CHAPTER 3

DEMOCRATIC DECENTRALIZATION: THE CONCEPT & ITS EVOLUTION

3.1 The Concept of Decentralization

The word ‘decentralization’, literally means ‘away from centre’. Decentralization of authority means dispersal of decision-making power to the lower levels of organization.¹ The locus of decision making is transferred from central governments to regional, municipal or local governments.² Decentralization cannot be easily defined and it has many forms and dimensions. Decentralization is the process of redistributing or dispersing functions, powers, people or things away from central location or authority. There is no common definition of decentralization and its meaning varies because of the different ways it is applied. The concept of decentralization has been applied to management science in private businesses and organizations, Political science, Law and Public administration, economics and technology.³ Here we are concerned with decentralization in governance i.e. decentralized rural governance where power is transferred from central to local governments.

The concept of decentralization has been differently interpreted by different writers. Smith, Rondinelli and Cheema have broadly defined decentralization to mean transfer of planning, decision-making or administrative authority from central government to field organisation, local administrative units, semi-autonomous and parastatal organizations, local bodies and non-governmental organizations⁴. According to UNDP, decentralization refers to the restructuring of authority so that it is shared between governing institutions at the central, regional, and local levels. Decentralizing government is thought to be conducive to good governance, although experience suggests decentralization alone is no guarantee. It can be a means to encourage participation in the public policy process and can hold governments more

⁴ Karunakar Patnaik , Decentralized Rural governance: A Study of Orissa (Binodini Patnaik,1st edn.,2009).
accountable for their actions. At the same time, decentralization enables local officials to take responsibility for economic and social development. For instance, decentralization can foster a more efficient use of resources if projects are locally conceived, and economic performance can be improved since local entrepreneurship tends to flourish in decentralized settings where there is often greater access to credit and information on business opportunities. Decentralized financial authority can improve the redistribution of tax revenues through more efficient collection thereby reducing income disparities among local communities.5

The term ‘decentralization‘ implies not only the devolution of powers, but also a process in which responsibilities and duties are transferred by a higher or central authority to the institutions or organizations at the lower levels, thereby providing to the latter adequate incentive for autonomous functioning.6 Decentralization has spatial aspect i.e. when the activities of wide organization are spread over a wide geographical space, then planning and control of the widely dispersed activities may be done better not from central headquarter but away from it. The other arguments in favour of decentralization are that decentralized units function better because of autonomy given to them and central control is reduced. Not only this decentralization leads to inclusion of lower level in decision-making. In organization theory, decentralization is an aspect of intra-organizational differentiations i.e. in large-scale organization decentralization is done through segmentation and arrangement and self-sufficient clusters or decentralized divisions are formed and these clusters have their own domain. Decentralization has also been approached from the point of view of organization decision-making. In a complex organization numerous decisions are taken and efficiency is achieved if decisions are taken quickly. Therefore, when speed assumes critical importance, decentralized decision-making is being given importance. Organizational decentralization manifest itself in territorial dispersion of units and delegation of authority. For instance, field administration in the form of district and sub-divisional administration, represents decentralization through territorial differentiation and dispersion. It is an important part of state administration. Field administration lies away from

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state headquarters to provide access to the client. Delegation of authority accompanies territorial dispersion of the governmental unit.\textsuperscript{7} Kochen and Deutsch in their seminar paper entitled \textit{Toward a Rational Theory of Decentralization: Some implications of a Mathematical Approach} have advanced the theoretical knowledge about decentralization in politics and organizational designing. According to them, a functional theory of decentralization has to be related to organizational task performance and ultimate survival i.e. the survival of organization depends on the feedback of information from the environment in order to ascertain the results of their actions and to take corrective measures. The issue of centralization versus decentralization has to be examined from the point of view of exchange of information and of things and persons with the environment. They look at decentralization as a problem in logistics. Decentralization is rational or cost-effective if movement of messages, men, and materials and leads to successful task performance in relation to meeting the demands and pressures from the environment.\textsuperscript{8}

\textbf{3.2 Approaches to the Concept of Decentralization}

In political science and public administration decentralization has been discussed from the point of view of arrangement of government. The different approaches to the concept have been clearly and profoundly presented by Fesler. James W.Fesler classified the different approaches to the concept of decentralization in the following categories. Following his classification, the approaches, can be grouped into four categories: the doctrinal, the political, the administrative and the dual role.\textsuperscript{9}

\textbf{3.2.1 Doctrinal Approach.} “This approach treats decentralization as an end in itself through the process of ‘romantic idealization’ and not as a means to the realization of some goal. The Gandhian concept of ‘concentric circle’ of power distribution and the idealization of village community in Panchayati raj have reduced decentralization almost to a dogma and article of faith. Instead of treating decentralization as a means to the achievement of some end values, such idealization tends to elevate it to the status of a hardened doctrine.”\textsuperscript{10}

\textsuperscript{7} K.K.Srivastava, \textit{Decentralized Governance and Panchayati Raj} (Kalpaz Publications, New Delhi,2011).
\textsuperscript{8} \textit{Ibid}
\textsuperscript{9} \textit{Supra} note 7 at 48.
\textsuperscript{10} \textit{Ibid}.
3.2.2 Political Approach. Political decentralization says that creation of decentralized units and then giving them operational autonomy is governed by political factor. "The initiatives to decentralize are taken by political will and passing on of powers and functions to these autonomous decentralized units is also politically determined. The creation of Panchayati raj as a rural local- self governing body which are autonomous and devolution of powers to them in our country is politically determined and this is also form of decentralization. The other examples of political approach to decentralization are creation of field units of central(state) government i.e. district administration, away from central headquarters exemplify deconcentration. Field administration in the form of district administration are basically long arms of central (state)governments and do not pose problems of discontinuity, whereas local self-governing bodies e.g. Panchayats are elected bodies and they make local plan and policies and are detached from central(state) governments. Therefore, their creation requires political commitment. In the absence of commitment, devolution to sub-national governments, including local self-governing bodies, will remain more in law than in practice. This leads to a situation which Fesler had called ‘illusory decentralization’. In India, both Panchayati raj and municipal government represent to a considerable extent this sort of façade devolution. But after 73rd and 74th Constitutional Amendment Acts(1992), these local self governing bodies have constitutional status and backing and have been given by devolution necessary powers and resources."¹²

3.2.3 Administrative approach. According to this approach, motivating factor behind decentralization is efficiency, better decision-making and prompt problem-solving. The administrative field units are set by deconcentration. For example, in India, creation of regions, divisions, districts, sub-divisions, Talukas/Tehsils and circles between state headquarters and the field.¹³

3.2.4 Dual- role Approach. This approach conceives decentralization as a method of solving conflicts in field administration between tradition and change. Most of the field

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¹² Supra note 7 at 49
¹³ Supra note 11.
administrative systems were evolved in an earlier era mainly to maintain the established order, to collect revenue and to keep things from going wrong. The developing countries were colonies and they inherited the colonial field system. These countries were seeking to bring socio-economic change rapidly and therefore functions of field administration also underwent change. There was need to change the established system of doing things and bring about socio-economic change rapidly but inherited field system had status quo orientation i.e. maintenance of order etc. Thus conflicting with the personal orientation of a field generalists so chosen and trained as to identify themselves with the classes, families and other groups who constitute the establishment. Resolution of conflict between two different orientations in field administration calls for adaptation of decentralization to changing circumstances. This situation is present in India also.\(^\text{14}\)

3.3 Types of Decentralization

There has been consistent demands for division and dispersal of power and even pluralists provided theoretical and empirical basis in support of division and dispersal of power of decision-making. The theory and practice of constitutionalism evolved that mechanism of division of powers and support for democracy as a form of governance put emphasis on the need for division through decentralization. Decentralization has got many dimensions or connotations viz., Political, functional, administrative, financial and geographical. The context determines the meaning and aspect of the term. It is not necessary that all these forms operate together; one form may exist without the other.

3.3.1 Political Decentralization. It means establishment of new levels of government. It involves that the political powers and functions concentrated in the hands of higher level political organs are decentralized to lower level political organs\(^\text{15}\). In countries where there is federal system, political authority is divided between central government and regional governments. For example, state governments in India. The creation of autonomous local governments in federal states like United States of America or India and in unitary states like Britain or Japan is also political decentralization. The

\(^\text{14}\) Supra note 7 at 51.
\(^\text{15}\) Sweta Mishra, Democratic Decentralization in India: Study in Retrospect and Prospect 12 (Mittal Publications, 1994).
establishment of City governments in USA, Panchayati Raj and Municipal Corporations in India, County governments in Britain and Prefectural governments in Japan are all examples of political decentralization.\textsuperscript{16}

In this research work we are concerned with political decentralization or democratic decentralization to create autonomous rural local governments i.e. Panchayati Raj agencies in India which are democratically elected. Political decentralization ensures inclusion of people at grassroots level in decision-making and it leads to their empowerment. It signifies also quest for a participative and community approach. Political powers, decision-making of state government are decentralized to Panchayati Raj agencies like Gram Panchayats, Panchayat Samitis and Zila Parishads.\textsuperscript{17}

3.3.2 \textbf{Functional Decentralization.} It means transferring the functions to local bodies.\textsuperscript{18} Under functional decentralization functions are decentralized to the specialized units or departments like education, health, etc.\textsuperscript{19}. There is vesting of decision-making authority in specialized units by central agency. Generally it implies entrustment of decision-making in technical or professional matters to the appropriate units of organization.\textsuperscript{20} The example of functional decentralization in Indian context is creation of technical or professional bodies or when educational questions are decided or left to the universities and Boards of education. Similarly questions with regard to medicine are left to the medical units, engineering questions to engineering units and so on.\textsuperscript{21} Functional decentralization also refers to transferring subject specific functions to local tiers. For example in India 29 subjects have been transferred to Panchayats as mentioned in 11\textsuperscript{th} schedule. Moreover, distribution and demarcation of functions inter-tier is important because that will clearly specify the functions to be handled by particular tier.\textsuperscript{22}

\textsuperscript{16} \textit{Supra} note 11.
\textsuperscript{17} \textit{Supra} note 7 at 61.
\textsuperscript{18} D.N.Gupta, \textit{Decentralization Need for Reforms} 7(Concept Publishing House, New Delhi, 1\textsuperscript{st} edn., 2004).
\textsuperscript{19} \textit{Supra} note 7 at 63.
\textsuperscript{20} Chapter 1, \textit{available at:} http://shodhganga.inflibnet.ac.in/bitstream/10603/7183/7/07\_chapter 1.pdf (Visited on October 1, 2015)
\textsuperscript{21} “Conceptual Framework of Democratic Decentralization (Chapter –II)”, \textit{available at:} http://shodhganga.inflibnet.ac.in/bitstream/10603/36516/7/07\_chapter2.pdf (Visited on October 1, 2015)
\textsuperscript{22} \textit{Supra} note 7 at 63.
3.3.3 **Administrative Decentralization.** This refers to decentralization of authority to the lower level officials in the administrative hierarchy of organizations or we can say its decentralization of powers or functions to the subordinate units.\(^{23}\) For example, in a university when subordinate officers in the administrative hierarchy such as Registrars, Deputy Registrars, and assistant Registrars are invested with decision-making authority and they decide majority of cases and very few cases are referred to Vice-Chancellor.\(^ {24}\) Administrative decentralization also includes placing of planning and implementation responsibilities at the disposal of local bodies and assigning the roles and responsibilities to functionaries and elected members.\(^ {25}\)

3.3.4 **Financial Decentralization.** It means devolution of taxation powers, funds, and expenditure powers upon local bodies. These taxation powers improve the financial powers of local bodies and then they are given financial autonomy for planning and implementation as per the local needs.\(^ {26}\)

3.3.5 **Geographical or Territorial Decentralization.** It stands for conceding freedom of operation to the administrative field units or offices which are away from the headquarters, thereby enabling them to meet the needs of population promptly.\(^ {27}\) The powers and functions of headquarters are decentralized to the field units for effective performance and this facilitates quick decisions keeping in consideration the local requirements.\(^ {28}\)

3.4 **The Conceptual Ambiguity**

The word decentralization is often confused with deconcentration, delegation, devolution and even privatization but that is not correct.\(^{29}\) These terms have frequently been used for decentralization and this has created confusion.\(^ {30}\) Therefore, it is important to distinguish these

\(^{23}\) Supra note 15 at 12.
\(^{24}\) Supra note 21.
\(^{25}\) Supra note 18.
\(^{26}\) Supra note 7 at 65.
\(^{27}\) Supra note 20.
\(^{28}\) Supra note 7 at 65.
\(^{29}\) Supra note 15 at 8.
terms for clarity. The term decentralization is a generic one which covers a number of modes such as following:

3.4.1 **Deconcentration**

Decentralization is the twin process of deconcentration and devolution. Deconcentration is intrinsically administrative concept. It is the administrative arrangement under which a superior officer, actuated by the desire to make his department function more effectively and efficiently, delegates to his subordinate field officials ‘the capacity to act’ in his name, without, however, transferring to them the authority he enjoys.

The field officials are given discretion so that they could sort out the matter on the spot without bothering superior officials about trivial details by making repeated references to him. The field officials to whom powers are given do not possess unfettered authority in their jurisdictional sphere. Their authority remains confined to those matters with regard to which transfer has been specifically made. The field officials always remain dependent on the overall authority of their superior who can modify their powers at will. An example of administrative deconcentration in Indian context is deputy commissioner or district collector was a man on spot during British era.\(^{31}\) Deconcentration implies handing over limited central government powers, functions and resources to its field units.\(^ {32}\) It customarily involves a very limited transfer of authority and financial management to local units such as district offices and these local units are outposts of central government, which maintains overall control over them.\(^ {33}\) Other important definitions of deconcentration given by different writers are as follows:

- “J. Ribot defines administrative deconcentration as transfer to lower-level central government authorities, or other local authorities who are upwardly accountable to the central government.
- J.A.Sayer et. al. define deconcentration as the process by which the agents of central government control are relocated and geographically dispersed.

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\(^ {32}\) *Supra* note 7 at 60.

\(^ {33}\) *Supra* note 5.
I. Ferguson and Chandrasekharan refer deconcentration as the transfer of administrative responsibility for specified functions to lower levels within the central government bureaucracy, generally on some spatial basis.

H. Gregersen et al. define deconcentration as one of administrative decentralization which redistributes decision-making authority and financial and management responsibility among levels of the central government; there is no real transfer of authority between levels of government, it involves only shift of responsibilities from officials at centre to those stationed in provinces, districts, etc.”.

3.4.2 Devolution

In devolution also there is dispersal of authority. In devolution power is transferred from one organ of government to another by legislation. A certain sphere of jurisdiction, either functional or territorial is specified for a legally constituted body. Devolution may be carried out either constitutionally or statutorily. The former method is adopted in case of federations where the powers are divided between the federal centre and the federating autonomous units. This division of power between central and federating units is done by means of written and rigid constitution. The written constitution and its rigidity ensures that division of powers will not get tampered with frequently by the whims and caprices of the governments that come from time to time. This arrangement is territorial in character. As mentioned earlier authority may be devolved by the federal centre which is repository of power to the subordinate units through parliamentary statute. The transfer of authority can be both territorial and functional in character and central government of unitary state and provincial (state) government of a federation often transfer through law the administration of such affairs to the local government institutions which can conveniently be disposed of locally. In the same manner, a welfare state parts with the managerial aspect of a certain function and vests it in a legally constituted corporation or the like. In the performance of the task assigned, the corporation enjoys full autonomy; subject however, to the general limitations imposed by the law.”

34 Ibid.
35 Supra note 30 at 2.
The devolution of authority to autonomous local units of government is considered genuine decentralization. These autonomous local units of government are independent and central authorities have little or no control over these units and besides that they have legally recognized geographical boundaries within which they exercise authority and perform public functions.\(^{36}\) According to I. Ferguson and C. Chandrasekharan, devolution is transfer of governance responsibility for specified functions to sub-national levels, either publicly or privately owned, that are largely outside the direct control of the central government.\(^{37}\) Devolution is more extensive form of decentralization in which the central government transfers authority for decision-making, finance and management to quasi-autonomous units of local government.\(^{38}\)

### 3.4.3 Delegation

It is a process where superior executive assigns certain specified tasks within its control to his immediate subordinates. Superior confers part of his decision-making authority on them for the sake of fulfillment of task assignments and extracts an obligation from them for proper discharge of authority conferred upon them and for effective performance in the area of delegated authority. The relationship of superior and subordinate gets created through the process of delegation.\(^{39}\) “Delegation refers to the transfer of government decision-making and administrative authority and/or responsibility for carefully spelled out tasks to institutions and organizations that are either under government indirect control or semi-independent. Most typically, delegation is by the central government to semi-autonomous organizations not wholly controlled by the government but legally accountable to it, such as state owned enterprises and urban or regional development corporations”.\(^{40}\) It implies transferring responsibility for specifically defined functions to lower level organizations.\(^{41}\) “In delegation, the higher-level government delegates decision-making power to the lower level for the specified

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\(^{36}\) Supra note 5.
\(^{37}\) Supra note 2.
\(^{39}\) Supra note 1 at 372.
\(^{41}\) Supra note 7 at 60.
function.\textsuperscript{42} Delegation refers to the transfer of government decision-making and administrative authority to semi-independent local units who may still be legally accountable to the central government. Financial autonomy is not normally a feature of delegation”.\textsuperscript{43}

3.4.4 Privatization/Disinvestment

Sometimes decentralization is also referred as privatization when tasks are performed by private sector rather than state agencies.\textsuperscript{44} “Disinvestment occurs when planning and administrative responsibility or other public functions are transferred from government to voluntary, private, or non-government institutions. In some cases, governments may transfer to ‘parallel organizations such as national industrial and trade associations, professional or ecclesiastical organizations, political parties, or cooperatives, the right to license, regulate or supervise their members in performing functions that were previously controlled by the government. In other cases, governments may shift responsibility for producing goods or supplying services to private organizations, a process often called privatization”.\textsuperscript{45}

The three types of decentralization i.e. deconcentration, delegation and devolution are thus technical methods of efficient administration but decentralization is much wider and deeper concept. For instance, delegation is not a transfer of authority but it is simply an assignment of authority to a lower body by a higher level of government. Delegation is technique of administration or management but decentralization deals with deep urgencies of democracy. Deconcentration like delegation is also one of the techniques of efficient administration and in deconcentration there is assignment of certain functions to the agent of the central or state government in the field. It is difficult to govern the country from centre so in order to govern the country efficiently deconcentration is resorted to and central government assigns certain functions to its agents or officers in the field. Devolution is not very much different from deconcentration and method of devolution is applied generally to the field agencies or staff.\textsuperscript{46}

Decentralization is regime-neutral which means decentralized governance can take place in authoritarian states like Pakistani military regime and Nepalese monarchy as well as

\textsuperscript{42} Supra note 4 at 3.
\textsuperscript{43} Supra note 5.
\textsuperscript{44} Supra note 4 at 1.
\textsuperscript{45} Supra note 40 at 8.
\textsuperscript{46} Supra note 15 at 10.
democratic states. “A central government/authority may decide to deconcentrate its power at the centre by assigning more responsibilities to its lower ends of administration. Decision-making remains concentrated at the centre, its only effective execution which is passed down the line. Such deconcentration of power may well serve the purpose of further strengthening the central authority. People’s participation does not factor into this system of decentralization. Decentralization could also take the form of a central government/authority deciding to delegate decision-making authority and power to lower levels of administration. Major decisions are still taken by the central authority but a space is created for public participation through elections for effective implementation of the policies/administration at lower levels of governance. Only when a central government/authority devolves decision-making authority and power to lower levels of governance on the principle of subsidiarity\textsuperscript{47} can we term such decentralization as democratic decentralization”.\textsuperscript{48}

3.5 The Concept of Democratic Decentralization

The prefixing of the word ‘democratic’ widens the implication of the term ‘decentralization’. It then implies transfer of powers to those bodies which are not only democratically elected by the people but also function democratically, i.e. they are responsible to the people at every stage of their working and for every single act of theirs. They (people) who, in turn possess the power of censuring the conduct of the elected representatives whenever they want to do so. The latter aspect of responsibility is perhaps more important than the former, because democracy in constitution is also implied in another concept, namely, ‘democratic centralism’, which is the very anti-thesis of ‘democratic decentralization’. Democratic centralization is an innovation made by communist regime in the now disintegrated USSR after the Bolshevik Revolution in 1917. It means democracy in constitution but centralization in decision-making. Under this system people are free to elect their rulers, but once they have elected them and the broad outlines of their policy are approved, the people cannot question the decisions that they had taken. They must accept them without any questioning or reservations. Whereas, democratic

\textsuperscript{47} The principle of subsidiarity holds that the central authority in any society/state should not exercise such functions as can be carried out competently by lower sub-state levels of authority, but rather the former should support the latter and help to coordinate their activities for the benefit of the society/state (Manor 1999:4-6).

decentralization confers upon the people full freedom both in regard to election of the leaders and the making of the policies and their execution. They are free to question those decisions, criticize those and demand changes in them. Late Prof. Iqbal Narain said, “ democratic decentralization widens the area of democracy (which may exist at the top) by granting both authority and autonomy to the people at the lower levels. This is an attempt to create democracies within democracies. Whereas in contrast to this, under democratic centralism, the idea is to provide a democratic base to the autocratic top”. Thus the objective behind democratic decentralization is the establishment of a decentralized and participatory democracy instead of centralized democracy”. 49

The term ‘decentralization’ does not necessarily contain any democratic connotation. Therefore the adjective ‘democratic’ is prefixed to impart a special meaning to the term decentralization. It is democratic in the sense that the source from which power is decentralized, has its democratic base and the body to which power flows is also democratically organized. The meaning of the term democratic here means people may determine the whole process of rural development, right from formulation of policies to implementation and evaluation. The rationale behind this is that people are sovereign and the government does not have huge resources to get the work done through its machinery. In short, democracy means the skill with which we can make use of the potential energy of the people and change it into kinetic energy for raising the standard of living of the people and giving them due status and dignity. 50

Therefore, there is no single set of definitions for the complex dynamics of democratic decentralization and nor can any particular definitions be completely adequate. The indigenous term for democratic decentralization in India is called Panchayati Raj and that will be discussed later in this chapter.

Going back to decentralization which has been used in different contexts in west and in India. In west concept of decentralization treats lower level bodies as ‘limbs and hands’ of government and these local units of administration act as agents of central government. In India also decentralization meant the same thing during British rule i.e. spirit of decentralization which

49 Id. at 162.
50 Shalini Rajneesh, Rural Development through democratic decentralization 39(Deep & Deep Publications Pvt Ltd. 2002).
swept the England and west was followed in India also during British rule. But in India from the very early times implied more than administrative decentralization. Panchayats were democratic institutions at the grass-roots levels.\textsuperscript{51} “Democratic decentralization possesses two virtues: it is consistent with democratic trend and it is also technically the most efficient method of formulation and execution of local projects. It is concluded that democratic decentralization is a political ideal and local self-government is its institutional form”.\textsuperscript{52}

3.6 Evolution of Modern Concept of Decentralization

3.6.1 The Global Perspective

It is well documented that decentralization was a well thought and executed style of governance in ancient world. There are many sophisticated debates on decentralization in the political literature of 18\textsuperscript{th} and 19\textsuperscript{th} centuries. When there was no adult franchise in the western world then emerged the concept of devolution of power to the people. The British system of local government found in South Asia, Africa, Australia and North America was conceptualized as a devolved local self-government with the characteristics of a representative elected council and citizen’s participation, while in Europe, parts of North and West Africa and South America, it was distinguished by deconcentration, that means domination of executive and presence of rigid hierarchy. Decentralization is conceptualized as a deconcentrated administrative organ for relieving administrative congregation, because overcentralized governance did not make it clear what needs to be done for different places and how to meet the desires of the people. It was realized that close association with people of a particular area gives detail understanding of needs of people and long-term requirements of that area. The people of the particular area can do better planning for development of their area.\textsuperscript{53}

The Decentralized governance has been distinctive feature in developed democracies in western countries. “Until the early 1980s government and state were generally perceived of interchangeably. Government was seen as the embodiment of state sovereignty and dominant source of political and legal decision making. In developing countries at that time besides other issues debates with regard to potential advantages and disadvantages of decentralizing authority

\textsuperscript{51} Supra note 20.
\textsuperscript{52} S.N.Jha and P.C.Mathur (eds.), Decentralization and Local Politics 60 (Sage Publications, New Delhi, 1999).
to subnational units of administration, local governments etc were going on. Decentralization was defined as the transfer of authority, responsibility, and resources through deconcentration, delegation, or devolution from the centre to lower levels of administration. By the early 1980s growing economic, social, and political interaction, increasing international trade and rapidly emerging technological innovations which reduced the cost of communication and transportation and also helped in spreading knowledge and information world over about changed perceptions of governance and appropriate functions of State. The concept of governance expanded to include not only government but also other institutions including private sector. Debates shifted from the proper allocation of responsibilities within government to, whether central governments inhibited or promoted economic growth and social development and what should be appropriate role of government, private sector, civil society. As international economic interaction grew and societies became more complex and interconnected, government came to be seen as critically important governance institution. The globalization pushed more countries to adopt quasi-market economies including the countries which had dictatorial, authoritarian, totalitarian governments. Good governance came to be seen as transparent, representative, accountable, participatory and its need arose. New concepts of decentralization emerged as well.  

The first wave of post–World War II thinking on decentralization in 1970s and 1980s focused on deconcentrating hierarchical government structures and bureaucracies. The second wave of decentralization began in mid 1980s, broadened the concept of decentralization to include political power-sharing, democratization, market liberalization, including private sector in decision making. During 1990s the concept of decentralization widened again and was seen as a way of opening governance to wider public participation through organizations of civil society. The 1940s and 1950s was an era of emphasis on centralization of power and authority in both more developed and less developed countries, but during 1960s and 1970s governments world over began to decentralize their hierarchical structures by giving more responsibility to local administrative units in order to make public service delivery more efficient. During the 1970s and 1980s, globalization forced some governments to recognize and realize the constraints of

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central economic planning and management. During the same period shift in development theories and also change in strategies of international aid agencies like World Bank, IMF etc., away from central economic planning and trickle-down theories of economic growth toward meeting basic human needs, growth with equity objectives, and participatory development also led to increasing calls for decentralization.\textsuperscript{56} International aid organizations promoted decentralization as essential for development carried out by local communities and local governments.\textsuperscript{57} There was awakening that decentralization will accelerate development, will remove bureaucratic bottlenecks which arose because of centralized government planning. Governments at that time followed three primary forms of decentralization: deconcentration, devolution, delegation until the late 1980s. By the mid-1980s with the continued weakening of those economies which followed central planning, disappearance of cold war, increase in international trade and investment, the conventional concepts of economic development and governance and also of decentralization forces got reshaped by economic and political forces prevailing at that time. There was fall of authoritarian regimes in Latin America in 1980s and in Central and Eastern Europe in 1990s and switching over to market economies and rise of democratic principles in East Asia renewed the interest in decentralization. The countries in Latin America, Central Europe were overseeing the transition from state planned economies to market-economies and were focusing on strengthening private sector, downsizing of large central government bureaucracies, and also strengthening local governments. In fact IMF, World Bank and other international development organizations also prescribed decentralization as part of structural adjustments to promote good governance, restore markets in those countries which were seeking aid from these institutions. Not only these aid institutions which put condition of decentralization upon countries, there was pressure from various groups like political, ethnic, other economically peripheral groups to get greater autonomy in decision-making and strong control over utilization of natural resources e.g. Africa. The central governments in Africa were not able to deliver effectively and provide services to local areas and this led to discontent among masses and hence call for decentralization. The demand for decentralization (devolution) were raised in other large number of countries like India, Belgium, Quebec, Wales, Scotland, Malaysia, Baltic Countries, Mexico, former USSR etc as there was

\textsuperscript{57} Dennis A. Rondinelli, \textit{Development Projects as Policy Experiments: An Adaptive Approach to Development Administration} (Routledge, 2013).
discontent with regard to allocation of national expenditures. Moreover, there was ‘New Public Management’ movement in 1990s in rich countries which also influenced the international development organizations and many reform-oriented public officials in developing countries to think as to the role of government. During same period i.e. a book *Reinventing Government* which talked about reforms in United States also influenced the other countries to go for decentralization for providing quality services to people. This book and advocates of ‘new public management’ supported that local problems should be dealt with by local people as they are conversant with the problems of their respective areas and government can achieve its objectives by participation of people at the grassroots level.  

3.6.2 The Emergence of the Concept of Decentralization in South Asia

The factors that contributed to the emergence of concept of decentralization in South Asian countries are being discussed below:

As mentioned earlier, many changes took place in the closing decades of the last millennium in many spheres and these include changes in governance also. The decades of 1950s and 1960s were of emphasis on centralization but that could not cure the maladies prevailing at that time. So demands for poverty alleviation, civic amenities, better health facilities were raised by people and civil society groups in several countries and central governments were pressurized to deal with myriad problems. The need for decentralization was felt and expert writings in 1970s also promoted decentralized system of governance. Ultimately in 1980s debates in support of decentralization picked up momentum and this decade saw beginning of wave of decentralization which swept the globe. During this period i.e. 1980s many influential people in African, Asian and Latin American governments, in international development agencies, and in academic life became enthusiastic about decentralization in developing countries. This led to adoption of decentralization in developing countries to achieve the development goals.

58 Supra note 54.
59 Supra note 18 at 17.
60 Richard C. Crook and James Manor, *Democracy and Decentralization in South Asia and West Africa: Participation, Accountability and Performance* 1(Press Syndicate of the University of Cambridge, United Kingdom, 1st edn., 1998).
The phenomenon of decentralization became a reality in Third World countries and they include South Asian countries also. There are many factors which contributed towards sudden emergence of decentralization as a major theme in South Asian countries which are diverse. These factors are historical, social, political and economic. Some important are summed up as follows:

1. The South Asian countries like India, Sri Lanka, Nepal etc were governed by authoritarian regimes. There were movements to bring democracy and finally these countries underwent transition from autocratic to democratic. The establishment of representative form of democracy at the national level in these countries is reckoned as first initiative toward returning power back to the people. Once democratic governance has been established at the national level then political devolution from centre to state, provinces, or local governments often comes fast on the heels of national redemocratisation. Hence in these countries, decentralization can be seen as the ‘second wave’ of democratic reform.\(^61\)

2. What has also led to emergence of decentralization for the governance at local level in South Asian countries is presence of village councils in the olden times and they used to be very effective in dealing with local issues. This belief in the village councils led to opinion building for setting up of local self-government institutions as near to the people as could be in some of these countries through political decentralization e.g. Panchayats in India.\(^62\)

3. The other cause or factor which led to movement toward political decentralization is presence of ethnic diversity in some of the countries. The ethnic groups demanded political autonomy. For example, in India there is ethnic, regional, religious diversity and it’s a big country. The overcentralization of power at the centre led to many problems and this led to unrest in many regions also. This made the political devolution necessary to manage stresses and strains. Similarly in Sri Lanka also there was sense of alienation in north-eastern region and in order to remove that sense of alienation and diffuse tension elected provincial councils were established. Thus

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\(^61\) Abdul Aziz and David D. Arnold (eds.), *Decentralised Governance in Asian Countries* (Sage Publications, 1996).

\(^62\) *Supra* note 18 at 18.
gradually consensus emerged which recognized the importance of political decentralization in all these countries having ethnic diversity.⁶³

4. Besides these factors there are other fundamental reasons also which caused decentralization to become a widespread phenomenon. The centralized form of development could not reach to beneficiaries i.e. rural communities. For example in India centrally sponsored schemes were started but they did not involve the local people for village development and hence failed. In Nepal also the distant centrally controlled system could not reach the remote mountain hamlets.

5. One reason which cannot escape notice is that in South Asian countries with the adoption of economic liberalization policies the process of decentralization picked up the momentum. The government decentralization started taking place simultaneously with the introduction of Structural Adjustment Programmes and economic liberalization policies. Conceptually, there is a logical connection between privatization and decentralization, if the context is reduction of control of central-state structures over economic decision-making and also that decentralization will help in reaching to the beneficiaries and deliver tangible benefits arising out with economic liberalization. Moreover, some international donor agencies also encouraged decentralization as part of an overall Structural Adjustment Programme i.e. these lending agencies put certain conditions before lending. Definitely economic liberalization contributed towards providing favourable climate for the promotion of local governance institutions, but it would not be right to consider economic decentralization as a predominant factor.⁶⁴

6. Last but not the least, the nationally planned development or centralised form of development adopted in developing countries was followed in East European Bloc. But in this Bloc the centralized planning for development failed and led to inequality, poverty. The central administration was inefficient and irresponsible. This gave lesson to developing countries to rethink and this generated consensus as well as favourable climate for decentralization.⁶⁵

⁶³ Supra note 61 at 18.
⁶⁴ Supra note 18 at 19.
⁶⁵ Ibid.
The studies have shown that the causes which led to decentralization differ from country to country. There is no single factor which is sufficient to explain the decision to decentralize in all countries or in a single country. Decentralization in one country could be due to combination of causes. For example, advent of multi-party political systems in Africa, the deepening of democratization in Latin America; the transition from command to a market economy in Eastern Europe and former Soviet Union; the need to improve delivery of local services to large populations in the centralized countries of East Asia; the challenge of ethnic and geographic diversity in South Asia, as well as ethnic tensions in other countries and the attempt to keep centrifugal forces at bay by forging asymmetrical federations; and the plain and simple reality that central governments have often failed to provide effective public services are the multiple causes which made the decentralization widespread in developing countries. 66

3.7 Evolution of Democratic Decentralization or Panchayati Raj in India

3.7.1 Ancient Period

In India, Panchayati Raj institutions are the institutional form of democratic decentralization. Democratic decentralization is the political idea and Panchayati Raj Institutions (PRI) are the prime instruments of decentralization at the grassroots level.

The historical context of Panchayati Raj system reveals that having Panchayats has been one of the fundamental concepts of Indian culture and Panchayats are oldest administrative institutions in the country67. The Panchayati Raj is as old as Indian civilization itself. The Panchayati Raj (PR) which we see today has evolved over the years and this institution has survived numerous political changes and upheavals in the ancient and medieval periods including British rule period, although during colonial administration the working pattern of these Panchayats underwent marked changes.68 Therefore Panchayati Raj has ancient backing and is not modern phenomenon.

66 Supra note 38.
67 Mushtaq Ahmed, Panchayati Raj Institutions in India: Law, Policy and Practice 23(Dilpreet Publishing House, New Delhi, 2010)
Although, tradition of rural local self-government i.e. Panchayats suffered distortion and oblivion through periods of political uncertainty and foreign domination but its imprint is still so deeply entrenched upon the minds of the people in India that its revival and resuscitation was cherished as persistent longing in the freedom struggle against the British rule.\textsuperscript{69} Before the advent of modern nation-state, tribes and clans used to have their own established systems of local governance.\textsuperscript{70} Before coming into existence of state, it was a world of kinship, groups and tribes and their pattern was as varied as the pattern of their culture. Their territorial extent or jurisdiction was relatively small, ‘local’ if we may say so. The emergence of territorial state from the tribal matrix being a phenomenon which belongs to later Vedic period, whereas in the early Vedic period there used to be simple tribal monarchy.\textsuperscript{71}

During the ancient phase India had well-maintained municipal administration system during the Indus valley civilization e.g. \textit{Mohenjo-Daro} town planning reveals that and this was first phase of urbanisation.\textsuperscript{72} But the vedic people unlike the people of Indus Valley civilization were rural people. The village was focus of rural society and town and urban centers did not form an important characteristic of Aryan society. In \textit{Rig-Vedic} hymns which belong to early Vedic Phase there are references which make it clear that Aryans prayed for prosperity of villages but rarely for that of cities as their life was centered around villages and not cities.\textsuperscript{73}

There is reference with regard to organized system of rural local self-government in Vedic literature. \textit{Rig Veda} talks about self-governing village communities and there is mention of two political assemblies namely ‘\textit{Sabha}’ and ‘\textit{Samiti}’ which governed the village communities. The nature and composition of these assemblies and their functions are a point of controversy. The \textit{Samiti} consisted of general public who used to assemble and deliberate upon issues concerning them.\textsuperscript{74}

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\begin{itemize}
\item \textsuperscript{70} B.S.Baviskar and Ash Narain Roy, \textit{Local Governance, A Global Perspective} (Publication Division, Ministry of Information and Broadcasting, Government of India,2012)
\item \textsuperscript{71} Supra note 67 at 25.
\item \textsuperscript{72} Soma Bhowmick , “History of Democratic Decentralization in India”, \textit{available at: http://www.academia.edu/1765296/HISTORY_OF_DEMOCRATIC_DECENTRALIZATION_IN_INDIA} (Visited on November 06,2015).
\item \textsuperscript{73} “History of Local Self Government in India (Chapter 1)”, \textit{available at: http://shodhganga.inflibnet.ac.in/bitstream/10603/66871/7/07_chapter%201.pdf} (Visited on November 06,2015).
\item \textsuperscript{74} Supra note 72.
\end{itemize}
The later Vedic state was a country-state and village was basic unit of administration. The early Vedic society and polity was essentially tribal in character. It was based on kinship or close familial ties. Many families joined together to form a village, which was placed under a village headman called ‘Gramini’ or ‘Grampal’ who was leader of villagers. The Gramini and other village officials were appointed by the village community and were accountable to them. But later on this village head post became hereditary. Several villages together formed a clan or Vis which was headed by ‘Vispati’. Several Vis together formed a tribe or Jana. The Jana was ruled by a king, who was popularly known as Rajan. The Sabha and Samiti acted as checks on the king’s power. The Sabha was a council consisted of tribal elders which advised the king in his decisions. The Samiti was a general assembly comprising of the entire tribe including women. There is mention of Grahmini who was a respectable village functionary and took part in King coronation as Ratnin (Jewel of crown whose consent was important in king making). According to early Vedic rendering, another sphere for the exercise of local self-government functions was the organization of Sreni (guilds), religious organizations and Jati (caste) guilds. They had direct representation in all the popular bodies of state and also took part in coronation ceremony of king and their consent had the value of legitimization of king’s office. In the early Vedic times there was hardly any difference between central government and local government. But with the passage of time states grew larger in size and this distinction regarding two kinds of government activity i.e. central and local became necessary. The tribal structure of the early Vedic got replaced by large kingdoms in later Vedic period. In later Vedic period the people of Jana settled down as people in early Vedic were semi-nomadic and pastoralists. These territories were called Janapadas and these took the name of dominant tribe in that territory of Janapadas. The kingship became hereditary and assemblies, the Sabha and Samiti lost their importance and position of women also declined. However, with passage of time, village bodies re-emerged.

The two epics Mahabharata and Ramayana also have references about village institutions. Both of these epics speak about assembly of elders and also about Ghosh, Gram (and village consisting of 1,000 families) Gramini (headman of village). Many functions like collection of state dues, keeping of village records, settlement of disputes, crime control, and

75 Vipul Singh, Jasmine Dhillon, et.al., History and Civics (Dorling Kindersley(India) Pvt.Ltd, 2012).
76 Supra note 69 at 78.
77 Supra note 75 at 73.
negotiation on behalf of village were done by Gramini. In order to check arbitrary exercise of power there was council of elders.\(^\text{78}\) The earliest reference to Panchayat is found in Shanti-Parva of the Mahabharata and is derived from the word Pancha meaning five and the institution was called Panchasvanusthitah, meaning Grama Sanghas or rural communities.\(^\text{79}\) The villages were of two types according to these epics Ghosh and Gram. The former was bigger in size and the latter was smaller. The Gramini was appointed by king and had to work according to the advice of village elders. The village elders were variously called the Gram Vridhas, the Samiti, the Sabha, or the Panchayat. The number of members which constituted these bodies varied from place to place and time to time. In Ramayana period Ram was ruler servant of Ayodhya and at village level his counterpart ruler servant was Mukhiya or Sarpanch. The Sarpanch had counsellors termed as Panch. The Sarpanch and Panches were five in number and were collectively called Panch Parmeshwar. The king, Sarpanch and Panches all obeyed people. In Mahabharata also village was fundamental unit of administration headed by Gramini. The village head (Gramini) had the responsibility to look after village affairs and protect village and its lands. According to Manusmriti village headman was Gramikas or Graminis.\(^\text{80}\) In fact Manu has given detailed account of local self-governing institutions. There are other Hindu law givers like Parasha, Yajnavalkaya, Narad, etc who have spoken about rural local government. The village administration was in tiers i.e. and these tiers were headed by official e.g. official in charge of ten villages (Dashi), official in charge of twenty villages (Vishanti) official in charge of hundred villages (Shati) and official in charge of one thousand villages (Shastra-Gramadhipati). These officials were appointed by king. Village head was Gramini who held appointive post.\(^\text{81}\)

The period between 600 B.C to 600 A.D saw rise and fall of powerful republics like Mauryas, Guptas and also witnessed emergence of religious reformers like Buddha and Mahavira. There is detailed historical material available as regards rural local government in this era. The Buddhist and Jaina texts also mention about village life and how affairs of village used

\(^{78}\) Supra note 69 at 79.


\(^{80}\) Shakuntla Sharma, Grass Root Politics and Panchayati Raj (Deep and Deep Publications, 1994).

\(^{81}\) Supra note 69 at 83
to be dealt with. The villages were self-sufficient and self-dependent and village head was called *Bhojak*. The village headman was consulted with regard to local affairs and he was under obligation to accept public opinion. He was selected by villagers on the basis of local customs and traditions but in practice his post was hereditary. His duty was also to collect revenue for the state and carry out other constructive programmes. There were other occupational Panchayats also and each group had its own Panchayat. The Sarpanch of the Panchayat was known as *Pramukh* (chairman). In Jaina texts there is mention of village Panchayats and they used to be dear to people of all *Varnas* because of their equivalent treatment.

Kautilya’s *Arthashastra* (324 B.C --- 236 B.C) is very important text and gives comprehensive account of village administration during the reign of Maurayas. The Kingdom was divided into several districts and each district was further divided into village. Each village was headed by *Adhyaksha* whose responsibility was collection of state dues, reporting and controlling activities of offenders. There were other officials also like *Samkhayaka* (Accountant), *Chikitsha* (village medical officer) etc. The Maurayans had centralized administration and this reduced the importance of village assembly to some extent but their significance and authority was restored later in Gupta period. Although the importance of village assemblies got reduced but local matters continued to be solved by this assembly. This assembly consisted of elders and was called as *Gram-Vridhas*. Their number was not fixed and they used to deal with administrative matters as well as civil and criminal. They looked after public property and decisions of them were unanimous. The headman was president of assembly and its executive official also. The decisions of Panchayat were binding and those who did not obey used to be externed from village. Panchayats were well organised and every occupational group like money lenders, artisans had its own separate Panchayat. Above the village head was *Gopa* who was incharge of a number of villages and his duty was to supervise the works of headmen.

Then comes the Gupta Period. Certain changes took place in nomenclature but generally system remained the same. The villages were governed by *Grampati* (Headman) assisted by

82 *Id* at 80.
83 *Supra* note 80 at 94.
84 *Supra* note 69 at 80
86 *Supra* note 80.
village assemblies and village assemblies consisted of all male adults (Urar) and sometimes of selected elders (Mahattaras). In order to deal with various matters like justice, education etc village assembly appointed a number of committees. The village had its own funds and there were other village officials also apart from village headman and these officials were accountant, school teacher, priest etc. The dominating feature of Gupta period was Sreni or Nigma system or guild and village was basic unit of social, economic, political and administrative system. The native elements i.e. local people administered themselves. The Gupta Period is considered golden age of Indian history and in this period guild system evolved and decentralized administrative system emerged. The power of local authorities increased and local government system described by the historians during the Gupta period can be called local self-government. Central government responsibilities were confined to those functions which lower levels of government could not do.

During the Harsha period also in sixth century the Panchayats were well organized and active also. There were Panchayats for different occupational groups and one for the village as a whole. The village (Grama) continued to be smallest unit of administration and elders (Mahataras) assisted the village head. A cluster of a dozen households and a dozen of such clusters constituted Grama headed by Grameyka or Grama Adhyaksha. The village administration took care of local matters and distinct development of Harsha period was Panchayat courts which dealt with civil and criminal cases. Hence Panchayats dealt with legislative, executive and judicial functions. In the twilight period of Hindu period (A.D 600-A.D.1200) new feudatories came into existence after the collapse of Gupta empire. There was uncertainty and environment was not conducive for village prosperity but still villagers could maintain their own local institutions and services even during times of disorder and instability.

Last but not the least, in the olden days rural society not only have village Panchayats but also witnessed the emergence of caste (Jati) Panchayats and Nyaya Panchayats. The caste Panchayats carried out the functions related to social customs, marriage and rituals and ensured

87 Supra note 69 at 82.
88 Mridula Sharda, Evolution of Panchayati Raj in India10 (Kanishka Publishers, New Delhi,2010).
89 Supra note 80 at 96.
90 Supra note 88 at 11.
91 Supra note 69 at 85.
that the people belonging to particular caste adhered to its code of social conduct and ethics. These caste Panchayats are still in existence in India.\(^9^2\)

As far as rural local government in Deccan is concerned in ancient times, during Satavahna empire (200B.C-200A.D) state was divided into Aharas (administrative divisions) each headed by Amatya and below them were villages and each village was headed by its own Gramiyka (headman). The dominant feature of this era was villagers looked after law and order. The villagers met periodically and discussed matters concerning them and settled dispute also. With the passage of time village administration evolved from being simple to more elaborate and complicated machinery of committees and officials in Chola rule.\(^9^3\) The rural government system was progressive in Tamil as compared to rest of south India. The village headman was the leader of village and was called Kilan or Grambhajaka. He was the link between royal government and villagers. There were caste/class assemblies and all co-existed and there used be consultations with other associations while discussing common matters and then final decision was taken. The assemblies performed various functions and these functions were either performed directly by executive officers or subordinate committees.\(^9^4\) On the whole Panchayats were autonomous institutions of local government in the ancient India.

### 3.7.2 The Medieval Period

According to historians of this period Panchayat system remained more or less same though certain modifications were there in successive centuries. India came under the sway of Afghan Sultans of Delhi and later under Mughal emperors. The sultanate of Delhi was feudal in character and all powers whether legislative, executive, judicial were vested in sultan. There was no place for representative institutions and will of the Sultan prevailed and was the law. But despite the despotic behavior of Sultanate, there was no interference in the affairs of village communities and villages continued to be autonomous and this led to continuity of tradition of local self-government.\(^9^5\) During this phase, at the top of hierarchy was province. The Province was divided into districts and districts were further divided into smaller units i.e. villages and village was

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\(^{93}\) *Supra* note 88 at 11.

\(^{94}\) *Id.* at 12.

\(^{95}\) *Supra* note 80 at 98.
basic unit of administration and they were self-sufficient. The headman of village was *Muqaddam* or *Mukhiya* (in north and *Patel* in Deccan) and village accountant was known as *Patwari* whose duty was to manage the revenue records of the villages. There was village Panchayat which took care of village administration. The conduit between central government and village was an officer known as *Mahanayakcharya* who also had supervisory role over administration of village. It will not be correct to think that local administration under Delhi Sultanate period remained untouched and headman exercised the duties as before because state was depended on the revenue that they collected from villages and that’s why could not have left villages all alone, though it might not be interfering in general course or in the normal tenor of the life of the village communities. Panchayats also acted as judicial bodies to settle disputes.

During the *Mughal period*, there was very little interference with the village government. They incorporated the village into administration as a unit for revenue and police purposes only. The state dealt with village through *Muqaddam* (Headman) whose duty was maintenance of law and order. The judicial powers of the village council, the Panchayat got curtailed by Mughals. The local affairs remained unregulated from above and village officers and servants were answerable primarily to the Panchayat.

In Mughal period particularly during the Sher Shah Suri, Panchayats governed the villages and decision of Panchayat used to be considered law of land. The sultan gave due recognition to Panchayats. Each Panchayat consisted of elders of village who looked after the interests of the people and administered justice and inflicted punishments on the defaulters according to the traditional customs of the community of the place. Normally there was no interference of centre in the affairs of villages but during emergency village Panchayats were directed to discharge their duties fully well. Akbar inherited the Panchayat system from Sher Shah and made it integral part of his civil administration. Each village had its own Panchayat of elders headed by *Lambardar* or headman. Akbar also gave legal recognition to Panchayati Raj and these Panchayats were autonomous and exercised various powers like local taxation, administration of justice etc. The Mughal Panchayat system

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96 *Supra* note 88 at 20.
97 *Supra* note 67 at 29.
98 *Supra* note 80 at 99.
continued over centuries especially from 1750-1850.\(^9\) During the early Mughal period village administration was effective as Mughal were occupied in settling themselves and in expanding their influence by conquering other states. So in beginning they did not interfere with village administration and kept busy in consolidating their own hold. The Indian local government system was allowed to Prevail and enjoyed autonomy also. As mentioned earlier, since ancient times village consisted of elder-men of the village and functions used to be performed by village committees. The decisions of village council were based on old traditions and unanimous decisions were taken. Once the Mughals consolidated their power, they introduced certain changes like Jagir system in which middleman Malguzar collected revenue. This weakened the solidarity of Panchayat system as some functions of Panchayats passed on to local land owners and officers of state like Muqaddam and Patwari. A new class of superior intermediaries emerged and their oppression demoralized the growth of self-governing institutions. They became new centre of power directly under the control of emperor as they were appointed by central authority and they were in return responsible to higher authority. The Jagir system introduced class of Malguzars, Jagirdars who collected revenue and this weakened old Indian institution of local governance but they continued to exist not as strong and autonomous as they used to be. The indigenous system of Panchayats got converted into mixed system i.e. Indian and Arabic. Coming into existence of new class led to inequality in society also and there were poor artisans, labourers, peasants on one hand and rich nobles, big land owning class, Malguzars etc on the other. Although new institutions like Muqaddam, Patwari and coming into existence of feudal lords decreased the powers of Panchayats, but Panchayat system survived and had their distinct role in village system.\(^10\)

### 3.7.3 The Colonial Period

During the Mughal period itself several traders from western countries came to India for business purposes and established business in several parts of country but they had to take permission from Mughal emperors. When the Mughal empire became weak, western traders took advantage of this and started fortification of their establishments. Only two trading companies of western countries i.e. British and French remained in India and rest of the trading companies of

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\(^10\) *Supra* note 88 at 23.
other countries got removed. These two competed with each other but ultimately French trading
company also had to leave India leaving behind British company. The Britishers came as traders but gradually became dominant rulers of the country. During this period Panchayats were functioning vigorously and effectively and were respected also. Infact when British company took over the administration the Panchayats were quite strong. Their main concern was maximization of land revenue. In order to get maximum benefit they introduced certain land reforms also like Zamindari system, Ryotwari system, and Mahalwari system and for the actualization of this goal, Provinces, districts, sub-districts/Tehsils or Taluqas were introduced as units of administration. These land reforms weakened the Panchayats. It was the duty of Panchayats to collect revenue from cultivators and central government used to return a part of this revenue to Panchayats for civic functions but British government gave this responsibility of collection of revenue to district collector or Zamindar, while judicial function was entrusted to civil and criminal courts set up by government. A part of that revenue was not returned to Panchayats for civic functions. These measures disintegrated the Panchayats.

The Battle of Plassey was won by British East India Company and since then they started expansion and consolidation. After Battle of Buxar they secured Diwani rights i.e., right to collect taxes (revenue) on directly from people on behalf of the Emperor from eastern province of Bengal-Bihar-Orissa and also jurisdiction to decide civil cases. Moreover the collapse of Mughal rule led to increase in unemployment as handicraft and other industries associated with Mughal court also collapsed with the court because they used to serve Mughal courts. The British goods replaced the Indian goods from markets and power weaving, power spinning increased the competitive strength of British goods leading to more demand for them. The Indian goods were bought at low prices and sold by Company at higher prices and sometimes oppression was used to while buying goods. India became a market place of foreign goods and also a storage of raw materials for the British industries. Indians were made to become dependent on foreign products even for their bare needs. East India Company had monopoly in trade and also monopolized the trade through sea route. All this damaged the guilds of artisans.

101 Supra note 80 at 101.
103 Gurmukh Ram Madan, Western Thinkers on Indian Society 49 (Anamika Pub & Distributers, 2000).
and traders and hence increased unemployment and more pressure on land.\textsuperscript{104} The industrial revolution in England needed markets and that’s why village economy and handicrafts which were under the control of Panchayats in India got crushed. The revenue system of Britihers drained the village revenue to centre and the self-governed villages became part of centralized British system and also became dependant on centre. The decisions of local issues which were taken by Panchayats now started taken by Britishers. The Panchayats with the passage of time lost their old form and disappeared in middle of nineteenth century. The village headman and accountants became government servants and were given Pay. The traditional Sabhas and Samitis vanished and village headman and Patwari who were government nominees administered the village. The decisions of Panchayats (decisions taken by Sarpanches and Panches) were not implemented and the old traditions on the basis of which decisions used to be based got replaced by statutory laws. The authority of Sarpanches and Panches to administer justice was taken away and given to imperial courts. The Lambardar was selected from property holding class who could be removed by villagers even though his office was hereditary but in practice it was difficult to do so. People’s participation came to an end because democratic fabric of society got destroyed.\textsuperscript{105}

The East India Company came to India as traders and local self- Governments like Panchayats were not their priority. But they had to constitute local bodies of their own brand later, first in Urban areas and later on in rural areas because of their own compulsions. First such attempt of creation of local authority was in 1688 itself. A site was granted to East India Company for construction of Fort St. George in 1639. Population grew which created myriad problems like sanitation, public health, building of schools etc. In order to solve these problems Municipal Corporation was inaugurated in 1688 to levy taxes at Madras under the royal charter granted by James II, then British Monarch.\textsuperscript{106} This is considered origin of municipal administration in India. This was done to transfer the financial burden of local administration to the local city council. This corporation consisted of Mayor and aldermen and they collectively were justices of peace i.e., functioned as Mayor Court also which tried civil and criminal cases.

\textsuperscript{104} Supra note 69 at 105.
\textsuperscript{105} Supra note 88 at 26.
The similar bodies were set up in other major towns like Bombay, Calcutta. The Royal charter of 1720 established Mayor’s court in each of the presidencies of Madras, Bombay and Calcutta. Till 1793 there was no statutory basis of urban local governance but Charter Act of 1793 or The East India Company Act, 1793 gave statutory basis and Municipal administration was established in three presidency towns of Madras, Calcutta and Bombay. This Act gave power to Governor-General to levy taxes on lands, houses and to provide for sanitation of towns. Then Bengal Act X was passed in 1842 and this was the first legislation which provided for establishment of municipal administration/bodies in Bengal outside the Presidency town Calcutta. The provision in the said Act had provided for people’s participation but it was not implemented. This Act was found to be ineffective and got replaced by 1850 Act (commonly known as Improvement of Town Act, XXVI). This Act provided for constitution of Town Committees and also laid down these committees were empowered to levy certain indirect Taxes so that could be used for making, repairing, cleaning, lighting or watching any public streets, roads, drains etc. These two Acts i.e. 1842 and 1850 also illustrate the earliest ideas about municipal government entertained by the British authorities in India. It is this fact which gives them importance. The Act XX of 1856 known as Town Police Act provided for payment of Chowkidars (town Police). However, the immediate stimulus to the establishment and development of local institutions was given by 1857 revolt. Post this Mutiny there was strain on the finances of colonial administration. Moreover, crown took over the powers from East India Company. The financial crisis and strains made them realize the importance of Village Panchayats as institutions of local governance. It was felt that involvement of local people is necessary in revenue generation and expenditure in order to avoid wastage of money and improve public economy. The local services like public health, sanitation, education, etc. should be financed through local taxation by levying taxes on the local people who received benefit from those services. As mentioned earlier there was strain on finances of central government.

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108 Supra note 102 at 1008
109 Lalita Chandrashekhar, Undermining Local Democracy: Parallel Governance in Contemporary South India 07 (Routledge, 2014).
112 Supra note 80 at 103.
due to Great Revolt 1857-1858. It was difficult to spare money for roads, education, health and other services needed by people. Samuel Laing member of viceroy’s council who was holding charge of finance and other members of council in 1861-1862, put forward the theory that local services should be financed out of local taxation. They said it would be more appropriate that some taxes get levied and collected by local people rather than by Imperial authorities and people would pay willingly because of the guarantee that proceeds would be spent on local services. In due course of time it would also lead to institutions of local self-government.\footnote{Supra note 106 at 93.}

In 1863, the British government’s attention was sought by the Royal Army Sanitation Commission towards bad sanitary conditions of towns all over the country. In order to deal with this problem government passed several municipal Acts for various provinces which authorized the governors to order the formation of municipality in any urban area of province. The municipal committees established were empowered to administer municipal funds but these funds could be used in first instance for maintenance of police and in case of surplus, if any, that could be utilized for sanitary improvements of towns.\footnote{Supra note 107 at 40.} In 1865 Lord Lawrence’s administration passed a resolution which affirmed that “people of the country are perfectly capable of administering their local affairs as municipality feeling is mooted in them. The village communities are the most abiding of Indian institutions. They maintained the framework of society while successive swarms of invaders swept over the country. In the cities also, the people cluster in their wards, trade guilds and Panchayats and show capacity for corporate action. Holding the position we do in India, every view of duty and policy should induce us to leave as much as possible of the business of the country to be done by the people and to confine ourselves to influencing and directing in a general way all the movements of the social machine”. This resolution was followed and legislation was enacted for most of the provinces and in the major towns municipal councils were established e.g. Delhi, Agra, Allahabad, Dacca, Patna, etc.\footnote{Hugh Tinker, South Asia: A Short History 142(University of Hawaii Press, 1990).}

There were other factors also which led to reappearance of concern for Panchayats and other local bodies and they are new means of communication and educational advancement. On one hand the vast network of roads, railways, telegraph and telephone was laid out all over the country and on the other, educational institutions of western style like school, colleges which
imparted education through English medium were established. The communication system and new modes of transport made people mobile and aware about other areas. The education system made an average Indian in these institutions conscious about their social, politico-economic situation. They began to demand for basic amenities. The Imperial government realized the need for it also.  

In the initial years of British rule the demand for democratic decentralization was made by elites who wanted share in power and patronage. The role of Panchayats as institutions administering justice got abolished and replaced by legislations like Indian Penal Code, Criminal Procedure Code, Contract Act, etc., along with other revenue settlements. These laws supplanted the existing traditional law. The responsibility to establish rule of law in society was with caste/village Panchayats but was taken over by collectorates and courts established by British government.

Next step forward was Mayo’s Resolution in 1870 which came as development of Panchayati Raj and local government. Lord Mayo was viceroy who got the resolution passed by his council for decentralization of power and also emphasized on association of Indians in administration through local government. This was considered important to bring administrative efficiency in meeting the demands of the people and to add more financial resources to the existing imperial resources which were not sufficient for growing needs of the country for carrying out local functions. Adoption of this resolution was the first step that was taken to set up Panchayats by colonial administration. Panchayats were established and consisted of nominated members. Panchayats were empowered to levy and collect taxes. Following resolution an important initiative was taken in Bengal to revive traditional village Panchayats in 1870 and this was Bengal Chowkidari Act. Under this Act ‘Chowkidari Panchayats’ were constituted whose purpose was collection of tax to maintain village watchmen(Chowkidars). The Panchayats consisted of nominated members from above. So Panchayats could not become Local self-government Institutions in the true sense of the
The Famine commission of 1880 had in its report testified the absence of local bodies as a major impediment in providing relief supplies to the people in villages and the report emphasized on expansion of self-government in villages. The colonial regime at that point of time was concerned with reducing the financial burden of the provincial governments and was not interested in establishment of local self-government institutions in the rural areas of India.

The Indian masses were not happy with nominated local government institutions thrusted upon them. The Britishers treated towns and villages as administrative units rather than democratic units. This dissatisfaction among masses was one of the reasons behind development of national movement. The British government realized that there is need of reforms in local self-government and took steps. The first landmark step in this context is Lord Ripon Resolution in 1882, which is considered Magna Carta of local self-government in India.

By the time Lord Ripon became viceroy, the first generation of educated Indians who were inspired by ideals of democracy and liberty emerged and they demanded a share in the government of the country. He was believer of ideology of liberalism so he considered the demands genuine. But at the same time he knew that time is not yet ripe to give them share in provincial or central government and they should be first trained for local government. Such participation of Indians was possible if local bodies became elective and enjoyed the real powers and when control exercised over them by the state was reduced. This resolution was comprehensive and also contain the objections raised by bureaucracy for extension of powers to local bodies and giving the existing up to now nominated local bodies the democratic character. The revival of local government was required for political and popular education and as an outlet for the ambitions and aspirations engendered by western ideas. The main features of the Resolution were as follows:

a) Establishment of a network of local self-government institutions,

b) Local bodies were to have elected non-government members and chairmen

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121 Supra note 85 at 62
122 Supra note 118 at 17.
123 Supra note 85 at 62.
124 Supra note 88 at 33.
125 Supra note 106 at 104.
c) Reduction of official element to not more than a third of the total membership

d) The state control over local government indirect rather than direct

e) Local bodies were to be endowed with certain local sources of revenue and grants from provincial governments in order to carry out these functions.

f) Provincial governments were recommended necessary Acts according to local conditions prevailing in their respective Provinces.

g) Financial decentralization

h) Local bodies personnel should operate under the administrative control of local bodies.

i) Adoption of election as a method to constitute local bodies.\textsuperscript{126}

These recommendations of Lord Ripon were passed by various Provincial governments and several Provincial Acts were passed. The passing of these Acts led to establishment of Local bodies in urban and rural areas based on elective principle. The resolution advocated formation of two-tier boards. Hence, in 1885 District Boards were established at the top, local boards at middle level i.e., sub-division level or \textit{Taluka} and union committees below. Those who had property they elected members of Local boards and union committees. The members of District Board were indirectly elected by Local boards. The District Magistrate was chairman of Board and district bureaucracy had strict control over other boards.\textsuperscript{127} The District Board consisted of official as well as elected members and also encouraged formation of elective village Panchayats.\textsuperscript{128} The reforms introduced by Ripon’s Resolution for rejuvenation of Local self-government in rural and urban areas and for training the Indians art of governance, for enabling them to learn from experience, and open up avenues for political participation of the educated Indians, were successful initially but later on could not make much headway for various reasons.\textsuperscript{129} The actual implementation of these reforms was half-hearted and that’s why these reforms achieved little success. Some of those reasons were as follows:

\textsuperscript{126} Supra note 102 at 1009.

\textsuperscript{127} Supra note 109 at 7.

\textsuperscript{128} Supra note 80 at 104.

\textsuperscript{129} Supra note 99 at 10.
a) Obstructive tactics  
b) Hostile attitude of Lord Curzon who succeeded Lord Ripon  
c) Elections were not based on adult franchise  
d) The resources of District Boards were extremely small  
e) Excessive control of Deputy commissioner over these institutions, etc.  

As Far as revival of village Panchayats is concerned, most of the legislations passed in provinces ignored them. The Bengal and Madras Acts did contain provisions for village unions for performing watch and ward and sanitary services but these provisions could not become operative due to non-implementation in practice. This resolution which is considered significant step in the sphere of local government had no provision relating to village which was the primary unit of Indian government system since ancient times. But despite of this major flaw and certain other shortcomings it is still considered first step which introduced representative element and is a first step in the field of rural local self-government. At that time there were famines, and other natural calamities also which became cause of miseries of the people in rural India. Revolutionary tendencies were growing due to these miseries. In 1901 Viscount Morley became secretary of state for India and noticed the over-centralisation of power. An important development since Ripon’s resolution took place in 1907 when the rising discontent among Indian masses led to appointment of Royal commission on Decentralization by the British government to enquire into the financial and administrative relations of the government of India and the provincial governments and the authorities subordinate to them. The commission was asked to examine the whole subject of local self-government and even commission attributed the failure to various reasons like excessive official control, narrow franchise, meager resources etc. The chairman of commission was C.E.H. Hobhouse. The commission reviewed the total subject of local self-government. The first ever mention of village Panchayats as local self-government institutions was made in the report of Royal commission submitted in 1909. The commission recommended that it is desirable to associate people with local tasks of administration and an attempt should be made to constitute and develop village Panchayats for
the administration of local village affairs. Before giving report the commission sought the opinion of people for the resuscitation of village Panchayats. The opinion of people favoured the revival of the Panchayats and in addition to that opposed also the granting of excessive powers to the officials dominating Panchayats. The commission stressed on the fact that village Panchayats are foundation of Indian social, economic, and political system and local self-government should start from village level instead of district level. It recommended the establishment of boards at sub-district level as agencies of rural administration. Besides this commission advocated giving of judicial functions to Panchayats to unburden the regular courts and to make it convenient for people who used to undertake long journeys for the settlement of petty disputes. It suggested that Panchayats should be entrusted with village sanitation, control over ponds and markets, management of schools, power of distribution of irrigation water, administration of famine relief measures and power to control epidemic diseases. The Ripon Resolution dealt with local government in general but Royal commission gave emphasis to rural masses. There were many reasons which made it compulsory for commission to think over reviving Panchayats like natural calamities, awareness among masses and educated Indian’s demand for resuscitation of age-old indigenous institution of village Panchayats. It was realized that without empowering the Panchayats, it was difficult to keep the system in working order as village is the basic unit of Indian system. The provisions were thus made for the income to Panchayats to empower them keeping this in mind all the aspects. These recommendations had far reaching consequences and were in the best interest of villages.

There was pressure of moderate leadership of Indian National Congress as they were demanding self-government at various levels and this also might have influenced them to take decision for establishment of village Panchayats. The Indian National Congress in its 1909 Lahore session passed the resolution in which it urged the British government to take steps to make all local bodies from village Panchayats upwards elective with non-official chairman and to support. The British government could have taken this step to win over moderate leadership of Indian National Congress, to contain the influence of radicals and for crushing the revolutionaries aspirations in national movement. The Indian Councils Act, 1909 commonly known as Morley-Minto reforms which was passed to appease the moderates also created

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134 U.B. Singh, Decentralized Democratic Governance in New Millenium 272 (Concept Publishing Company, 2009).
135 Supra note 88 at 37.
conducive conditions for the recommendations of the commission. In pursuance of recommendations many provinces enacted Village Panchayat Acts thereafter. Only negligible progress could be made. The other setback was introduction of communal electorates in municipal governments which was against healthy development of municipal government. The commission laid down in its report that headman of village should become Sarpanch and the other members i.e., Panchas should be informally elected. They should not be given responsibility of taxation and should be supervised by district officers. However, the government did not take any initiative to implement the recommendations of commission for six years. During this period first world war also started in 1914 and this period also saw advent of national leaders like Tilak and Gandhi who started demanding Swaraj as only that could lead to constitution of local governance in the real sense of the term. The national movement became quite strong by this time which started pressuring British governments for reforms. As the recommendations of Royal commission remained on paper and Congress in its Karachi in 1913 underlined this fact of non implementation. Later Annie Besant also blamed inefficient bureaucracy for not letting the recommendations get implemented.

The services rendered by Indians during First World War (1914-1918) also brought about change in policy of British towards India. The British government used to consider Indians unfit for making responsible government but now they started recognizing that they can shoulder this responsibility and hence supported gradual establishment of local self-government in India mainly at the local level and partly at the provincial level. The first significant statement of British government to establish Panchayats was made in Resolution of the Government of India on Local self-Government in May 1915. Later in 1917 historic declaration was made in which British Government announced the establishment of responsible government and endorsed the suggestions made by Royal commission and proposed an orderly development of local governments in India. In 1917 Edwin Montagu became secretary of India and later in same year went to India to meet viceroy of India Lord Chelmsford. Both of them prepared a report commonly called Montague-Chelmsford Reforms and submitted in 1918. This reported stated

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136 Supra note 85 at 63.
138 Supra note 134 at 273.
139 George Mathew, Status of Panchayati Raj in the states of India 3 (Concept Publishing Company, 1995).
140 Supra note 85 at 63.
141 Sita Ram Sharma, Panchayati Raj and Education in India 101 (Mittal Publications, 1994).
that “the prospect of successfully developing Panchayats must depend very largely on local conditions, and that the functions and powers to be allotted to them must vary accordingly; but where the system proves a success, it is contemplated that they might be endowed with civil and criminal jurisdiction in petty cases; some administrative powers as regards sanitation and education, and permissive powers of imposing a local rate. It is hoped that whatever possible an effective beginning will be made”.142 The Mont-Ford report recommended many Indian constitutional reforms like provincial autonomy, diarchy and this report became basis of Government of India Act, 1919.143 Under this Act the local self government was made one of the provincial ‘transferred subjects’ and placed under the jurisdiction of elected Indian ministers. The report advocated that there should be complete popular control in local bodies and independence from official control.144

The Montague-Chelmsford reforms and subsequent enactment of Government of India Act, 1919 which embodied these reforms to expand participation of Indians in government of India gave power to Provincial governments to enact laws for local self-institutions. Hence a number of Acts were passed by the provincial governments e.g Assam, Bengal, Madras, Bombay etc to establish Panchayats. Bengal pioneered and passed Village Self-Government Act, 1919. But these statutory Panchayats covered only limited number of villages and had limited number of functions.145 All these developments were the result of pressure both internal and external which made British government to establish Panchayats. At the international level, the concept of welfare state, rising popularity of democratic ideals were external pressures which pushed the British government to bring reforms and as far as internal pressure is concerned the national movement which was initially movement of elite section of society hitherto now reached at the grassroots and became mass movement which included the masses who lived in villages. The Acts which were passed subsequent to Government of India Act, 1919 lowered the franchise, increased the elected persons in local bodies and also for passing executive direction into non-official hands. These Acts made the composition of Panchayats more democratic. The financial position of local bodies was poor.146

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144 Supra note 134 at 273.
145 Supra note 67 at 35.
146 Supra note 88 at 40.
became a budget head and Act laid down the tax powers of local government.\textsuperscript{147} Despite of all the measure Panchayats did not become a truly democratic instrument of local self-government due to various constraints. As mentioned earlier also national leaders like Mahatma Gandhi also started making strong pleas for the establishment of Panchayats as instrument of local self-government at the village level to improve their economy and make them self-sufficient and he also put forward the idea of Gram Swarajya or village republics and ultimately it also became part of ideology of Indian National movement. In the same period Indian National congress started non-cooperation movement which included among other things boycott of government courts and establishment of village Panchayats in their place to settle the disputes. This resulted into coming into existence of numerous Panchayats in various parts of the country. The Indian National Congress popularized the Panchayats in this period.\textsuperscript{148}

But the overall growth of local self-government up to 1935 was not very encouraging and reforms introduced failed to bring expected results. It saw successes and failures. The experiment of diarchy introduced by 1919 Act failed and then came Government of India Act, 1935 after discussions with Indian leaders at the two Round Table Conferences held in London and this 1935 Act ended the diarchy, introduced provincial autonomy, provided for establishment of federation of India which consisted of both British India and some or all of the princely states. The 1935 Act marked another important stage in the evolution of Panchayats in the country. A fully responsible government was provided by the Act for the provinces with autonomy. Some positive developments took place like enlargement of the functions and powers of local bodies, widening of franchise, nomination was done away with etc.\textsuperscript{149} On the credit side, the local government had provided the educated Indian classes with a valuable experience of the working of the representative principle as well as techniques of the committee work and law-making. The long familiarity of Indians with civic government created a democratic transition before the dawn of independence.\textsuperscript{150} Subject to many reservations and safeguards, all the provincial subjects were handed over to the Council of Ministers responsible to legislative assemblies elected through restricted franchise based on property qualifications. The provincial governments formed after the 1937 elections enacted new laws to develop village Panchayats as local self-

\textsuperscript{147} Anwar Shah, \textit{Local Governance in Developing Countries} 170 (World Bank Publications, 2006).
\textsuperscript{148} \textit{Supra} note 137 at 47.
\textsuperscript{149} \textit{Supra} note 88 at 42.
\textsuperscript{150} \textit{Supra} note 80 at 109.
government institutions. But the outbreak of second world war in 1939 turned out to be a major roadblock in the development of village Panchayats.\textsuperscript{151} Apart from Second World War factor there were other factors also which were not favourable for decentralization of powers. The elected provincial governments did not function smoothly as there was conflict among political parties and British government. There was poor coordination among Indian political parties. With the outbreak of war popular ministries resigned in Congress dominated provinces and governors assumed the powers for the administration of provinces and this continued till 1947 when country attained Independence.\textsuperscript{152} Thus, the traditional Panchayats got eclipsed during British rule although some half-hearted measures were taken for creation of ‘statutory Village Panchayats’. But the initiatives could not revive the Panchayats in the true sense of the term.\textsuperscript{153} At the time of Independence, India had three Municipal Corporations at Bombay, Calcutta, and Madras. Besides them were municipalities, town area committees, notified area committees and Cantonment Boards for cities and district boards for rural areas.\textsuperscript{154}

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\textsuperscript{151} Supra note 85 at 64.
\textsuperscript{152} Supra note 88 at 41.
\textsuperscript{153} Supra note 85 at 64.
\textsuperscript{154} Supra note 80 at 110.