



ROLE OF VILLAGE PANCHAYTHS IN THE ADMINISTRATION OF JUSTICE IN COLONIAL MALABAR

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ABSTRACT This paper explores the traditional role of *Panchayaths* in the administration of justice in colonial Malabar. The enlightened neo-imperialist Thomas Munro recognized the necessity and importance of the Indians in the administration of justice and *Indianization* of the institutions. The main aim of his system was immediately good government and ultimately self-government. By regulation IV of 1816, the head inhabitant's of the villages were declared to be *Munsiffs* in their respective villages. The court of directors decided the *Panchayath* should be a part of the judicial system. His role to incorporate the *Panchayaths* as part of the government machinery to administer justice was remarkably well for the future legal development in Malabar.

KEYWORDS : Judiciary, Colonialism, Legal system, Modernity, Customs, Regulations, Justice, *Panchayath*

INTRODUCTION

The *Panchayath* system is the oldest system of local government in the Indian subcontinent. The word *Panchayath* means assembly of five. Traditionally *Panchayaths* consisted of wise and respected elders chosen and accepted by the local community. However there were varying forms of such assemblies. Traditionally, these assemblies settled disputes between individuals and between villages. The *Panchayath* had never been the priority of British rulers. The rulers were interested in the creation of controlled local bodies, which could help them in their trading interests by collecting taxes for them.

Malabar came under the British control with the conclusion of the third Anglo Mysore war in 1792. The treaty of *Srerangapatnam* in 1792 left the East India Company's sovereign over Malabar. Col. Munro proceeded to Malabar with the purpose of evaluating by examining the present administrative system whether the introduction of the new proposed regulations would be advantageous to the province. Also he intended to study the local conditions and point out changes, if necessary, to the proposed regulations. He collected each and every information which he received from the Nair's and other inhabitants of the land, who seemed to him to be best informed with regard to the details of village administration, ancient usages and internal government of Malabar and he submitted it to the government for further action

Several European administrators and able statesman nurtured in the spirit of enlightenment and liberal democratic tradition thought in favor of this move to make meaningful use of the ancient and respectable institution of *Panchayats* for administration of justice. In early days the local institutions played a remarkable role in correcting the evils and autocratic tendencies of the rulers and curbing the royal excess and in asserting the rights and privileges of the people. They were eager that they should honorably keep up all the privileges or rights which their ancestors enjoyed in old days. They had the insight to view and assess that this solid social structure served as the firm foundation for dispensing justice for centuries in India. Sir. Thomas Munro categorically stated, "There can be no doubt that the trial by *Panchayath* is as much the common law of India in civil matters, as that by jury is of England. No native thinks that justice is done when it is not adopted, and in appeals of causes formerly settled, whether under a native government or under that of the company, previous to the establishment of the courts, the reason assigned in almost every instance was that the decision was not given by a *Panchayath* but by a public officer or by person acting under his influence or sitting in his presence. The native who has a good cause always applies for *Panchayath* while he who has a bad one seeks the decision of a collector or a judge because he knows that it is much easier to deceive them".

As for the number of persons on the *Panchayath* for handling a suit, the regulation fixed it in clear terms. The regulation stipulated that always it should be odd; never less than five nor more than eleven and the majority should decide the outcome of the suit. Earlier the number of the *Panchayath* changed from five to fifteen, sometimes, especially where the subject of litigation was a share of land of a village held rent-free by Brahmins, the total number of the proprietors often sat as a

Panchayath. With regard to ordinary cases where the parties belonged to different castes or occupations, the *Panchayat* usually comprised men belonging to different castes so that the possibility partiality could be prevented. When the Regulation V of 1816 prescribed that the *Panchayath* should consist partly of persons of the same caste as the parties respectively and partly of persons of the different casts, it was following the time honored custom and long held convention prevailing in the country thereby ensuring the connection between the system of dispensing justice that had been existing for centuries and the newly introduced modern system by the British. The Indians placed more reliance in their *Panchayaths* than in the artificial system of courts founded upon the European model and which was presided over by European judges. "the native who has a good cause always applies for a *Panchayath* while he who has a bad one seeks the decision of a collector or a judge".

OBJECTIVES

- To present the comprehensive and salient features of the *Panchayath* system in colonial Malabar
- To unravel the role of *Panchayaths* in the feature administration of Malabar

METHODOLOGY

Historical methodology is used for analyzing the source materials and arriving at historical inference. For collecting data and source materials, exploratory method has been used. In short, the methodology adopted in this study can be characterized as critical, analytical, descriptive and interpretative.

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According to the rules clearly outlined, the village *Panchayath* should comprise respectable persons belonging to the respective *Panchayath*. They are required to discharge their duties associated with *Panchayath* [in rotation] according to their turn. In case an inhabitant of the village refused to serve as the member of the *Panchayath*, the village *Munsiff* is empowered to impose a fine up to Rs. 5 as punishment for neglecting the civic duties. "This also is conformable" remarked the commissioners, "to the practice of the natives, for among them it is no more optional to decline sitting on a jury. By the ancient usage of India, every man with the exception of a few individuals belonging to the religious orders is compellable to act on a *Panchayath*. It is regarded as a duty which he owes to the community and which he ought to discharge without compensation of any kind". The governments all effort to secure justice for people of all ranks and classes, the net result of all their pains, expense and labor should be "discontent and disquiet among the people".

In their respective *Taluk*, the *Thasildar* or native collectors were the ex-officio heads of the police. Their duty was to maintain peace and order as part of which they had to report to the magistrate all important activities and developments in connection with their official duties. They were required to provide all assistance to the village police or to arrest offenders involved in cases. As part of their duty, they were empowered to send peons to the market and other places where the public gathers in order to maintain peace and order. In towns having wider geographical area where the police duties could not be

effectively discharged by the head inhabitant, the magistrate was empowered to appoint a person to discharge duties as *Ameen* of police.

As part of the new system implemented, the collectors were relieved from the administration of civil justice. In order to effect a reduction in the heavy workload of the collector, the heads of villages and *Thasildars* were given power in the cognizance of so many types of petty offences that had been earlier decided by the collector. In comparison with the former duties of the collector, the present system relieved them of many time consuming and troublesome petty duties as a result of which they got time and energy for handling main duties related to district administration.

CONCLUSION

After detailed investigation and on the spot examination of the working of the system, Col. Munro concluded that the village establishment in Malabar was imperfect so that a total revision and rearrangement was necessary. When the province was under the administration of the rajas, the village system was suitable to achieve the aim of the military government. When the province came under the administration of Mysore government, the absence of sufficient period of time and the much needed peaceful atmosphere prevented the formation of a new system of administration that can fulfill its proper objectives.

As a result of the comparatively negligible range in which the village courts had been relied on for tackling disputes, their effect in listening the expense of the legal process was limited. It seemed that the cases brought before the village *Munsiffs* were not, generally speaking, quickly talked in those days. When the number of cases tackled in each division is compared with the number of cases handled in the previous year, the pending cases proved to be larger than the agency could possibly tackle now that the cases had to be disposed without causing delay. Hence the aim and objective of the legal agency had not achieved to the satisfaction of all concerned. Probably as a result of the negligence or refusal on the part of the village *Munsiffs* to perform their legal responsibilities and duties or on account of the unwillingness of the suitors to rely on these village tribunals, they aim of the agency could not be satisfactorily fulfilled.

Generally speaking, it is obvious that the aims and objectives related to the establishment of the village tribunals could not be achieved to the satisfaction of all concerned. It is even a debatable point whether these village tribunals really functioned to decrease the workload of the Zillah courts. In most cases, the cases handled in the village tribunal were again brought before the district *Munsiff* and the whole process of trial and verdict had to be repeated there. From 1825 to 1827, a total number of 1887 suits were considered and disposed in the village *Munsiff* in Malabar. That means on an average 629 suits were handled every year. At the same time the district *Munsiff* during the same period handled 16534 suits, the average per year being 5511. From thus, it is clear that the possible additional number of suits to the district *Munsiff* would not have been regarded as heavy. In the event of the equal division of the suits, each district *Munsiff* would receive only 43 suits additionally which is insignificant as additional workload in the overall context of the yearly decision taken by them.

The Village *Panchayath* and District *Panchayath* that were constituted as part of the judicial system of 1816 were also not frequently resorted to by the people. The reason for this might have been the general distrust of the people in the impartiality and integrity of the officials concerned which might have prevented them from depending on their services, It is obvious that this method of solving disputes was really unpopular from the statement related to the cases handled by the village and district *Panchayath* from 1827 onwards.

During these years, only 4 suits were filed in the district *Panchayath* and only 10 suits were filed in the village *Panchayath*. As the statement of Campbell clearly indicates, "the result of the experiment seems to warrant the conclusion that with the great mass of the people, this mode of settling law suits is held in little estimation and it can now hardly be doubted that its prevalence in former times was a matter of necessity from the want of other tribunals rather than the effect of a prepossession in favor of an ancient institution."

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