CHAPTER 2
HISTORICAL BACKGROUND OF LOCAL SELF-GOVERNMENT

The concept of local self-government in one form or the other has been prevailing for several centuries in Bengal. In ancient India, the village panchayat system had been an integral part of Indian society. These Panchayats were living institutions with some clearly identifiable functions. These were the sources of indigenous system of village democracy.¹ The well-arranged rural communities were regarded as "Little Republic".² For the present study the evolution of local self-government in Bangladesh has been discussed in two sections, one section deals with the British period while the other is with the Pakistan era.

2.1 THE BRITISH PERIOD

With the decline of Mughal empire, India came under the British rule. During the British rule, the power of the village self-governing institutions that Bengal had inherited from the past, to a large extent, lost their historic position. The creation of a new class of

landlords, Zamindars, through the permanent settlement by Lord Cornwallis in 1793, was mainly aimed at collecting revenue without any hindrance. That, no doubt, served the interest of the British rulers but it drastically cut the rights of the rural masses that they held previously. Because of the immense power of the Zamindars, the rural institutions gradually lost their vitality.

The origin of the present structure of local self-government can be traced from the British period when certain important acts, which had far-reaching consequences, were enacted. In 1870, a resolution was issued by Lord Mayo which extended the possibility of expansion of local self-government by increased association of Indians in administration. On the basis of that resolution The Village Chowkidari Act, 1870 was passed which laid the foundation of rural local self-government in Bengal. The body constituted under the Act was known as Chowkidari Panchayat. Under this Act, the

District Magistrate could appoint not less than three and not more than five residents from the area as members of Chowkidari Panchayat. This Act created the post of a Chairman who was elected by the members of Panchayat.⁴ The term of the Panchayat was of three years.

The authority could compel anyone to become a member of Chowkidari Panchayat. In case of refusal to serve as a member, a person could be fined an amount upto rupees fifty.⁵ The main functions entrusted to this body were to maintain law and order in the village area with the help of Chowkidars, and also the assessment and collection of taxes(chowkidari). Some drawbacks of the system like the obligatory nature of membership, absence of representative character, improper method of realization of taxes adversely affecting the poor people, inability of undertaking development activities etc. were the main causes that rendered the system ineffective. In fact, this system was not established with a view to strengthen the base of local self-government rather as an agency of the

⁴ The Village Chowkidari Act, 1870,Secs.3(1) & 9.
⁵ Ibid., Sec. 8.
British government for helping it in administration.\(^6\)

Lord Ripon was probably the first British official who created a new era in the history of local self-government. He presented his ideas in the form of a resolution regarding local self-government in 1892, and was of the opinion that the constitution of such a body would create the scope of direct participation of the people in governmental affairs with greater interest. The improvement of administration was not the primary concern of Ripon's resolution rather it served as an instrument of political and popular education\(^7\). He advocated the creation of elected local bodies, provision of non-governmental members and Chairman in them, and was of the opinion that these bodies should be kept free from government interference\(^8\).

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Due to its democratic nature Ripon's reform was accorded a warm welcome by the stratum of politically conscious Indian society. In fact, Ripon was the real founder of modern local self-government in undivided India. A bill partially based on Ripon's resolution was introduced in Bengal Legislature in February, 1883, and was finally passed into a law on 4th April, 1885 known as the Act III(B.C.) of 1885. The Local Self-Government Act of 1885 contained a three-tier system of rural local self-government:

1. Union Committee at union level.
2. Local Board at an area not larger than a sub-division, (sub-division was an administrative unit existing between a district and a police-station or thana)
3. District Board at district level.

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11. In this connection, it may be mentioned that the former Chowkidari Panchayat was not abolished, and both these bodies Chowkidari Panchayat and Union Committee were existing simultaneously.
Union Committee, the lowest tier of rural local self-government, was constituted for a group of villages. It consisted of minimum five and maximum nine members.\(^1\) They were to be elected by the residents of the union. Initially there was no provision of a Chairman in the Union Committee. But in 1908, by an amendment, the post of Chairman was created. The Chairman, under this amendment, was to be elected from amongst the members subject to prior approval of the District Board.

The motive behind the provision of the formation of Union Committee under the Act of 1885, was the development of the rural areas. The Committee performed the task of management of primary schools, maintenance of village roads, sanitation facilities, keeping account of birth and death rates and some matters directed by the Local Board. But in practice, no significant step towards development activities was taken. The main cause of failure of the Union Committee to successfully emerge as the self-governing institutions are e.g., excessive

official control of superior bodies, absence of well-defined duties, the existence of more or less similar type of bodies (i.e. Chowkidari Panchayats), paucity of fund, absence of any guiding and advising agency etc.  

The Local Board, a local self-government unit at the sub-division level, was introduced for the first time in this sub-continent by the Local Self-Government Act, 1885. The number of the members of the Local Board was determined by the government, but that could not have been less than six. Two-third of the total members were to come through election by an electoral college consisted of the members of the Union Committee and one-third through nominations. Only those male citizens had the right to vote for the Local Board elections who paid at least Rs.5/- as annual tax. The members of the Local Board were to elect their Chairman from amongst themselves subject to the approval of the Lieutenant Governor.  

15. Ibid., Part 1, Chapter 1, Sec.25.
There was also the provision of a Vice-Chairman, who was also to be elected from amongst the members.\(^{16}\)

The Local Board had a very limited power. It could exercise only those specific powers that were entrusted by the District Board.\(^{17}\) The Board had no independent financial authority or sources of income. It could only receive reports from the Union Committees.\(^{18}\) Practically speaking, all the functions were in the hand of the District Board, and the Local Board was merely its agent and entirely dependent on it.

*The Local Self-Government Act, 1885* made the provision of a District Board at the district level. The number of its members was determined by the government but its strength was not to be less than nine.\(^{19}\) The number normally varied from 18 to 34, according to the size and

\(^{16}\) *Ibid.*, 26(1)

\(^{17}\) *Ibid.*, Chapter II, Sec. 101.

\(^{18}\) Tepper Elliot, *Changing Pattern....*, p.22.

\(^{19}\) *The Bengal Local Self-Government Act of 1885*, Part I, sec.7.
population of the district. Two-third of the members were elected while one-third was nominated. Nominated members were of two types viz., official and non-official. Nomination was made by the Divisional Commissioner. The tenure of the members of the District Board was three years.

The Chairman of the District Board was appointed by the provincial government. The District Board was entrusted with several functions related to public welfare and utility, like education, communication, relief, census, health and sanitation etc.

An examination of the working of local self-government institutions created under the Act of 1885 shows that large scale official control created hindrances in the successful operation of Local Board and District Board.

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20. The Local Board was to act as an electoral college, where Local Board did not exist all members of the District Board were nominated.


In practice, the Act of 1885 was a half-hearted attempt to introduce local self-government. It failed to reflect the proposals elaborately made in Ripon's resolution which intended to involve local populace in the process of decision-making. On the one hand, the powers of the local self-governing institutions were limited and on the other, the central control over them was too tight to allow them work properly.

It was under these circumstances that an administrative reform became imperative and, therefore, the British Parliament constituted a special inquiry commission (The Royal Commission Upon Decentralization, 1907) consisting of senior and experienced administrators of I.C.S Cadre for the purpose of extending more autonomy to the local bodies. The Commission in its report proposed the creation of a scheme of three-tier local bodies (district, below sub-district or sub-division and union level) to further augment local self-government and decentralization of power. The commission in its report suggested to create a local self-government unit below the sub-district level and recommended to make it the primary unit of local administration. For District Board was also
to continue but with a diminishing power under the proposed set up. At the lowest level, the proposal of merging the Union Committee and Panchayat into a single elected village Panchayat was emphasized. But the British government did not take effective steps to implement it.

In 1913, the Government of Bengal appointed another inquiry committee consisting of a group of senior civil servants headed by E.V. Livinge, C.S.I, I.C.S., member of Executive Council, Bihar and Orissa. The Committee submitted its report in May, 1914. While examining the working of the local self-governing institutions the Committee observed that they were out of touch with the local conditions. These local bodies under the existing system had neither knowledge nor interest and responsibility to operate themselves successfully. The main recommendation of the Committee to remove the existing deficiencies was like that of the Royal

23. The other members of the Committee were:

i) H.V. Lovett, C.S.I., Commissioner, United Provinces.
ii) N.D. Beatson Bell, C.I.E., Commissioner, Bengal.
iii) K.C. Dey, I.C.S., Collector, Bengal
iv) C.E. Low, C.I.E., Assistant Collector, Bengal.
v) E.N. Blandy, Assistant Collector, Bengal.
Commission upon Decentralization. It also advocated the abolition of Local Board as it was proved to be an ineffective institution. The formation of 'Circle' within a sub-division was suggested, where the population or the area was unwieldy to be looked after. At the same time the District Board was not considered to be a sound unit. The Union Panchayat at the lowest level, was designed to be a real working body.

The Report suggested to increase the elected members at almost all levels in order to have their majority in the local bodies. It also suggested that the Panchayat should be endowed with civil and criminal jurisdiction in petty cases, some administrative powers in the field of sanitation, education and permissive power of

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imposing local rate. The Report laid great stress on the independent financial power of local bodies of levying rates, fees and passing their budgets. Sir S.P. Sinha introduced a bill in Bengal Legislative Council on 24th April, 1918 with a view to widening the area of local self-government. The bill proposed to abolish the existing Chowkidari Panchayats of 1870 and Union Committee of 1885, and replace them by a new local self-government unit called Union Board. Sir Henry Wheeler placed the bill to the Select Committee on 21st January, 1919. Shortly afterwards, that bill became Act V of 1919 (The Bengal Village Self-Government Act, 1919).

Under the Bengal Village Self-Government Act, 1919, the Union Board was made the lowest unit of rural local level administration. The authority (state government) would demarcate local areas and declare these as unions. The number of the members was not to be less

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27. Ibid., pp.126-128, paras 195-196.

28. The Bengal Village Self Government Act, 1919, part I, Chapter III, Union Board, Sec.5.
than six and more than nine.\textsuperscript{29} One third of the members was to be nominated by the District Magistrate. Two Hindu members were nominated by the District Officer where the majority of members were Muslims and two Muslim members, where the majority was Hindu.\textsuperscript{30} The system of nomination was obviously undemocratic but under the given condition it was designed to ensure proper representation of minorities. The rest of members were to be elected.

Male residents over twenty one years of age in the Union and paying a cess of annas eight or more as union rate, or possessing some educational qualifications were eligible to exercise vote and also to be elected.\textsuperscript{31} Each Union Board had to elect a President and a Vice-President from amongst its members. President, the chief executive of the Board, presided over the meetings and

\textsuperscript{29} The Bengal Village Self-Government Act 1919, Part I, Chapter III, Union Board, Sec-5.
performed all administrative responsibilities. The term of
the board was four years.\(^{32}\) Welfare functions, like
sanitation and public health, construction of roads,
bridges and waterways, establishment and maintenance of
schools and dispensaries etc. were to be undertaken by the
Union Board. The maintenance of rural peace through
village *Chowkidars* and *Dafadars* was a compulsory function
of the Board. The Board also had to supervise and collect
the union rates to pay *Chowkidars*.

The main undemocratic features of the Union
Board were limited voting and deprivation of women from
enfranchisement. The process of open ballot system was yet
another shortcoming of the Act. In the presence of
influential candidates, supported and backed by local
*zamindars*, an ordinary voter could hardly exercise his
right of voting freely.\(^{33}\) The supervision of work of
employees rested with the Board while the authority of

\(^{32}\) The Bengal Village Self-Government Act, 1919, Part I,
Chapter II, Union Board Secs. 1, 8, & 9.

\(^{33}\) Muzaffer Ahmed Chaudhuri, *op. cit.*, p. 11.
appointment and dismissal was exercised by the District Magistrate. Further, low salary and adverse service conditions created disappointment among the staff. Most of the welfare functions could not be performed due to acute shortage of funds accentuated by financial mismanagement.

The Village Self-Government Act, 1919 undertook specific steps for the improvement of Local Board. However, for all practical purposes, no substantial change was introduced and ultimately they were abolished in 1936. Local Board was allowed to continue only in Sylhet, where Union Board and District Board were not in existence.

The Village Self-Government Act, 1919 partially implemented the suggestion of Lord Ripon. Instead of introducing a new-reformed system it brought a slight change in the organizational and administrative sphere of District Board. Generally the number of the members of the District Board varied from 18 to 34 which was to be

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34. More Local Boards were established, the number of members were increased. These bodies were entrusted with the task of construction and maintenance of village roads and village sanitation.
finally determined by the government. One-third of the members was nominated and two-third were indirectly elected by an electoral college constituted by the members of the Local Board. The tenure of the Board was five years. 35

The only democratic provision in the Act was the creation of the post of an elected Chairman from amongst the elected members subject to the approval of the government and also one or two elected Vice-Chairmen from amongst the elected members. The Chairman was the executive head of the Board. The District Board was entrusted with some developmental activities relating to communication, health, sanitation and education of the area.

But the set up of the District Board could not be claimed to be fully democratic. 36 And some inherent

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35. S.D.Khan, op. cit., p.5.
36. The provision of nominating one-third of members and final approval of the government regarding the election of the Chairman were out of democratic principle. Worth-while change as far as the organization, function and other aspects of local self-government were concerned which was ever seen earlier.
limitations, e.g., lack of co-ordination between the nominated and elected members, poor salary, and adverse service conditions, may be held responsible for the failure of the Board to make a mark as a successful local self-governing body.

Inspite of the above limitations it can be concluded without dispute that the 1919 Act did make some worthwhile changes as far as the organization, function and other aspects of local self-government are concerned.

In developed countries the purpose of local government has been to meet the challenge of changes and political expectations and to ensure consequential growing of democratic movement. But in undivided India the British attitude was far from being positive.

The British rulers were mainly concerned with law and order, and least bothered about the concept of welfare administration. They ostensibly established rural self-governing bodies to involve the people in governance of local problems in a small way and also to maintain hegemony of the government. The idea was simply to manage
the petty affairs connected with local interest. 37

It was not an honest process of decentralization, of course, the reform proposals initiated by Lord Ripon and others were really intended to enhance the power of the local bodies but the British rulers were less sincere in implementing those. The vast majority of Local Anglo-Indian officials were conservative and supported paternal administration. The administration continued to be centralized inspite of devolution of small power. In this way, the bodies could not flourish and failed to be effective local self-governing institutions. Hugh Tinker rightly observed that "Indian Local Self-Government was still in many ways a democratic facade to an autocratic structure." 38


38. Hugh Tinker, Foundation..., pp.44 & 70.
2.2 PAKISTAN PERIOD

In 1947, the British rule in the sub-continent came to an end, and Pakistan and India, two separate states were created. In the post-partition era the development of local self-government in East Pakistan can be divided into two phases. From 1947 to 1958 and from 1958 till the independence of Bangladesh (1971).

2.21 PHASE 1 (1947-58)

From 1947 upto the promulgation of Martial Law in 1958, the administrative pattern of the local self-government in East Pakistan (Now Bangladesh) was more or less the same as it was during later part of British regime except a few changes here and there.

In 1956, the then East Pakistan government appointed S.D. Khan, a bureaucrat, to survey and examine the problems of local self-government and also to suggest remedial measures. The main recommendations of the committee were: abolition of nomination system, introduction of universal adult suffrage and two tier system of local bodies, i.e., Union Board and District Board, in rural areas.
The recommendations were accepted and this was a great break-through towards the process of democratization of local self-government.

However, the rural local bodies (under the scheme) were not yet successful in managing the local administration. The structure and working of the administrative machinery was inherently defective like the past colonial rule and little else was done to modernize it or to incorporate institutional changes. In 1960, the Academy for Rural Development (Peshwar) undertook a comprehensive study and analysis to find out the cause of the failure of local self-government in both the rural and urban areas of Pakistan.39

From the study it was revealed that the unsympathetic attitude of the bureaucracy towards the councillors, who had little experience in administration, happened to be a major hindrance in successful operation of local bodies. Pakistan had practically to wrestle with

the problem of authoritarian tradition of concentrating power in few hands with increasing corruption among the officials and apathy among the masses who appeared to have resign to fate. The councillors of the local bodies were generally inexperienced, illiterate and incapable of the task before them. The electorate were equally ignorant and suffered from factionalism which greatly influenced their political participation and involvement because of which they could hardly elect the right type of representatives.

Further, personnel administration too, was defective. As there was neither a regular independent recruiting agency nor properly organized recruiting procedure. Consequently, the unscrupulous politicians unabashedly indulged in nepotism and favouritism. Yet another drawback was fledgling financial system which put the local bodies in tight corner and constant strains.
On 27th October, 1958, the Commander in Chief of Army, **Ayub Khan**, assumed the full power of the government. Later he declared himself the President of the country. The new government abrogated the constitution and instituted Martial Law. An attempt of sweeping reform was taken up by military ruler. Subsequently, new local self-government was introduced, by the *Basic Democracies Order of 1959*. The President announced to the nation that the new system was designed to prepare the base on which an upward pyramid of a sound political system could be developed. Justifying the nomenclature of the new system he said "We have given it the name of Basic Democracies for the obvious reason that we want it to grow and evolve from the first rung of the political and economic ladder so that it finds roots deep among the people starting at the village.


level." The new system introduced a four tier hierarchical system of local self-government in East Pakistan. In descending order it was (1) Divisional Council (2) District Council (3) Thana Council and (4) Union Council.

The following table gives the total number of rural local bodies in different levels in East Pakistan.

<table>
<thead>
<tr>
<th>The Institutions of Basic Democracies</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Divisional Councils</td>
<td>4</td>
</tr>
<tr>
<td>District Councils</td>
<td>17</td>
</tr>
<tr>
<td>Thana Councils</td>
<td>393</td>
</tr>
<tr>
<td>Union Councils</td>
<td>4,036</td>
</tr>
</tbody>
</table>

2.221 UNION COUNCIL

A union consisted of a group of villages comprising about 10,000 to 15,000 population. Union Council, the corresponding local self-government unit in

43. Ibid., p.22.
44. Muzaffer Ahmed Chaudhuri, op. cit., p.56.
union level was at the bottom of the hierarchy of Basic Democracies in the rural areas. The Council had 10 to 15 members. Table No. 2 shows the number of Union Councils in each district.

**TABLE NO. 2**

**DISTRICT-WISE NUMBER OF UNION COUNCILS**

<table>
<thead>
<tr>
<th>District</th>
<th>Union Councils</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dhaka</td>
<td>352</td>
</tr>
<tr>
<td>Faridpur</td>
<td>261</td>
</tr>
<tr>
<td>Mymensingh</td>
<td>543</td>
</tr>
<tr>
<td>Barisal</td>
<td>306</td>
</tr>
<tr>
<td>Chittagong</td>
<td>223</td>
</tr>
<tr>
<td>Noakhali</td>
<td>170</td>
</tr>
<tr>
<td>Comilla</td>
<td>349</td>
</tr>
<tr>
<td>Sylhet</td>
<td>287</td>
</tr>
<tr>
<td>Chittagong Hill Tracts</td>
<td>45</td>
</tr>
<tr>
<td>Rangpur</td>
<td>324</td>
</tr>
<tr>
<td>Dinajpur</td>
<td>148</td>
</tr>
<tr>
<td>Pabna</td>
<td>150</td>
</tr>
<tr>
<td>Rajshahi</td>
<td>249</td>
</tr>
<tr>
<td>Bogra</td>
<td>135</td>
</tr>
<tr>
<td>Kushtia</td>
<td>105</td>
</tr>
<tr>
<td>Jessore</td>
<td>188</td>
</tr>
<tr>
<td>Khulna</td>
<td>203</td>
</tr>
<tr>
<td>Total Districts 17</td>
<td>4032</td>
</tr>
</tbody>
</table>


COMPOSITION

Under the original Basic Democracies Order two-third members of the Council were elected and one-third nominated. The nomination system was in practice from 1960 to 1964 and after that it was abolished and the body was made fully elective. The Council had to elect one of its members as Chairman, in a meeting presided over by the Circle Officer (Development) concerned, or any other government official authorized by the government. He (the Chairman) was to be paid an honorarium of Rs. 600/- per annum from the fund of the union in equal quarterly instalment of Rs. 150/- each. The tenure of the Council was five years. The Chairman and the members had to take oath in prescribed form before taking their seats in the Council.


Removal and Resignation

A member could vacate his office by submitting resignation to the Chairman and in case the resigning member himself is the Chairman, he could tender his resignation to the controlling authority, i.e., Sub-divisional Officer. A Chairman or member could only become liable to removal from the membership if he was guilty of an abuse of power or misconduct or, if he, without reasonable excuse absented himself from three consecutive meetings, or became physically incapable to discharge duties.

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Decision and Conduct of Business

Decisions and policies of the Union Council were formulated in its meetings. The meetings were to be held at least once in a month but special meetings could be convened at the request of one-fourth of the members. One-third of the total members constituted the quorum for an ordinary meeting and half for a special one. All decisions of the Council were taken by a simple majority of members present, and were to be conveyed to the controlling authority within a prescribed period.

In 1968, the Local Council Service Rules were formulated for a systematic and precise personnel administration. But these rules were not implemented, for political reasons. Personnel administration was regulated by certain rules framed by East Pakistan Government on the basis of general direction in respect of Basic Democracies Order. There was a post of a Secretary for every Union Council, who could be a whole-time/part-time employee or honorary functionary. He had to perform office-work subject to general supervision and control of the Chairman.
and direction of the controlling authority. 50

Besides, Union Council had to maintain village police force which played an important role in rural administration since the British period. Chowkidars and Dafadars were jointly designated as 'village police'. Later on, the Basic Democracies Order renamed the former Chowkidar as Mohalladar. The number of village-police personnel was equal to electoral units under the Union. 51 Normally, Mohalladars were promoted to the post of Dafadars (on the basis of merit-cum seniority) but there was a provision for direct recruitment also and the process was similar to the selection of Mohalladar.

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The Secretary of the Council was responsible for:

a) Management of office of the Union Council.
b) Correspondence on behalf of the Union Council.
c) Maintenance of all records of the Union Council.
d) Receipt and collection of all money-taxes, rates, fees and tolls on behalf of the Council.
e) Maintenance of accounts.
f) Custody of the property of the Council.
g) Performance of such other functions as specified by the Union Council or controlling authority.

Their pay was determined by the Union Council which was paid out of its own fund. But the controlling authority could reduce the amount if considered excessive. The Union Council was empowered to punish village police with concurrence of Thana Council for gross negligence of duties, corruption and misconduct. Village police was under dual control; on the one hand, it was under the Officer-in-Charge of the Police-Station for the activities directly related to maintenance of law and order and, on the other, it was under the control of the Chairman of the Union Council for other activities. But this was unrealistic and the loyalty of the functionary was divided and accountability became a casualty. Further, the two controlling agencies had virtually no mechanism of co-ordination and a sense of rivalry persisted between the two. The two vied with each other to establish their superiority.

FUNCTIONS

The functions assigned to the Union Council were stated in Articles 27 to 30 of the Basic Democracies Order. Schedule III of that Order enlisted 37 developmental functions to be performed by the Council, which represented different sectors like agriculture,
industry, education, sanitation and community development. Moreover, it could undertake any other measure likely to promote the welfare, health, safety, comfort and convenience of the inhabitants of the union or of visitors. Thus, it appears that Union Council was assigned a wide range of functions and hardly any aspect of village life remained beyond its purview.

The Muslim Family Law Ordinance promulgated in 1961, added new functions of great importance to Union Council.


53. Under the Ordinance, the Union Councils were entrusted with the following functions:

a) Registration of Marriage - marriage solemnized under Muslim Law will be registered by the ‘Nikah Registrar’ who was to be granted licence by Union Council. (Secs.5(1)&(2).

b) Regulation of Polygamy - the Ordinance attempted to regulate polygamy and required that any person who wanted to contact a second marriage should have to approach the Chairman of the Council who obtaining the prior consent of the first wife, constituted an Arbitrary Council to take a final decision (sec. 6).

c) Divorce - Chairman of Union Council had a substantial authority in the affair of divorce (sec. 7)

d) Maintenance of Family - The wife could lodge complaint to the Chairman of the Union Council if the husband failed to maintain the wife and in that case Chairman took decision by constituting Arbitrary Council [Sec.9(1)].
It has earlier been envisaged that under the Basic Democracies Order, 1959, watch and ward was the compulsory function of Union Council, and village police performed an important role in maintaining law and order situation in rural areas. They were supposed to assist the village revenue officials in the collection and recovery of rent, land revenue, taxes, rates, tolls etc. as well as to perform duties related to administrative affairs of Union Council.

The Conciliation Court Ordinance, 1961 empowered the Union Council with some judicial power of dealing minor disputes and offences pertaining to civil and criminal codes.54

An interesting and notable feature in respect of functions of Union Council is the direct involvement of

54. The Court was established with a view to amicable conciliation of the problems of parties. It consisted of one Chairman (Chairman of the Union Council) and two representatives nominated by both parties in dispute and between them one must be the member of Union Council (Secs. 5(1) & (2). The Court had to deal with both civil and criminal cases. Generally, the court had no power to pass a sentence of imprisonment or fine, but it could ask a guilty person to pay an amount not exceeding Rs 250 and in some special cases more than Rs. 250/- but less than Rs. 500/-.
the members of this rural local institution in national politics. The members of Union Council constituted an electoral college for the election of the President of Pakistan and members of the national and provincial legislatures. Critics are of the opinion that Union Council was created as a launching-pad in order to consolidate the position of the ruler.55

FINANCE

Taxes, Rates, Tolls and Fees

The main sources of income of the Union Council were: a) local rates b) taxes, tolls and fees and c) government grants.

Local rates were imposed and fixed to all lands assessable to rent or land-revenue by the government in a gazette notification.56 Union Council with the prior

55. Members of Union Council were to participate in referendum in case of difference of opinion between the President and National Assembly (Art. 24 of the 1962 constitution). The Chairman of the Union Council had also to elect the members of District Council.

sanction of the Commissioner could levy taxes, rates, tolls and fees as enumerated in the Fifth Schedule of the Basic Democracies Order. Besides these, the Council received annual grant which constituted a substantial part of the income.

Budget

Union Council had to prepare its annual budget which was to be considered and passed at its special meeting and submitted to the controlling authority by the first of June. If the budget was not prepared and sanctioned before the scheduled period, the controlling authority had the power to prepare and certify it and such certified statement was deemed to be the sanctioned budget of the Council.

57. Notification No. X/UZ-44/60/301, 11th June 1960, specified 23 items on which taxes, tolls and fees (as mentioned in Article 60 and Fifth Schedule of the said order) might be levied.

Audit

A complete audit of the account of Union Council for the preceding year was to be conducted by the Circle Officer or any other person appointed by the government. A copy of the audit report was to be submitted to the controlling authority not later than 31st December. 59

Local Fund

Local fund is yet another special feature of Union Council during the Basic Democracies period. The Council had to form a 'Local Fund' like the consolidated

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fund of the government. The Fund included:

a) the balance placed at the disposal of the Union Council by the previous local body;
b) the proceeds of all taxes, rates, tolls, fees and other charges levied by the Council under law;
c) all rents and profits payable or accruing to the Council from the property vested in or managed by the Council;
d) all sums received by the Council in the performance of its functions under law;
e) all sums contributed by individuals or institutions or other local councils, or by local bodies or other local authorities;
f) all receipts accruing from the trusts placed under the management of the Council;
g) all grants made by the government and other authorities;
h) all loans raised and all profits from investments; and
i) such proceeds from such sources of income as the government directed to be placed at the disposal of the Union Council.
The government had excessive control over the entire functioning of Union Council. The Provincial government had to issue circulars from time to time in order to implement the Basic Democracies Order. The controlling authority could adopt any positive step for carrying out its (Basic Democracies) objectives. The Sub-divisional Officer had the power to quash proceeding of the Union Council, suspend the execution of any resolution passed or order issued by it, or direct it to take such measures as might be specified. In case the Council failed to oblige the direction, the Sub-divisional Officer could appoint any other person to do the work. Thus, the government had a thorough control over Union Council. The controlling authority also exercised a considerable influence in respect of removal and election of Chairman and members, as well as in the appointment, suspension and dismissal of the secretary and other functionaries. The power of the transfer of the Council-functionaries was also in the hand of the controlling authority, and the

61. Basic Democracies Order, Chapter-II.
them.

Union Council as the representative body had an ample opportunity to be an effective and strong local self-governing institutions at the grass-root level. But in practice, a number of limitations stood on its way to success.

Shortage of fund is a major handicap of local bodies in almost all developing countries and the then East Pakistan was not an exception. The Union Council could not levy taxes upto 1962 due to the vague policies of the government. However, in 1962, the policy was clarified and the imposition of tax by Union Council was permitted. Income from the taxes was supposed to constitute 60% of the estimated revenues. But the requirement of the prior consent of the Commissioner in the process of taxation had been an insurmountable hurdle. Moreover, the levied amount was not properly collected in time. The reasons for the non-collection of taxes specified by the Chairmen of 27 Union Councils are shown
by the following table.\textsuperscript{62}

<table>
<thead>
<tr>
<th>REASONS FOR NON-COLLECTION OF TAXES</th>
<th>NO. OF UNION COUNCILS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Taxes were not approved by the controlling authority</td>
<td>15</td>
</tr>
<tr>
<td>2. Taxes could not be collected in time for various reasons</td>
<td>5</td>
</tr>
<tr>
<td>3. Taxes were not levied in accordance with rules and regulations and rejected by the controlling authority</td>
<td>3</td>
</tr>
<tr>
<td>4. Inadequate arrangement for collection of taxes</td>
<td>2</td>
</tr>
<tr>
<td>5. Taxes far beyond the capacity of poor tax payers</td>
<td>1</td>
</tr>
<tr>
<td>6. Collection of taxes was likely to generate hatred and apathy against the Chairman</td>
<td>1</td>
</tr>
</tbody>
</table>

This was more or less the picture throughout the province (East Pakistan). The only assured income was the

land cess. The long-list of multifarious functions of Union Council for accelerating socio-economic development had virtually over-burdened the Union Council. The Council, therefore failed to perform most of its functions properly. The main reason behind the failure was therefore, the paucity of required funds. Government grant, however, sustained the financial position a bit.

Further, government control over budget may be regarded as a negation to the principle of autonomy over local bodies. Regular auditing was also not carried out because of the negligence of the authority concerned.

The Chairmen and members of the Union Councils, being the part of electoral college for the election of the President of Pakistan and members of legislature

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merely became agents of government in rural areas\textsuperscript{64} which diverted their attention from local affairs to national politics.

It has been found from the report of PARD (Pakistan Academy for Rural Development) that the attitude of bureaucrats towards the members of Union Councils was unsympathetic and non-cooperative. This report showed that the government officials consulted only the Chairmen of Union Councils and cared less about the members which created their alienation from decision-making process.\textsuperscript{65} Thus, the members became indifferent and apathetic regarding local interest. Closer relations between the Chairman and the administration further accentuated the position and widened the cleavage.\textsuperscript{66} Moreover, the

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honararium of the Chairman was also viewed as an extra burden on the already meagre resources of Union Council and created a schism. That ultimately resulted a sense of jealousy and competitive tendency between the Chairmen and members. Members gradually became desirous of leadership because of the recognition by the official, the power to distribute loans and relief, control over the chowkidars, and the preparation of budget. The Chairman and the members generally considered the Council as an appendix, or, at the most an extension of the government and consequently, they took little interest in implementing the programmes or carrying out the welfare schemes.

2.222 THANA COUNCIL

Thana Council as a local self-government unit was created at thana (police-station) level under the Basic Democracies Order, 1959.

It consisted of non-official as well as official members. The Chairmen of Union Councils and Town Committees within the thana were non-official members of the Council by virtue of their posts.

Different thana level officers belonging to the departments of agriculture, fisheries and co-operatives were the official members of the Council. The total number of official members was not to be more than that of its non-official members. The Sub-divisional Officer was an ex-officio member as well as Chairman of the Council. And the Circle Officer (Development) acted as the Vice-Chairman of the Council. The main function of the Council was the co-ordination of the working of two other bodies - Union Council and Town Committee.

The Thana Council was accountable to the concerned District Council for its activities.

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Thanja Council did not have its official establishment. One of the official members acted as its Secretary. His duty was to record the minutes of the meeting of the Council and also to circulate their agenda.

Thanja Council did not have independent source of income as it had no power of levying taxes. Of course, the Council had a little financial requirement.

Except the maintenance of a small office it had no other scope of spending money as no specific function was assigned to it. There had been, however, an adhoc grant to meet the routine-expenditure.

From the above it is apparent that Thana Council, though it was partially a representative body, was directly controlled by the local bureaucracy and, thereby instead of being agencies of local self-government functioned as an 'official' institution.

2.223 DISTRICT COUNCIL

Above Thana Council, District Council was the next higher body in the hierarchy of Basic Democracies.
Its predecessor, the District Board, was predominantly an elected body, having an elected non-official Chairman and a maximum number of elected members. Later on, on the basis of the Ordinance No. 1 of 1956, the provision of nomination to the District Board was abolished and a system of universal adult suffrage was introduced by a decision of the Cabinet.\(^{69}\) In 1958, the promulgation of Martial Law abruptly obstructed the process of democratization in the field of local self-government.

**COMPOSITION**

Under the *Basic Democracies Order*, the Board was re-designated as District Council and it was placed under the chairmanship of Deputy Commissioner with a handful of official and nominated members. The number of nominated official members and elected members might be fixed by the Commissioner, which usually varied between 30 to 45 in accordance with the size and population of the district.

The Chairmen of the Thana Councils and Municipal bodies in the District, and the heads of nation-building government departments such as co-operative, education, agriculture, health, fisheries, animal husbandry and the Engineering were official members (ex-officio) of District Council.\textsuperscript{70}

The elected non-official members of the Council were to be elected by an electoral college consisting of the Chairmen of Union Councils and Town Committees\textsuperscript{71} within the district and their number could not be less than the official members. The Vice-Chairman was to be elected from amongst the elected members of the District Council.\textsuperscript{72}

FUNCTIONS

District Council performed a wide range of functions covering almost all spheres of local affairs.


\textsuperscript{71} Earlier under the Basic Democracies Order, these non-official members were initially chosen from amongst the Chairmen of the Councils and of Town and Union Committees in the district, Art. 15(3).

\textsuperscript{72} The East Pakistan District Council (Election of Vice-Chairman) Rules 1967 no. S-XIII/ZR-1/17/181, the 28th September 1967.
The functions of District council were divided into two categories: Compulsory and Optional. There were twenty-seven mandatory civic duties to be performed by District Council which were more or less similar to that of District Board. The Compulsory functions of District Council included provision and maintenance of libraries, hospitals, dispensaries, public roads, culvert and bridges, plantation and preservation of trees on the roadside and public places, provision and maintenance of public gardens, play-ground and public places, public ferries, cattle-ponds, rest houses, prevention of encroachments and nuisances; promotion of sanitation and public health, prevention of adulteration, registration of marriages, provision of water supply, agricultural and industries, regulation of traffic, improvement in cattle-breeding, and relief measures in the event of calamities. Optional functions included a variety of socio-economic and cultural activities of the region (Appendix-2). Besides, the Council was also to co-ordinate the activities of all local councils, municipal bodies and cantonment boards within its jurisdiction and it had also to review the general progress in various branches of
administration within the district. Moreover, the Council had to formulate local development schemes and place them for recommendation of the Divisional Council or the relevant authorities. It had to consider important local problems and offer suggestions for development and general advancement.

FINANCE

The Basic Democracies Order provided a consolidated local fund (District Fund) which included common pool of revenue and other sources of income.

73. Basic Democracies Order, Art-37.
74. District Fund was to contain:

a) The balance left by the previous local body.
b) The proceeds of all taxes, rates, tolls and fees and other charges levied by local council.
c) All rents and profits payable or accruing from the trust placed under the management of local council.
d) All sums received by the local council in the performance of its functions under law.
e) All receipts accruing from the trust placed under the management of local council.
f) All grants made by the government and other authorities.
g) All loans raised and all profits accrued from such investment.
h) Such proceed from such sources of income as government might direct to be placed at the disposal of local council.
Cf. The Basic Democracies Order, Part III, Chapter I, Art.48.
Local rates, taxes, tolls, fees, government grants and loans were the sources of income of District Council.

The items on which District Council could levy taxes, rates, tolls and fees were mentioned in Article 60 and Fifth Schedule of the Basic Democracies Order.

Budget was to be prepared by the Council before the commencement of every financial year. The first draft of budget was prepared by the Accountant of the Council. It was then placed to the Secretary of the Council for examination and scrutiny. Before the placement of budget to the District Council for its approval, it was to be okayed by the Finance Committee. A copy of its budget was to be submitted to the controlling authority for final approval. The Divisional Commissioner, as the controlling authority, had the power of modification in it.

CENTRAL CONTROL

The District Council under Basic Democracies Order was constituted in such a way that little hold remained with the public representatives in its affairs.
Its administration and development programmes were, in the hands of the government officials and Deputy Commissioner was its chief executive. Government officials being accountable to the central government always kept themselves busy to serve the interest of the centre. Having just from a glance of the mode of functioning of the District Council it appears that in the financial matters like levying and collections of taxes, tolls and fees, approval of budget and audit of accounts and other administrative affairs, the central government had a plenty of control, with the help of the official over District Council.

The set up of District Council under the Basic Democracies Order was not democratic. It was a retrograde step in comparison to the past when the District Board was headed by a non-official Chairman. Moreover, due to excessive official control, the non-official members could hardly play any significant role in the affairs of the District Council. That ultimately resulted in a sense of alienation among those members.

The Deputy Commissioner, in addition to his multifarious duties, could not manage sufficient time for
the District Council and its development activities. Various financial irregularities coupled with inadequate finance brought forth the ineffective working of the local bodies. In 1963, a report on local councils pointed out that District Council suffered from lack of planning, inefficient administration, and acute shortage of funds.75

Thus, it appears that in practice, the District Council was not an organ of local self-government rather a government unit under the district administration.

2.224 DIVISIONAL COUNCIL

Divisional Council, which was at the apex, happened to be the most vital link in the chain of the rural governance between the grass-root Union Council and the Provincial Government.

COMPOSITION

This unit consisted of official and non-official members. The Chairmen of the District Councils and holder

75. Richard O Niehoff and George M. Plalt, Local Government in East Pakistan, a study of District Councils and Municipal Committees made at the request of the Secretary of Basic Democracies and Local Government, January, 1964 (Miemo, MSU) p.3.
of offices as specified by the government like the Divisional Forest Officer, Divisional Inspector of Schools, Superintendent Engineer etc. were the ex-officio official members of the Divisional Council. The number of official members were not to exceed to the total number of non-official members. The non-official members of Divisional Council were to be elected by an electoral college consisted of elected members of the District Council. The Divisional Commissioner was the ex-officio member and Chairman of the Divisional Council.

No separate establishment is required for the Divisional Council. Collection of reports, recording and maintaining minutes of meeting, circulation of agenda were performed under the supervision of an Additional Commissioner in the Commissioner's office.

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76. Earlier, Under Basic Democracies Order, Art. 16(3) half of them were to be chosen from amongst the chairmen of Union Councils and of Town and Union Committees in the Division. But in June 1962, article 16 was amended and a provision for the election of non-official members was introduced.

77. The Gazette of Pakistan, Extraordinary, October, 1959, Art. 16 (4).
FUNCTIONS

The Divisional Council had no assigned or optional function except to help the chain of co-ordination for administrative and development purposes. The Council had to co-ordinate the activities of various departments, local councils, municipal bodies and cantonment boards within the division. It could:

a) formulate and recommend to the Provincial Government important development schemes of the division,
b) review generally the progress in various branches of administration in the division and,
c) consider problems of importance to the division in all branches of administration and suggest measures for development, improvement and general advancement.78

FINANCE

The Council had no independent source of income. It received only adhoc grants to incur incidental costs.

expenditure. Government funds were provided to the Council for the supply of grant to the lower Councils.

According to critics, this body did not possess the character of local self-government, rather it could be regarded as government organization where half of the members were government officials. They were not assigned specific functions nor funds were made available to them. No significant task except co-ordination of local bodies was performed by Divisional Council. But this could easily be performed by District Council that provided the 'effective link between the local bodies and the provincial hierarchy'. The creation of a separate institution for that was quite useless. The senior administrators of Pakistan Staff College were in favour of abolition of this superfluous and non-utilitarian organization.79

Apparently it seems that the institutions under the Basic Democracies Scheme have contributed a lot towards democratization by widening the area of enfranchisement, assigning multifarious developmental

functions, co-ordination of activities etc. But in practice, these were far from being democratic in the real sense of the term.

Under the scheme, Union Council, the primary tier was only given some sort of representative character. But right from the second to fourth tiers of the structure the dominance of bureaucracy was evident which was not conducive to successful operation of local self-government in any way. The continuation of official Chairmen in various levels specially in the district, had been resented most. Further, bureaucrats marked as a separate distinguished class, they considered themselves superior by virtue of their position they did hold. This attitude widened gap between general mass and official involved in local self-government affairs. In reality, the object of inclusion of bureaucratic framework in local council was rendering service through their technical as well as administrative skill and establishing an environment of co-ordination between the elected representatives and themselves. But this did not happen. Moreover, the elected personnel were not capable and efficient enough to run the administration and to resist the undue dominance of their counterparts.
The constitution of the electoral college for electing President and members of legislature probably did not prove the honest attitude of the government and created some discontent. In fact, that was the mechanism through which the regime tried to perpetuate itself.

Basic Democracies were modelled on British institutional set up. The roots were planted in the past. It had a recent application based on traditional framework. Of course, the 'Basic Democrats' were more involved in developmental role than the predecessors. A lot of functions were entrusted with them for which more financial assistance was provided by government. But the amount was not properly utilized. Due to faulty audit system, improper utilization of funds could not be checked. Besides, no serious attempt was made for internal resource mobilization.

The local bodies ultimately could not evolve themselves as a mass-participatory development agencies. Practically, it was introduced by Ayub government to serve the political end, i.e., to legitimize its rule by obtaining mass-support.