whom are resident within those areas.
- (2) The State Government may make rules regulating:-
- (a) the constitution of such courts and the powers to be exercised by them;
 - (b) the procedure to be followed by such courts in the trial of suits and cases;
 - (c) the enforcement of decisions and orders of such courts; and
 - (d) any other matter connected with or incidental to the matter aforesaid.

243.—H. Suspension and dissolution of Councils

- (1) If at any time the Governor of a State is satisfied that any council in that State is not functioning in accordance with law or is grossly abusing its powers or is functioning in a manner which is detrimental to public interests, he may order, suspend or dissolve the council and appoint an administrator to exercise the powers vested in the council.
- (2) Every order made under clause (1) together with reasons therefor shall be laid before the legislature of the State and shall cease to operate at the expiration of six weeks from the reassembly of the Legislative Assembly of the State, unless before the expiration of that period, it has been approved by a resolution of the State Legislative Assembly.
- (3) An order made under clause (1) may be withdrawn at any time by the Governor.

- (4) An order so approved under clause (2) shall unless revoked, cease to operate at the expiration of six months from the date of passing the resolution approving the order under clause (2) and an election to constitute the council shall be completed before expiration of the said period.

