CHAPTER 1.

INTRODUCTION
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1.1. General introduction

After the Community Development Programme was launched in 1952, it was realized that without an agency at the village level, which could represent the entire community, assume responsibility and provide the necessary leadership for implementing development programmes, real progress in rural development could not take place. It was against this background that a Committee headed by Balwantrai G.Mehta was appointed in 1957 to make recommendations for the revitalization of the Panchayathi Raj system and define its role in the development process. The report of the Committee recommended that public participation in community works should be organized through statutory representative bodies. Community development can be real only when the community exercises necessary powers through its chosen representatives. Therefore, it recommended the establishment of statutory elected local bodies.

The report of the Committee was influential in creating a three-tier Panchayathi Raj structure with District Panchayath at the top and Grama Panchayath at the bottom. The intermediate tier was co-terminus with Community Development Blocks. Most of the States amended their laws to conform to the recommendations of
the Committee. However, the Panchayath-raj institutions could not function well as elections were either not held or were frequently postponed or they were denied funds or in most of the cases superceded. The Ashok Mehta Committee Report in 1978 was influential in bringing about a shift in emphasis between the first and second generation of panchayaths from development *per se* to local Government in its full meaning. Originally, panchayaths found a place only in the Directive Principles of State Policy. The 73rd and 74th Constitutional Amendments revitalized the Panchayaths and Urban Bodies by giving them Constitutional status, providing for regular elections and reserving 1/3 of seats for women and introducing representation for marginalised social groups.

Serious efforts for decentralised planning started in India long ago and in 1969 the Union Planning Commission issued guidelines for preparation of district plans. Realizing that the planning machinery and competency are not yet developed at the district level, efforts were redirected in the later years to strengthen State level planning process. In the early eighties a Working Group under the Chairmanship of Professor C.H. Hanumantha Rao was constituted to develop guidelines for district plans. Based on the recommendations of this Committee, the Seventh Five Year Plan adopted decentralised planning at the district level as one of the major strategies to achieve plan targets.

The concepts of people's campaign, it is often claimed, was inherited from the gram swaraj idea of Mahatma Gandhi. 'Swaraj' and swadeshi 'meaning self rule and self reliance are essential to Gandhi's political ethic, and they also have institutional implications for him in his picture of a non violent socialist society and a
decentralized policy comprised of village republics (Iyer, 1973). Even though the name of Gandhi often figured in the legitimization of the people's campaign, there is no evidence to suggest that the people's campaign drew its inspiration from Gandhian ideals. However it may be noted that the discourse of genuine democratic decentralization was initiated by Gandhi even before India gained independence and it was in deference to him that Panchayati Raj found a place in Article 40 of the constitution of India. Panchayaths were envisaged as units of self government rather than serving as implementing agencies of the state governments.

1.2. People's planning and people's campaign

_Grama Sabha_ - The necessity to give a practical shape to grassroots democracy became a reality with the introduction of 73rd Constitutional Amendment. It sought to integrate the democratic process at all levels by formalizing an institutional mechanism in terms of three tier structures of Panchayath system supported by Grama Sabha - a village based organization wherein people at all levels would have an opportunity to participate openly in matters which concern their lives and development. The institution of Grama Sabha has been essentially conceived to enable the village panchayaths to provide a concrete shape to the felt needs and aspirations of the village community.

1.3. Functions of Grama Sabha

To approve -

- Village plan,
- Village Panchayath budget,
- Audit report on Village Panchayath,
• List of beneficiaries selected for various schemes,
• To select location of facilities to be created in the village
• To review progress of all schemes implementation entrusted to it,
• To promote communal and social harmony among the various groups of people in the village and
• To mobilize labour and contribution in cash and kind for implementation of various development programmes.

The Grama Sabha will meet at least on four important days as mentioned below in a year, 26th January, 1st May, 15th August and 2nd October. The matters raised in the Grama Sabha are issues related to housing, drinking water, street light burning, construction of drainage, burial ground, laying of roads, plying of bus service, old age pensions and other social welfare programmes besides reading out the receipts and expenditure of the Panchayath and list of beneficiaries selected for the various programmes (Alagh, 1996).

Formulation of District Plan

The formulation of district development plan involves integration of area plans prepared by the rural and urban local bodies with development plans of the sectoral departments in the districts and credit plans prepared by the Lead Bank of the district. The planning methodology involves, the following stages viz.,

• Formulation of objectives and strategies
• Collection of data
• Preparing a District Profile
• Analysis of data, which includes (1) Situation analysis (2) Sectoral analysis (3) Spatial analysis.

• Preparation of area plans by the local and urban local bodies.

• Integration of area plans and departmental plans and credit plans.

• Putting together all the plan proposals and formulating a draft district plan.

• Approval of the District Plan and forwarding to District Planning Committee/State Planning Commission.

In addition to the above, the development plan formulation at each stage requires to ensure

1. Linkage within the three tiers of Panchayaths and urban local bodies.

2. Removal of overlapping/duplications.

3. Preparation of estimates.

4. Estimation of likely employment generation and possible poverty reduction.

5. Environmental check of the impact on the carrying capacity of the resources

Thus the districts planning exercise involves and pose tremendous challenges at district level.

India is no exception to the current sweep of the ‘decentralization idea’ across the world, nor an exception in its attempts at reforming local governance structures. However, this idea of democratizing for local development in India does not have its origins in the recent international enthusiasm for democracy, but in the continuation of a political project that has a historical legacy. The historical
discourses have not been singular; the articulation of at least two opposing political visions is discernible.

1.4. Historical legacies of local government

India has long been a paradox for students of comparative politics (Lijphart, 2001). For anything that has ever been said in its favour, there is a good chance that its opposite has also been asserted (Jayal, 2001). Lijphart (2001) notes three puzzles associated with the continuing success of democratic rule in India. These arise primarily from conditions thought to be most unpropitious for successful democracy. The first follows from John Stuart Mill’s proposition that ‘democracy is ‘next to impossible’ in multi-ethnic societies and completely impossible in linguistically divided countries’ (Mill, 1958). The second is the continued incidence of high levels of poverty and illiteracy, which runs counterfactual to the hypothesized link between levels of socio-economic development and success in maintaining democratic rule. The third is the contradiction between India’s high level of political violence and its success at sustaining a democratic political system.

India has its rightful claims as a functioning democracy evidenced in its commitment to constitutionalism, the continuing rule of law, representative government elected periodically and responsible to the legislature, a robust and free press, an independent judiciary and certain fundamental rights of citizens. However, the existence of conditions that make the continuance of such a ‘functioning democracy’ so puzzling certainly impose many limitations in substantive terms and indicate that fully democratization of Indian Society is still unfinished and emergent. While discussing India’s democratic politics attention is predominantly, if not
exclusively, drawn to the constitution and dynamics of political institutions at the national and state levels. It often escapes notice that these are of a shorter vintage than those at the local level. The principle of elected representation was first introduced at the level of municipal councils and rural boards. When it is said that ‘it is the experience of more than six decades with representative institutions that counted in the process of colonial ‘state formation’ and was the principal distinguishing factor for India among post-colonial countries’ (Chiriyankandath, 2001), there surely is a reference to these institutions at the local level.

Although nationalist scholars and politicians constantly refer back to the ancient times to impart an indigenous legitimacy to the representative institutions of modern India, the more tangible legacy has been the colonial one (Chiriyankandath, 2001). The need to extend the reach of the colonial state, related administrative exigencies and fiscal compulsions were the most proximate causes (Venkatarangaiya and Pattabhiram, 1969). The uprising for independence in 1857 had left the new grown state saddled with debts. It had the twin need of extending the state’s gaze to nip any chance of similar uprising in the bud, while also putting up some semblance of local services for legitimising its continuation. ‘To help it out of these problems, the colonial state turned to ‘democracy’, or rather to representation at the local level…” (Washbrook, 2001). The idea of panchayath was discovered in the Bengal presidency under the Bengal Chowkidari Act of 1870. A system of policing was set up the cost of which was born out of the levies and taxes imposed by the local panchayath consisting entirely of nominated members.
The passage of Lord Rippon’s resolution on local governments in 1882 for the first time paved the way for local boards, consisting predominantly of elected members. Through the recommendations of successive commissions right upto the Government of India Act of 1935, minor modifications were effected in the composition and functions of local governments. They operated at village and district levels, were composed of elected and nominated members, and were responsible for municipal functions as well as for primary education, roads and minor irrigation. However, due to restricted suffrage based primarily on status, privilege and property-holding, the local bodies ‘functioned merely as adjuncts of colonial rule linking the central administration to local vested interests’ (Isaac and Franke, 2000).

There were very interesting and high profile debates in the constituent assembly regarding status of local governments in the state structure of independent India, the Gandhi-Ambedkar exchange being the most famous one. The roots of some current discourses could be traced back to them. But eventually, the Constitution made only an advisory provision and the local governments were all but forgotten till about a decade after independence. During this period, with the elaboration of bureaucratic administrative organization, the modernizing state extended and took upon itself responsibilities right up to the village level. In the face of poor response to community development projects, a committee set up in 1957 recommended the resurrection of local bodies. Since new sub-district units had been set up for development administration, the committee suggested local bodies at three levels.
These were to mobilize popular participation in the development projects. Bereft of any competence to influence the development process whether at policy, programme or project level, and with shifts in priorities of governments, the local bodies began to languish within a decade of their celebrated commencement. Often referred to as the first generation local governments, these were constructed in the image of a political development institutions with only the village level body composed of directly elected members. The other two tiers had indirectly elected and nominated members. Some states had, contrary to the advice of the Planning Commission of India, provided for only two tiers at the village and intermediate (or block) levels. With the coming into office of a non-Congress Party government at the union for the first time, another committee, chaired by Ashok Mehta, was set up to examine the local government issue. This made some far reaching suggestions which included, - a central legislation to make the succession of local governments through regular elections mandatory, treating these as political entities and hence encouraging party based elections and designating the district level government as the basic coordinating and integrating unit of the three tier local government system. Due to premature vacation from office the government could not act upon the recommendations.

However, some states seized the opportunity and patterned their local governments in the light of the committee’s recommendations. West Bengal was a notable case (Thorlind 2000). Rural local governments so created in the state are often referred to as the second-generation panchayaths. Set up at three levels they were composed of directly elected members with very small ex-officio membership.
They played a significant role in some of the major projects for rural transformation. In the latter part of 1980s the state of Karnataka, experimented with a very progressive arrangement of local governments (Aziz, 1993; Crook and Manor, 2001; Inbanathan and Prabhakar, 1994; Manor, 1997).

This, along with the West Bengal experience, seems to have sparked the political imagination. Consequent to a series of consultations with district level administrators and existing local government leaders and recommendations of two committees set up for the purpose, in 1989 the union government introduced two bills for constitutional amendment dealing separately with local government in the rural and urban areas. However, the bills were defeated in the Rajya Sabha – the Council of States - due to combined blocking by opposition parties as they saw in the proposals an attempt by the union government to reach the local governments by-passing the states. It was not until 1992 and succession of two more governments, and another lapsed amendment bill, that the 73rd and 74th Constitutional Amendments were finally effected. Currently, these provide the legal institutional framework for the third generation local governments – the 73rd Amendment in rural areas and the 74th Amendment for urban areas.

1.5. The 73rd Constitutional Amendment

The 73rd Constitutional Amendment Act (CAA) of 1992 assured, for the first time, permanence for the local governments, and created fully representative local government structures at three levels for rural areas. The main features of the 73rd amendment are – (i) recognition of gram sabha as a general body of electors at the village level, (ii) directly elected local self governments at three levels for rural areas
(called panchayaths), (iii) conduct of regular elections at 5 year intervals, (iv) reservation of seats for scheduled castes and scheduled tribes in proportion to their population, (v) reservation of one third of the seats for women, including those of offices of chairpersons at all tiers, (vi) constitution of State Finance Commissions for considering the financial requirements of the local bodies and making appropriate recommendations to the state governments, and (vi) establishment of State Election Commissions for conduct of local body elections.

The accompanying 74th constitutional amendment contained a provision for setting up of District Planning Committees (DPC) to prepare development plans for the district as a whole. The writing into Constitutional Law of the 73rd amendment was heralded as a watershed with respect to local self-government institutions. Ensuring ‘maximum democracy and maximum devolution’ was said to be its objective (Bandyopadhyaya 2002). It was suggested that these would pave the way for the coming into existence of ‘third generation’ panchayaths (Isaac and Franke 2000). Indeed, a textual reading of the constitutional provisions did show far-reaching elements in the institutional design of local representative governments. The use of the term ‘self government’ to describe the panchayaths at all levels (as well as the urban bodies) in the enforceable portion of the Constitution was at the core of such expectations. Further, the constitutional recognition of the gram sabha and suggestion regarding its empowerment by the state legislatures created the image of direct democracy, at least at the village panchayath level. Whereas the reservation of seats for the underprivileged sections such as the scheduled castes and schedules
tribes in the local governments mirrored similar provisions at the state and union level, the reservation of at least one-third seats for women was a radical break.

It was expected that the inclusion of such underprivileged sections in the local government bodies, would provide for inclusion of their ‘voice’ in democratic bodies at the local level. The mandatory conduct of election before the expiration of 5 year terms, and creation of a special Election Commission at the state level, led to the expectation of continuity; a sure control on the scope for dissolution or suspension earlier available to state governments. Finally, under the heading ‘Powers, Authority and Responsibilities of Panchayaths’ (Article 243G), it was made explicit that Panchayaths would have the responsibility for preparation of plans for economic development and social justice. In short, the constitutional provisions were indeed responsible for fuelling the high expectations of consequences flowing out of the constitutional amendments (Misra and Mishra, 2000).

1.6. The ‘will of the states’ (or implementation)

Constitutionalism and the ‘rule of law’, the two guiding principles of Indian democracy posit a hierarchy in administrative law. In this, the Constitution, as the sovereign law of the land sits at the top. Affairs of the government and the public sphere are governed not only by the Constitution but also the various laws enacted for the purpose. In the legal hierarchy, Acts of legislatures (or ordinary laws) occupy their position below the Constitution. The ‘laws’ come into effect, when ‘Rules under the Act’ are framed and appropriate administrative orders are passed by the executive. It should be evident from this stylized description of ‘rule of law’ process
that it leaves a lot of room for ‘slippage between the proverbial cup and the lip’ or the provisions in the Law and their effectuation.

In the Constitutional scheme of distribution of powers between the union and the states, local government is listed as a state subject. Legislative competence for local government matters lies with the states. It was required of the states to bring their respective Acts in conformity with the new Constitutional provisions within a year. All the states did so but with varying degrees of alacrity. Some amended their existing legislation while others authored fresh legislation superceding the existing laws. The manner of discussion in the state legislatures and the time devoted to the subject has been widely commented upon. As many as six states rushed through the entire process within a week before the expiry of the deadline, without allowing for any detailed discussion that would have rendered the time for application of legislative minds or public debate on many aspects which were left to the will of the state legislatures. In a way, it would not be wrong to state that the legal subterfuge began right from the first year of commencement of the new constitutional provisions.

On expected lines, state legislations reproduced the binding provisions. As has been observed in cases of Andhra Pradesh, Orissa and Karnataka, most states ‘...have chosen to leave the assignment of functions to local bodies more a task of delegated legislation rather than principal legislation...’ (Sivaramkrishnan, 1999). Varied pace has been observed across states in subsequent effectuation in the form of constituting rules under the Act and passing of executive orders to implement them. Thus a legal logjam was created – local governments were elected and formed under
the new Act but, in the absence of ‘rules’ continued to remain inoperational. Some
states like Bihar, Jammu and Kashmir and Tamil Nadu delayed the conduct of
elections almost as long as they could. Similar delays have been noticed in the
constitution of State Finance Commissions and acting upon their recommendations
once their reports were available. An extreme example is perhaps the case of Gujarat;
the draft report of the first State Finance Commission remained under the
consideration of the government while the five year term of the local governments
expired. Thus within its term of office, the Commission could not arrive at the final
recommendations (Bhatt and Shah 2000). Excepting for Kerala, West Bengal and
Madhya Pradesh, no other state has formed District Planning Committees in all the
districts.

1.7. METHODOLOGY

Research is an organized endeavour. It is a systematic search for an answer to
a question/ a solution to a problem. Empirical field studies were conducted to collect
the first hand information or data pertaining to the study. In this study the researcher
followed the descriptive research methods.

1.7.1. PROBLEM OF THE STUDY

The present problem of the study is “People’s planning and participatory
management: A Gandhian critique”.

1.7.2. OBJECTIVES

1. to find out the role of participatory management in people’s planning

2. to see how far these powers are delegated to people by means of decentralization
3. to evaluate the extent to which participatory management are more easily implemented in peoples planning.

4. to study how far corruption of bureaucracy is eliminated in peoples planning.

5. to study the extend to which developmental projects can be implemented by means of participatory management.

6. to study whether the criteria applied for the allocation of resources to urban and rural local bodies be modified.

7. to study whether there is overlapping of power and authority of panchayath Raj and nagarapalika institutions.

8. to evaluate the extend of employment generation through the people's planning.

9. to evaluate the practical problems in implementing the development plan through nominees of beneficiaries.

10. to study the attitude of political leaders and panchayath/Municipality members towards this novel approach to planning.

1.8. AREA OF STUDY

1.8.1. Municipality: Two municipalities Kottayam and Allappuzha are selected for the present study.

1.8.2. Panchayaths: In order to study the planning programme in panchyath level 20 panchayaths are selected and studied.
1.9. RESEARCH METHODOLOGY

1.9.1. Population and sample

The sample for this study is made up of three fourth of the resident of study area. The sample is collected on a stratified random basis from the total population. Three fourth responses at random from each group are used for analysis. Secondary data are collected from respective panchayath and summarized.

1.9.2. Tools for data collection

Data required for the study included both primary and secondary. Primary data required for the study are collected through various data collection methods.

1.9.2.1. Primary data

a. Interview

A structured interview was conducted with the municipal and panchayath employees, resource persons, participants and local leaders of the community. The questionnaire is designed both in English and Malayalam after identifying the various areas needed for the study.

b. Questionnaire

Questionnaires are structured both in English and Malayalam. After conducting pilot study necessary changes in the questionnaire were made and finalized. The investigator collected the responses personally.
c. Discussions

Discussions were carried out with the experts and other officials in this field of study before analysis of the data and arriving at a conclusion.

d. Observation

The function of various local bodies were observed as point of study and required data were collected. The researcher closely observed various functioning of the local group, inter-personnel interactions between resource persons and people, and the response of people.

1.9.2. Secondary data

Secondary sources of data included library references, references of government records and journals, registers, publications and other periodicals. Similar case studies were found to be rare. Development reports (Vikasanarekha) of the local self governments were highly relied for secondary data.

1.10. LIMITATION OF THE STUDY

Lack of reliable response to some extent from all category studied and biased data presented in secondary sources forms the limitations of the present study.

1.11. DATA ANALYSIS

The data collected were analyzed with the help of proper statistical tools to arrive at conclusions related to the study. This study was specifically carried out as selected sample population referred. The details were collected with the help of a structured questionnaire and were analyzed.
1.12. DEFINITIONS OF TERMS AND CONCEPTS EMPLOYED IN THE STUDY

Definition of Village

A village consists of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs. All States adopted this definition except Maharashtra, which is silent on this subject. Every village will have a Gram Sabha which will be competent to safeguard and preserve the traditions and customs of the people, their cultural identity. All State Acts follow the Central Act.

Local self-government

Local Self-Government is essentially the empowerment of the people by giving them not only the voice, but the power of choice as well in order to shape the development which they feel is appropriate to their situation. It implies maximum decentralization of powers to enable the elected bodies to function as autonomous units with adequate power authority and resources to discharge the basic responsibility of bringing about "economic development and social justice". It is not enough to formally transfer powers and responsibilities to the LSGIs. They have to be vested with the authority to exercise them full which requires concordant changes not only in the appropriate rules, manuals, government orders and circulars governing development administration, but also in the conventions, practices and even, the value premises of the governmental agencies.
Sustainability:

The Constitution Amendment Act itself has certain provisions, which adversely affect the sustainability of these institutions. For instance, while there are reservations for women and scheduled castes/scheduled tribes, these seats are to be allotted by rotation to different constituencies. In practice, this implies that a woman or a scheduled caste/tribal elected to a panchayath will normally have a term of five years, with no prospect of re-election (In Karnataka the term is only for 20 months). This goes against the spirit of democracy as people work hard for their constituencies in the expectation that they would be returned to power in the next elections. The existing provisions provide no incentive for the elected persons to deliver on their promises; on the contrary, self-interest would dominate, with little concern for the community at large. The three tiers also compete for funds and powers. The lower tiers are normally the losers in this process. This would make decentralised development, within a district plan, infructuous and non-sustainable. It is imperative in the given framework that the state legislatures clearly delineate the work to be done by each of the three tiers in each of the sectors which fall within the purview of panchayaths, in order to ensure that the panchayaths at the village level can be effective institutions for local governance.

Transparency:

Empowerment of Gram Sabhas would require efforts at mobilisation of the village community for mass participation in meetings of the Gram Sabha. Further, a massive awareness generation programme needs to be taken up to inform Gram Sabhas about their rights in planning, implementation and audit of development
programmes and in control over natural resources, land records and conflict resolution.

In Madhya Pradesh development works of PRIs are subjected to social audit. For instance, works under Jawahar Gram Samridhi Yojana (JGSY) are exempted from evaluation by technical personnel. Now, instead of Junior/Sub Engineer, Sarpanch moves the Gram Sabha to get an expression of its satisfaction with the quality and utility of the Project. Gram Sabha certifies the utilization of expenditure; only if the Gram Sabha refuses to do so can the competent authority under the Act (i.e. Sub-Divisional Officer) get the evaluation done by a Committee consisting of a bunch, a sub-engineer and social worker from the area. Social audit is not only limited to development works. An expression of dissatisfaction of the Gram Sabha about the PRI performance in individual beneficiary programmes leads to an inquiry by the competent authority through a Committee. Further ‘Right to Recall’ of elected representatives at the Gram Panchayath level has enhanced the accountability and transparency at the village level.

A key to the success of the Panchayathi Raj system is transparency in the way these bodies function. Being closer to the people, the Panchayaths’ right to information — and accessibility to the Panchayaths must be ensured. Central Government circular in 1997 proposed that each State may consider passing orders highlighting three different aspects of transparency.

First, the Panchayathi Raj Institutions, especially Gram Panchayaths, should display all vital information about development projects (especially receipt of funds and how they are being spent) in the Panchayath Offices or on a prominent board
outside the village school for the information of the public. Second, all relevant records should be open to inspection. Third, members of public should also be able to obtain photocopies of documents related to development projects as also matters of general public interest by paying a nominal charge. Such documents would extend in particularly to all bills, muster rolls, vouchers, estimates and measurement books as well as information about the criterion and procedure for selection of beneficiaries. A list of beneficiaries should not only be available for inspection, but photocopies of it should be given on demand from a convenient place such as Block or Tehsil Office.

**Accountability**

To what extent are the village panchayaths accountable to the common people and looking after public interest? Do the ordinary masses feel involved and participate? A detailed field study of several village level Panchayaths in Uttar Pradesh indicated that these objectives were only being partially met. Excerpts from the study are quoted below:

Even two years after the new legislation imbued the panchayaths with responsibility for developmental functions listed in the Eleventh Schedule, no substantive changes have occurred in the nature or extent of financial devolution or bureaucratic control. In the formal sense, therefore, panchayaths have had a limited but important role in the various stages of planning and implementation of several developmental programmes, especially anti-poverty programmes. However, there is no evidence from the study that the gram sabhas have been involved in any of the roles assigned to them, even though in some occasion a rare meeting of the Sabha
has been held under some external compulsion. For practical purposes, the panchayath is identified with the office of the Pradhan and the role of the Pradhan is itself subsidiary to the bureaucratic functionaries. The poor respondents mention periods when enlightened Pradhans or even bureaucrats have been able to accelerate the implementation of these programmes or have been able to steer them more firmly in the direction of the poor. Generally, however, this is not the case. Benefits from programmes accrue to a group of people who are close to the Pradhan or the official machinery. Some of them acquire multiple benefits.

1.13. Concept of EMS Nampoothiripad

EMS always had an abiding interest in democratic decentralization. EMS had a very wide conception of decentralisation, which went far beyond the usual conceptions of it either as simple bureaucratic decentralisation, or as a process where the local bodies confined themselves just to civic functions or even development functions. EMS placed the process of decentralisation squarely within the larger political process - a process by which democratic governance would be extended from central and state level to the local level. The rationale for a Marxist - Leninist in defending and extending democracy is a puzzle to many of the critics of the ongoing experiment in democratic decentralisation in the state of Kerala.

After explaining how the capitalist path of development is mercerizing the mass of working people and how there can be salvation only through their own self conscious organizations and struggle, he states: "It is from this viewpoint of the organised struggle to end the system of exploitation (pre-capitalist as well as
capitalist) that I am looking at the entire problem of defending and extending democracy.

By democracy here, I mean the system of parliamentary democracy with adult suffrage; periodical elections; the executives' responsibility to the elected legislature; the rule of law, full protection of the citizen's rights and freedoms which are known in our Constitution as the fundamental rights of citizenship, etc. These constitute a set of valuable rights which our working people won after decades of struggle and which can be used by the exploited majority in its struggle against the exploiting minority.

Our experience of working of this system proves that since the parliamentary democratic system as prevails today provides the exploited majority a powerful weapon with which to fight the exploiting minority, the latter does its utmost to reduce democracy to a mere formality to subvert it whenever and wherever the exploited majority uses it to get anywhere near the seats of power. Defence of parliamentary democracy at the Central and State level (where it exists but is very often threatened by the authoritarian forces) and its extension to the district and lower levels as envisaged in the four-pillar democracy is, therefore, of extreme importance in the advance of Indian society.

My faith in democratic decentralisation in other words, arises from the fact that it helps the working people in their day-to-day struggles against their oppressors and exploiters" (Note on Report of the Committee on Panchayath Raj Institutions 1978).
1.14. Panchayathi Raj Legislation in Kerala

EMS' interest in Panchayathi Raj went much beyond these broad theoretical formulations on the concept of decentralisation; he was also a guiding force behind the progressive legislations enacted over a period of time on PRIs in Kerala. EMS was the Chairman of the Administrative Reforms Committee (1958) that addressed the issues of administrative reorganisation of the newly formed state. An important corner stone of the vision of future administrative edifice of the state was local self government.

The Report argued for a two tier set up -- Panchayaths and municipalities at the grass root level and a district council at the district level. The functions and powers of the panchayaths included, besides the normal civic functions and developmental duties significant responsibilities in revenue administration and a number of other regulatory functions. In this respect it went much beyond what was recommended by even Balvantrai Mehta Committee which had by and large looked at the Panchayathi Raj Institutions (PRIs) as merely popular developmental agencies.

With respect to district councils the Administrative Reforms Committee of 1958 was divided into two opposite views, both of which were presented in the text. One position was that the Council need only have advisory powers and therefore, need to be constituted only through indirect elections and ex-officio membership. The opposite argued for elected district councils "that should function as institutions and take charge of all aspects of development work." EMS belonged to the second view point and, therefore, the District Council's Bill introduced in
the Assembly in 1958 visualised a comprehensive district council that would coordinate the functions of both the panchayaths and municipalities in the districts and also take over the entire development administration in the districts in a phased manner.

The bills couldn't be passed as the Government was dismissed and the legislative assembly was dissolved. Subsequent legislations passed in 1960 and 1961 were only much watered down versions of the draft bills drawn up by the Communist Ministry and, in terms of implementation, a far cry from the declared legislative intentions. The role of panchayaths in Kerala came to be in mostly what are known as the civic duties and the district councils were put in the cold storage.

The 1967 Ministry led by EMS introduced Kerala panchayathi Raj Bills 1967, once again with a two tier system - panchayath at the lower level and Zilla Parishad at the district level. At the Select Committee stage the draft bill underwent significant modifications to which EMS made significant contribution. The Zilla Parishad which was visualised to be a unit of planning and development was renamed as District Council and its functions redefined as "the administration of a district in respect of matters enumerated in the first schedule shall be vested in the district council." It is in the discussion of this draft bill that EMS coined the term "District Government". This bill was allowed to lapse once the EMS Ministry was brought down.

A Kerala District Administration Bill was introduced in 1971, reintroduced once again in 1978 and finally passed in 1979 while Shri A.K. Antony was the Chief Minister. The act was not implemented during the next decade. Finally, it was only
during the Left and Democratic Front ministry of 1987-91 measures were taken for implementation. A Commission was set up to study the 1978 Act to make recommendation for rectifying many of its defects. Certain essential changes were made and elections conducted in February 1990. The district councils were constituted in March 1990. A number of notifications were issued transferring a number of district offices and officers in agriculture, soil conservation, animal husbandry and others. It may be noted that comprehensive changes required of the then existing legislation had not been made and there was a fear that the Government was adopting an ad hoc approach to the whole process.

It was in the above context that EMS took the initiative in starting a public debate on measures to be urgently undertaken to make decentralisation effective, in the pages of the party daily Deshabhimani. He himself set forth a number of proposals in an opening article and invited public debate. Some of his proposals were startling. He called for disbandment of the Local Administration Department, as the District Councils were by law the co-ordinating agencies of municipalities and grama panchayaths. Arrangements were to be made for a State Development Council with representation of all ministers and certain other key officials and presidents of district councils. He sought to abolish unnecessary and avoidable duplication of work between the government departments in the secretariat and the directorates outside the secretariat through substantial dismantling of departments in the secretariat and combining the directorship and secretary ship in person.

Instead of IAS officers, technical and professional persons were to be the heads of the combined department-directorate set up. A major proportion of the
departmental staff were to be re-deployed to the district councils. He argued for
greater devolution of powers to the district councils so that they are transformed into
genuine district governments. ("For Comprehensive Power and Responsibilities",
Deshabhimani, March, 1992). The publication of the above proposals was followed
by a discussion in which important leaders of political parties including the
opposition parties, administrators and academicians participated. Re-reading these
articles today it is very evident that many could not imbibe the spirit of radical
reforms that EMS was proposing. The expectations that were aroused by the
initiative of EMS came to nothing as in the ensuing elections the Left lost power and
a Congress led government was installed.

Perhaps the most decisive intervention by EMS after the Campaign was
launched came during the implementation stage. As we have already noted the
progress of complementary administrative reforms or amendments to statutes or laws
were proving to be very slow and was creating difficulties for smooth
implementation. In his presidential address at the 3rd meeting of the High Level
Guidance Council, EMS openly criticised the hesitation of the government and
demanded immediate adoption of interim Report of the Sen Committee and better
coordination of rural development and panchayath departments. His criticism had
immediate impact. He followed it up with a series of articles where he attempted to
set an agenda for the Administrative Reforms Committee that had been appointed by
the government. According to him the recommendations of Sen Committee on
decentralisation, if implemented, would require a thorough restructuring of the entire
administrative edifice of the state government. Decentralisation and Grama Sabhas
were central to any attempt to democratic the administrative set up (Deshabhimani, 1997).

1.15. 73 and 74 Amendment of constitution

Statement of Objects and Reasons appended to the Constitution (Seventy-second Amendment) Bill, 1991 which was enacted as the Constitution (Seventy-third Amendment) Act, 1992

STATEMENT OF OBJECTS AND REASONS

1. Though the Panchayathi Raj Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons including absence of regular elections, prolonged per sessions, insufficient representation of weaker sections like Scheduled Castes, Scheduled Tribes and women, inadequate devolution of powers and lack of financial resources.

2. Article 40 of the Constitution which enshrines one of the Directive Principles of State Policy lays down that the State shall take steps to organise village panchayaths and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. In the light of the experience in the last forty years and in view of the short-comings which have been observed, it is considered that there is an imperative need to enshrine in the Constitution certain basic and essential features of Panchayathi Raj Institutions to impart certainty, continuity and strength to them.
3. Accordingly, it is proposed to add a new article relating to Panchayaths in the Constitution to provide for among other things, Gram Sabha in a village or group of villages; constitution of Panchayaths at village and other level or levels; direct elections to all seats in Panchayaths at the village and intermediate level, if any, and to the offices of Chairpersons of Panchayaths at such levels; reservation of seats for the Scheduled Castes and Scheduled Tribes in proportion to their population for membership of Panchayaths and office of Chairpersons in Panchayaths at each level; reservation of not less than one-third of the seats for women; fixing tenure of 5 years for Panchayaths and holding elections within a period of 6 months in the event of suppression of any Panchayath; disqualifications for membership of Panchayaths; devolution by the State Legislature of powers and responsibilities upon the Panchayaths with respect to the preparation of plans for economic developments and social justice and for the implementation of development schemes; sound finance of the Panchayaths by securing authorisation from State Legislatures for grants-in-aid to the Panchayaths from the Consolidated Fund of the State, as also assignment to, or appropriation by, the Panchayaths of the revenues of designated taxes, duties, tolls and fees; setting up of a Finance Commission within one year of the proposed amendment and thereafter every 5 years to review the financial position of Panchayaths; auditing of accounts of the Panchayaths; powers of State Legislatures to make provisions with respect to elections to Panchayaths under the superintendence; direction and control of the chief electoral officer of the State; application of the provisions of the said Part to Union territories; excluding certain States and areas from the application of the provisions of the said Part;
continuance of existing laws and Panchayaths until one year from the commencement of the proposed amendment and barring interference by courts in electoral matters relating to Panchayaths.

4. The Bill seeks to achieve the aforesaid objectives. Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:-

1. Short title and commencement.—(1) This Act may be called the Constitution (Seventy-third Amendment) Act, 1992.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Insertion of new Part IX.—After Part VIII of the Constitution, the following Part shall be inserted, namely:-

PART IX THE PANCHAYATHS

243. Definitions.—In this Part, unless the context otherwise requires,—

(a) "district" means a district in a State;

(b) "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayath at the village level;

(c) "Intermediate level" means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;

(d) "Panchayath" means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;
(e) "Panchayath area" means the territorial area of a Panchayath;

(f) "Population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(g) "Village" means a village specified by the Governor by public notification to be a village for the purposes of this part and includes a group of villages so specified.

243A. Gram Sabha.- A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

243B. Constitution of Panchayaths.- (1) There shall be constituted in every State, Panchayaths at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in clause (1), Panchayaths at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243C. Composition of Panchayaths. - (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayaths:

Provided that the ratio between the population of the territorial area of a Panchayath at any level and the number of seats in such Panchayath to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayath shall be filled by persons chosen by direct election from territorial constituencies in the Panchayath area and for this purpose, each Panchayath area shall be divided into territorial constituencies in such manner that
the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayath area.

(3) The Legislature of a State may, by law, provide for the representation-

(a) of the Chairpersons of the Panchayaths at the village level, in the Panchayaths at the intermediate level or, in the case of a State not having Panchayaths at the intermediate level, in the Panchayaths at the district level;

(b) of the Chairpersons of the Panchayaths at the intermediate level, in the Panchayaths at the district level;

(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayath area at a level other than the village level, in such Panchayath;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within-

(i) a Panchayath area at the intermediate level, in Panchayath at the intermediate level;

(ii) a Panchayath area at the district level, in Panchayath at the district level.

(4) he Chairperson of a Panchayath and other members of a Panchayath whether or not chosen by direct election from territorial constituencies in the Panchayath area shall have the right to vote in the meetings of the Panchayaths.

(5) The Chairperson of -
(a) a Panchayath at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and

(b) a Panchayath at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

243D. Reservation of seats.- (1) Seats shall be reserved for-

(a) the Scheduled Castes; and (b) the Scheduled Tribes, in every Panchayath and the number of seats of reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayath as the population of the Scheduled Castes in that Panchayath area or of the Scheduled Tribes in that Panchayath area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayath.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayath shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayath.

(4) The offices of the Chairpersons in the Panchayaths at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide: Provided that the
number of offices of Chairpersons reserved for the Scheduled Castes and the
Scheduled Tribes in the Panchayaths at each level in any State shall bear, as
nearly as may be, the same proportion to the total number of such offices in the
Panchayaths at each level as the population of the Scheduled Castes in the State or
of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of
Chairpersons in the Panchayaths at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted
by rotation to different Panchayaths at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices
of Chairpersons (other than the reservation for women) under clause (4) shall cease
to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any
provision for reservation of seats in any Panchayath or offices of Chairpersons in
the Panchayaths at any level in favour of backward class of citizens.

243E. Duration of Panchayaths, etc.- (1) Every Panchayath, unless
sooner dissolved under any law for the time being in force, shall continue for five
years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the
effect of causing dissolution of a Panchayath at any level, which is
functioning immediately before such amendment, till the expiration of its duration
specified in clause (1).
An election to constitute a Panchayath shall be completed—
(a) before the expiry of its duration specified in clause (1);
(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Panchayath would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayath for such period.

A Panchayath constituted upon the dissolution of a Panchayath before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayath would have continued under clause (1) had it not been so dissolved.

243F. Disqualifications for membership.—(1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayath—
(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned: Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;
(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) if any question arises as to whether a member of a Panchayath has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.
243G. Powers, authority and responsibilities of Panchayaths.- Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayaths with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayaths at the appropriate level, subject to such conditions as may be specified therein, with respect to-

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

243H. Powers to impose taxes by, and Funds of, the Panchayaths.-The Legislature of a State may, by law,-

(a) authorise a Panchayath to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayath such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayaths from the Consolidated Fund of the State; and

(d) provide for Constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayaths and also for the withdrawal of such moneys therefrom, as may be specified in the law.
Constitution of Finance Commission to review financial position.—(1)
The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayaths and to make recommendations to the Governor as to—

(a) the principles which should govern—

(i) the distribution between the State and the Panchayaths of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayaths at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayath;

(iii) the grants-in-aid to the Panchayaths from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayaths;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayaths.

(2) The Legislature of a State may, by law, provide for the composition of the commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.
(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243J. Audit of accounts of Panchayaths. - The legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayaths and the auditing of such accounts.

243K. Elections to the Panchayaths. - (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayaths shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State election Commissioner shall be such as the Governor may by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be
necessary for the discharge of the functions conferred on the State Election Commission by clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayaths.

243 L. Application to Union territories. - The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the legislature or the Legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly: Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part hereof subject to such exceptions and modifications as he may specify in the notification.

243M. Part not to apply to certain areas.-(1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244. (2) Nothing in this Part shall apply to-

(a) the States of Nagaland, Meghalaya and Mizoram;

(b) the Hill Areas in the State of Manipur for which District Councils exist under any law for the time being in force.

(3) Nothing in this Part-
(a) relating to Panchayaths at the district level shall apply to the hill areas of the
District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill
Council exists under any law for the time being in force;

(b) shall be construed to affect the functions and powers of the Darjeeling Gorkha
Hill Council constituted under such law.

(4) Notwithstanding anything in this Constitution,-

(a) the Legislature of a State referred to in sub-clause (a) of clause (2) may, by law,
extend this Part to that State, except the areas, if any, referred to in clause (1), if the
Legislative Assembly of that State passes a resolution to that effect by a majority of
the total membership of that House and by a majority of not less than two-thirds of
the members of that House present and voting;

(b) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas
and the tribal areas referred to in clause (1) subject to such exceptions and
modifications as may be specified in such law, and no such law shall be deemed
to be an amendment of this Constitution for the purposes of article 368.

243N. Continuance of existing laws and Panchayaths.-Notwithstanding anything
in this Part, any provision of any law relating to Panchayaths in force in a State
immediately before the commencement of the Constitution (Seventy-third
Amendment) Act, 1992, which is inconsistent with the provisions of this Part,
shall continue to be in force until amended or repealed by a competent Legislature
or other competent authority or until the expiration of one year from such
commencement, whichever is earlier:
Provided that all the Panchayaths existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243-O. Bar to interference by courts in electoral matters.-Notwithstanding anything in this Constitution,-

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court;

(b) no election to any Panchayath shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

Constitution, after sub-clause (b), the following sub-clause shall be inserted, namely:-

"(bb) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayaths in the State on the basis of the recommendations made by the Finance Commission of the State".

Constitution, the following Schedule shall be added, namely:- "ELEVENTH SCHEDULE (Article 243G).

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.

3. Minor irrigation, water management and watershed development.

4. Animal husbandry, dairying and poultry.

5. Fisheries.

6. Social forestry and farm forestry.

7. Minor forest produce.

8. Small scale industries, including food processing industries.


10. Rural housing.

11. Drinking water.

12. Fuel and fodder.

13. Roads, culverts, bridges, ferries, waterways and other means of communication.

14. Rural electrification, including distribution of electricity.

15. Non-conventional energy sources.


17. Education, including primary and secondary schools.

18. Technical training and vocational education.

19. Adult and non-formal education.

21. Cultural activities.

22. Markets and fairs.

23. Health and sanitation, including hospitals, primary health centers and dispensaries.

24. Family welfare.

25. Women and child development.

26. Social welfare, including welfare of the handicapped and mentally retarded.

27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.

28. Public distribution system.

29. Maintenance of community assets.
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