

CHAPTER TWENTY-TWO

THE TRIBAL COUNCILS

'The foundation of any democratic structure in India,' says Shri V. T. Krishnamachari, 'must be in the village, which is the oldest unit known in the country and has survived through many centuries.' He quotes Sir Charles Metcalfe, who wrote, of 'the little republics having nearly everything they want within themselves, and almost independent of foreign relations: they seem to last where nothing else lasts. This union of the village communities, each one forming a separate little State in itself is in a high degree conducive to their happiness, and to the enjoyment of a great portion of freedom and independence.' Shri Krishnamachari goes on to say that in spite of the factions, caste tyranny and stagnation which undoubtedly existed, it was 'owing to the life in the village communities and the measure of autonomy they enjoyed, that we achieved social cohesion and stability and succeeded in preserving our traditional cultural values over many centuries. This survival of our values during long periods of foreign dependence is certainly due to the continuity of the village organization. We must, therefore, recognize that modern democratic government can have a solid foundation only in village democracy.'

One of the ways whereby this can be achieved in the tribal areas is by reviving and strengthening the existing Tribal Councils along the lines of the accepted policy that we should work through, and not in rivalry to, the traditional village institutions. The matter, however, has been complicated by the introduction of the new Panchayat Acts which have the same democratic basis but are not rooted in the tribal tradition. At the Ranchi Seminar of May 1959, our Committee was asked to examine this problem and see what could be done. Our enquiries have shown that throughout the whole of tribal India every substantial village has some kind of machinery for the settling of social and religious disputes. Sometimes this machinery has grown a little rusty and it may be difficult to start it working again with full efficiency. In some cases, as in NEFA where the tribal councils function within the general framework of the Assam Frontier and Administration of Justice Act (Regulation of 1945), the councils are powerful and are working with considerable success in both the development and judicial fields. The same may be said for the tribal areas of Assam generally, and in the Utnur Block of Andhra the bodies formed under the provisions of the Tribal Area Regulation have considerable powers. In the Tamenglong Block of Manipur the Tribal Councils have long been recognised.

The Tribal Councils

We give below a summary of the answers to a Questionnaire issued by our Committee in June 1959, supplemented by our own investigations on the spot.

In a fairly large number of Blocks there appears to be little more than a simple and informal arrangement whereby the village elders meet together under the leadership of the headman to settle disputes of a social and religious character. They naturally also deal with general matters affecting village life, but they are not organized in any way and with the introduc-

tion of the Statutory Panchayats are likely to lose what little influence they have. This seems to be the situation in the Paderu, Adhaura, Mahuadand, Nawhatta, Dharampur, Khedbrahma, Mokhada-Talasari, Peint, Sukhsar, Bagicha, Bharatpur, Dantewara, Bhimpur, Narayanpur, Tamia, Kashipur, Narayanpatna, and Kushalgarh Multipurpose Blocks. Our information on the situation in these Blocks, however, is not altogether satisfactory for we have noticed that in all reports statements declaring that, for example, 'there are no arts in this Block' or 'there are no Tribal Councils in this Block' are usually inaccurate and misleading. For example, it may well be true that in the neighbourhood of a Block headquarters the Tribal Councils have almost disappeared, but it may be equally true that among the more characteristic populations of the interior of the same Block they are powerful and well developed. This is a matter that requires careful investigation by research workers and we suggest that all the Tribal Research Institutes should be asked to investigate this matter as early as possible. We do not need detailed academic investigations but a general picture of the situation in all the Scheduled Areas.

In the Assam Blocks in the hills the situation is quite different, for here under the Sixth Schedule of the Constitution, District Councils, of which all but a few nominated members are tribals, have been established and naturally manage the affairs of the District in the interest of the tribes and to a considerable extent according to their customary laws and functions. Statutory Panchayats have been introduced in the Autonomous Districts.

Below these Districts Councils there are village or tribal councils which deal with local disputes. We will summarise the reports received from the P.E.Os in these States.

Dambuk-Aga Block.—Under existing conditions and circumstances the traditional tribal way of administration by Tribal Councils in each village, which deal with all disputes and differences among the peoples, is very simple and effective and checks wastage of money and property in litigation.

'The powers and functions of the Tribal Councils are to maintain peace and tranquility and to settle petty disputes by simple tribal ways. The introduction of Statutory Panchayats, which are foreign to the people, will complicate the present administration by a simple tribal method.'

Diyung Block.—The village elders dispose of disputes according to their customary laws.

Lungleh Block.—Formerly all the tribes except the Chakmas were under their own Chiefs. The Chiefs with their selected village elders administered the village through a Village Court. They could impose fines to the extent of Rs. 40. Now after the District has attained autonomy the villages are administered by an elected Village Council which sits both as a Council and as a Court.

Mairang Block.—There is a Durbar of which all male adults of the village are members. Decisions of these Darbars are binding on everyone living within their jurisdiction and disobedience is punishable with fines or expulsion from the village. These Darbars actually direct and guide the whole social and administrative functions of the village. Above them there are Syiems' or Chiefs' courts which regulate their affairs and hear appeals.

Rongkhong Block.—A form of Government exists which is concerned with religious, social and judicial matters. The earliest system of Govern-

ment was that the King (Lindokpo) was at the apex. Under him there were 25 Pinpomers (religious devotees and administrative agents) and under them again there were 30 Habais, each Habai being in charge of a few villages. The Habais still have considerable influence and even now the people usually settle petty disputes themselves with their assistance.

Saipung-Darrang Block.—‘A democratic form of Government has existed among the tribals of this Block from time immemorial. Each village has its own Darbar (Council) where important decisions are taken on matters affecting the general interest. Petty cases of dispute are taken up for settlement by the elders before any reference is made to a statutory court. A group of villages form an Elaka with a Dolloi as its head. The Dolloi is elected on an adult franchise basis with, however, the provision that only members of certain clans are eligible to contest as candidates. The Dolloi performs both executive and judicial functions in his Elaka, besides collecting house-tax and land revenue on behalf of Government. Under the autonomous set-up of administration for the Hills Districts of Assam, Village Courts have been formed by the District Council in each Dolloiship to assist the Dolloi in the trial of cases referred to him.’

From other States we have received detailed accounts of the situation in a number of Blocks which we summarise here.

Andhra Pradesh

Araku Block.—Formerly there was the Mustajari system of administration throughout the Agency, according to which the Muttadar, or headman of a certain number of villages, exercised such powers as the collection of land revenue and settlement of disputes. He was assisted by a Chalan and a Bariki. Since the abolition of the Mustajari system of administration, the villagers are forming Village Councils consisting of the Naikes or headmen, trained Gram Sahayakas and men of public spirit for the settlement of their disputes, the most common being quarrels over land or ‘moginali’ cases (matrimonial disputes arising from elopements). The tribals rarely seek the help of the courts. There are at present no Statutory Panchayats here.

Narsampet Block.—The following interesting account of the Koya Tribal Councils comes (slightly abridged) from the Aiyappan Report of 1948.

‘Koya society is controlled by an extremely democratic organization, the Kula Panchayat. The village is a unit of administration and over it is a Pinna Pedda. This office is hereditary but a democratic principle is applied to it. When a Pinna Pedda dies, his heir is usually elected in an assembly of village elders, but if the heir is unfit due to minority or incapacity, the villagers elect a regent to officiate for him. Above him is the Kula Pedda or Patel who is recognized by the Government; the office is hereditary corresponding to village munsifs elsewhere. The Government also appoint Talaris but since they appoint only a small number, one for seven or eight villages, each village appoints and pays for its own Vetti.

‘A group of some ten or twelve villages forms a Samutu in the Koya country. Over the Samutu presides the Samut Dora, Kula Dora or Pedda Kapu, but he is only a chairman of the Council and has to be guided by the opinion of his colleagues. The Samutu is appealed to against the Pinna Pedda or the Patel, who is also liable to Tappu (fine) like any ordinary

citizen. The introduction of a Government-paid hereditary Patel appears to have created a confusion of functions but the democratic will of the Koya is strong enough to bend the Patel too to be a mere president over debates.

In Kula Panchayats, the fines are levied in three equal parts as Kula Tappu, Guru Tappu and Raja Tappu or the fines payable to the community, to the religious head and to the State, each being Rs. 6, totalling Rs. 18. There used to be a 'guru' who was a Jangam. The Reddis are Saivas. There is no more any Raja. Therefore, all the Rs. 18 are appropriated by the commune. It is used for tobacco and drink. The money is divided among the Kula Peddas. Since the elders of several villages assemble, the division is immediate. There is a Kula Pedda above all Peddas. Pedda means an elder.

'All disputes in a village are settled by the Kula Pedda whose decision is normally final. The fine is usually utilized by the whole community for drinking. The fine may sometimes be heavy, amounting to Rs. 100 in cases in which violations of social restrictions are involved. Social boycott is the sanction of the society against a person who refuses to pay the fine imposed. It is reported that the Panchayat conducts its enquiries in an orderly and dignified manner. To quote Shri Durba Venkattapayya : 'I have witnessed several enquiries by these Panchayats myself and have got great regard for the manner in which questions are logically put and answered and the enquiry done in a judicial manner and have no hesitation in saying that the Panchayat system, as it now exists among the tribesmen, is a glorious survival of the ancient Hindu Panchayats. It would be a very great blunder if this Panchayat system is in any way disturbed except in the matter of the utilization of the fines which are collected. It has got a healthy tone for discipline over the entire community. They are a very tenacious people. Though they appear very meek, they are very sensitive of any outside interference with their rights or regulations. All the surrounding Koya villages will join in one voice at the whistle of the Pedda Kapu and will put up a fight and will not tolerate any remark against their womenfolk or seizure of their grains or occupation of their lands. So they have needed so far no courts of law to assert and enjoy their rights.'

Utnur Block.—At the village level the custom of holding a particular individual in respect still continues, and he is generally the Patel (headman). He is usually consulted and his advice respected in matters of individual or group interest. On occasion he may call a few other individuals to consider the matter along with him as an informal Panchayat. Tradition requires that any differences or disputes should be settled in the village itself.

But when this is not possible or parties to the dispute belong to different villages, the matter is brought before the Tribal Panchayat, which is a statutory body formed under the provisions of the Tribal Area Regulation.

The Tribal Panchayats, which are four in all, covering about 40 villages each, are vested with criminal jurisdiction for certain offences, and revenue jurisdiction in respect of certain sections of the Revenue Laws.

These Panchayats can inflict fines up to Rs. 50 but no kind of imprisonment. Verbal orders or notices can be issued by them and the proceedings of the Panchayats need not be recorded in writing. They can be authorised under the Regulation to spend the income realised from fines for such purposes as they may deem fit, including compensation payable to the aggrieved party.

The jurisdiction of these Panchayats in respect of different laws is, in terms of the Indian Penal Code :

Section	159	Affray
„	510	Misconduct
„	269/270	Negligence
„	277	Fouling water
„	289	Negligent conduct with respect of animals
„	294	Obscene acts and songs.
„	428	Mischief by killing or maiming animals
„	494	Marrying again during life-time of husband or wife

They also have jurisdiction under other Acts.

The Panchayats can exercise this jurisdiction provided both the parties in a case are tribal. In practice, however, the Panchayats do not exercise all these powers, but deal mainly with matrimonial cases and to a lesser extent with cases of misconduct and negligence.

Till recently there were only three Statutory Gram Panchayats, each having charge of one village and without any criminal jurisdiction. As such there has been no overlapping of jurisdiction and the Tribal Councils have continued to function in their own way. Now Gram Panchayats have been formed very recently for all the villages of the Project, each having jurisdiction over a small group of villages, but they have yet to start functioning.

Bihar

Bishunpur.—Every village within this Project area has a system of traditional government. Each Tribal Council has a Pahan or Baiga, Mahto, Choukidar, Pan-Barah and some other members. They decide socio-religious cases, and generally impose fines on the culprits, which are readily paid. The fine money is mostly spent on a special feast. The Statutory Panchayats do not clash with the Tribal Councils, because the former mostly decide civil, criminal and revenue cases and assist in developmental activities.

Borio Block.—The unit of tribal administration is a village, of which all the adult male members form the Village Council. It is presided over by the Handi Manjhi. He need not necessarily be, though he often is, the village Pardhan who is responsible for the collection of revenue. The Manjhi is assisted by the Jog Manjhi, the Naiki the Paramik and the Godet. The Paramik officiates in the absence of the Manjhi. The Jog Manjhi has important functions to perform during marriages and is generally in charge of the morals of the young boys and girls. The Naiki is the priest, while the Godet is the village messenger.

Meetings are presided over by the Manjhi and are convened to determine all sorts of important matters and disputes in the village. A decision to fine or inflict any other punishment must be strictly obeyed. If there is any failure in this the person concerned suffers a social boycott. When a fine is realised, it is used to purchase salt or a goat and the entire village is entitled to an equal share. This is the old traditional Santhal way of village administration. The Village Councils, however, nowadays are not powerful as they used to be. Any person dissatisfied with the decision of the Council generally

takes the matter to the Panchayat or to the courts. The Panchayats have, to some extent, already weakened the Tribal Councils.

Manoharpur Block.—There was formerly a Munda Manki system of Government among the tribals. The Munda was the head of the village and he or the Mukhi tried even murder cases. In short, they were in charge of maintaining law and order among the tribal people.

After the introduction of the Indian Penal Code and Criminal Procedure Code, their powers were largely curtailed, but they were in practice maintaining some of their powers till very recently. Moreover, they were entrusted with the collection of land revenue, on which they received a commission, which they are doing even uptill now.

By the introduction of Statutory Gram Panchayats all the traditional powers have been taken away, except the collection of land revenue. In some of the Panchayats the elders have been elected as Mukhias and accordingly they are retaining some powers but naturally have to work under the provisions of the Gram Panchayat Act.

Simdega Block.—In the tribal areas there is a Mahto or Pahan (headman) for each village. When there is any sort of trouble, it is referred to them and their decision is binding on all the people involved. Thus in one village, where there are Mundas, Kharias, Uraons and so on, the Mundas have their own Pahan and the other groups have their own Pahans or Mahtos. If there is any friction between two groups, it is referred to the Parha Raja (President), whose decision is binding on the tribal groups of all the villages involved in the trouble. Thus for a group of villages, the Mahto and Pahans elect their President, who is locally known as Parha Raja. This President is helped in his administration by a Dewan (Secretary) and a Kotwar (peon).

But the presence of these old traditional councils has not materially affected the position of the Statutory Gram Panchayat, for the former deal primarily with the religious and social affairs of the tribals, and do not take any special interest in development work.

Bombay

Aheri Block.—There is a Tribal Council in every tribal village, which looks into its affairs. The head of the Village Council is called the Gaita. There is another Council with jurisdiction over groups of from 50 to 70 villagers which is called the Patti, its head being the Gumashi. It consists of the representatives of the Gaitas of the Village Councils. Above this Patti there is a sort of Supreme Council consisting of representatives of the Pattis. And finally the Ex-Zamindar, himself a Gond, is the ultimate authority to whom matters are referred for decision when no agreement can be reached for he is considered to be the religious head of the Zamindari area, which consists of about 500 villages. All matters regarding social life and customs are dealt with by these Councils and the Zamindar, and decisions taken by them are binding.

Akrani Mahal Block.—There exists a Karbhari system, whereby a village headman is appointed whose word is obeyed by the villagers, and who settles their disputes. If there is a dispute between two villages, Karbharis of both the villages settle it between them.

These Karbharis, however, do not settle disputes which come within the

purview of offences under the Penal Code, confining themselves to those of a religious and social character. Such settlements by Karbharis do not involve any written work. The Karbharis only exercise a moral influence upon the offender, relying on traditional sanctions.

Madhya Pradesh

Bhawani Block.—In each village there is a traditionally recognised headman, called the village Patel, who plays a very important and peculiar role in the tribal life of this area. He is the natural and hereditary leader of the entire village community, and is the symbol of tribal government, his orders and instructions being binding on the entire village community as a result of a very old convention.

He is generally the arbitrator in various kinds of disputes—civil, criminal, social or religious—between two villages or groups. The tribals here rarely seek the help of the police, or the Courts (including the Nyaya Panchayats constituted under the Panchayat Act), but try rather to settle their disputes through the Patel.

The Patel, however, invariably consults certain important and influential persons of the village before he issues any instructions or takes any decision. The persons he consults include the Pujara or priest and some other natural and traditional village leaders who usually represent different *falias* or groups of huts.

In case of disputes between the inhabitants of two different villages, the Patels of both the villages and their counsellors assemble together and the dispute is settled through a long process of discussion.

The Patel, as well as his counsellors, are paid fixed 'fees' for their services as well as a 'tax' for performing certain functions such as marriages. The Patel of Silwad in the Block area enjoys a position superior to other Patels. He is a sort of appellate authority to whom disputes which cannot be compromised by the Village Patels are taken for settlement.

The Statutory Panchayats, which cover all the villages of this Block, have yet to establish themselves actively and effectively.

Pondi-Uprora Block.—This Block is in an ex-Zamindari area. The Zamindar belonged to the Tamar-Chhatri tribe, which claims its origin from the famous Rajput king Prithviraj Chauhan. There are both tribal and village Panchayats. The tribal Panchayats deal only with their own problems and sometimes cover a group of villages. They impose fines in cash or feasts, failing which the defaulter is excommunicated.

The tribal Panchayats have great influence, but their jurisdiction is limited. The village Panchayats deal with problems affecting all the inhabitants of a village, which here are generally mixed. They are run by the village or tribal elders as the case may be.

'The influence of the Statutory Panchayat has been almost nothing and the traditional Panchayats still hold their ground. The new ones are almost inactive owing to the ignorance of the people and the lack of enthusiasm and mismanagement by the office bearers.'

Pushparajgarh Block.—The headman of the village is the Gaontia. He is assisted by a Dewan and a Kotwar, who generally works as a messenger. The orders of the Gaontia are generally respected by all. 'This system of village administration has been working very successfully, but there are signs

of disintegration as a result of detribalization and the mixing of the tribal and non-tribal populations. In the mixed villages the cohesion and homogeneity of single-tribe villages is lacking'.

Orissa

Bhuyanpirh Block.—The traditional type of tribal Government is still in existence in all the tribal villages, in each of which is a Mandaghar, Darbar or community hall. Here all the elderly persons of the village assemble to discuss important matters concerning the village. In each Mandaghar and Darbar a fire is kept burning continuously. This they use for lighting their pipes, essential accessories to judicial deliberations. Petty disputes and small thefts are brought to the notice of the elders and they discuss the matter and give a judgement which is always accepted by the person at fault. The headman sometimes imposes fines for petty offences and thefts, and the fines thus collected go to a common fund. The strength of these organisations, however, is gradually becoming weaker as a result of the introduction of the Gram Panchayats. The headman of the village (Pradhan) is disqualified from being a member of the new Panchayats. The Statutory Panchayat and its members are, therefore, coming more into prominence than the headman. Even then the unity of the village as a whole has not been lost and offences such as petty thefts, quarrels, disputes with regard to the produce of a particular tree or a piece of land are almost always settled by the headman and the members of the village Darbar. Disputes about partition and inheritance of property or the amount of dowry which a groom of one village has to give to the bride of another are still all settled here. 'The Statutory Panchayat comes to the picture when more important questions are to be settled, thus weakening the traditional form of tribal administration.'

Raruan Block.—The main tribes in this Block are the Hos and Gonds and each has its own system of tribal Government. The Hos elect a sort of President called the Marang Gonke from the villages of a particular area and he, assisted by other headmen, regulates the religious and social practices of the tribe. This Council fixes the dates of religious functions and marriages, dances and festivals. In the case of any matrimonial irregularity it steps in to prevent or penalize it. It has recently taken up the question of abolishing the dowry system which presses very heavily on the poorer people. It is also encouraging literacy among the Hos.

An annual meeting of all the village headman under the chairmanship of the Marang Gonke is held every year at which social affairs are discussed and directives are issued. The offices of the village headmen and the Marang Gonkes are not hereditary but depend on their continued influence or popularity among the people.

The Gonds, with their different tribal organization, manage things a little differently. They are divided into six classes according to their *gotras* (clans) each of which is believed to have descended from a different stock. Each *gotra* has its own Council under a headman who belongs to a family which is believed to have founded the clan. This office is hereditary and the family is generally known as *Bara Bansha*, the oldest family. Annual meetings of all the six groups are held, in which offences involving any breach of social custom are discussed and decided. If anyone is dissatisfied with the decision of this general meeting, selected members from all the different clans are summoned to what is known as a *Desa Loka Darbar* and are

invited to review the matter and their decision is final. Members of the Darbar are not elected, but hold their position through their education and influence. Whichever member is outstanding among them naturally assumes the leadership. It is evident that there is scope for the development of these institutions, for they seem to have considerable influence and the Hos are already taking up social reforms and the spread of literacy through them.

Manipur

Tamenglong Block.—The traditional tribal Government differs in the case of the Nagas and the Kukis. Among the Kukis, each village has a Chief, whose position is hereditary and he is succeeded only by his sons. The eldest son succeeds his father and if a Chief has no male child the Chieftainship goes to the nearest relation who may be from another distant village, not necessarily in India but even from Burma. In theory, the Chief is all powerful : all the lands and everything within them rest in him. His house is the village court and he presides in all matters. He has a group of elders nominated and retained by him at his pleasure, though in this selection he gives a fair representation to the various clans living in his village. His court has all powers to decide any case. The punishment inflicted is a fine ranging from a jar of rice-beer or a pig to mithuns or expulsion from the village. In a case of murder the amount of the fine is sufficient to compensate the bereaved family. The village elders meet as often as the Chief desires. In this group the village priest is an important member of the tribal council.

Among the Kabui Nagas the Khumbu, who is the founder, or descendant of the founder, of the village, is the Chief, his office being hereditary but powerless. The real power is exercised by the Khulakpa who is chosen by a body of village elders called Thoupei. The Khulakpa so elected often continues for life and is succeeded by his son if the latter is approved by the Thoupei, which is the administrative body and also sits as a court. The observance of ceremonies, taboo (genna) days during which the people are to abstain from work, is left to the Khumbu to decide. The punishment for crimes is the same as among the Kukis. The land of the village is regarded as belonging to the community, within which there is individual ownership.

There were no written rules for a long time about the village administration in tribal areas. The village customs and precedents which are compatible with modern concepts of jurisprudence were adopted. In 1947, a Regulation was enacted by the then State Government which did not give details of the village administration. In 1956, the Hill Villages Authorities Act was passed by Parliament but has not proved effective. The tribal village administration still continues in the same manner as before.

Tripura

Amarpur Block.—The tribals here live in small villages known as *paras*. Each *para* has a traditional leader—the Sardar—who has considerable influence and under his guidance and control the communal activities of the villages are carried on. He is responsible for the observance of the customs and laws of tribal society. This traditional leadership is, however, disintegrating rapidly owing to external influence. So far Statutory Panchayats have not been introduced in Tripura.

The Statutory Panchayats

Into this admittedly rather confused situation, legislative measures have been enacted to establish local self-government through Panchayats by the following Acts :

State	Legislation
1. Andhra Pradesh	The Andhra Pradesh Village Panchayat Act, 1959.
2. Assam	The Assam Panchayat, Act, 1959.
3. Bihar	The Bihar Panchayat Raj Act, 1947.
4. Bombay	The Bombay Village Panchayats Act, 1958.
5. Madhya Pradesh	(a) The Bhopal State Panchayat Act, 1946. (b) The C.P. & Berar Panchayat Act, 1946. (c) The Vindhya Pradesh Gram Panchayat Act, 1955. (d) The Madhya Bharat Panchayat Act, 1953.
6. Orissa	The Orissa Grama Panchayats Act, 1948.
7. Rajasthan	The Rajasthan Panchayat Act, 1953.
8. Tripura	The United Provinces Panchayat Raj Act, 1947.

The Andhra Pradesh, Assam, Bihar, Madhya Pradesh, Orissa, and Rajasthan Acts all provide that they shall come into force in such areas in the States concerned as their respective State Governments may appoint. In other words, there are provisions in all these Acts, whereby the State Government concerned is empowered to exempt from their operation such area or areas as it may consider necessary or desirable. The Bombay Panchayat Act, however, is unique in having no such provision. On the other hand, under para 5 of the Fifth Schedule to the Constitution, the Governor has the power to direct that any Act shall not apply to a Scheduled Area or any part thereof or shall apply to such area or areas or part thereof subject to such exceptions or modifications as he may specify. Thus, if the various Panchayat Acts are required to be abrogated or modified with regard to their application to most of the areas comprising the Multipurpose Tribal Blocks or any other Tribal Area, there should be no legal or constitutional difficulty involved. Incidentally, out of the 43 Multipurpose Blocks, 28 are in Scheduled Areas, 6 in Tribal Areas (Assam), and 9 in non-Scheduled and non-Tribal Areas.

Functions of the Statutory Panchayats

The functions of the new Panchayats are administrative, economic, social and judicial and it will be worth-while enumerating them—

(a) Administrative Functions :

The functions allotted to the Panchayats under this head generally consist of the following :—

- (i) Construction, repair, maintenance, cleaning and lighting of streets.
- (ii) Sanitation and conservancy.

- (iii) Opening and regulating burial and cremation grounds.
- (iv) Supply of water for drinking and domestic use.
- (v) Construction and maintenance of public drains, bunds, tanks and wells.
- (vi) Disposal of unclaimed corpses and cattle.
- (vii) Construction and maintenance of public latrines.
- (viii) Measures to prevent the outbreak, spread or recurrence of infectious diseases.
- (ix) Prevention of water-logging.
- (x) Control, regulation and development of grazing-grounds, village common lands etc.
- (xi) Control and regulation of property transferred to it for maintenance.
- (xii) Planting of trees and their maintenance.
- (xiii) Establishment, maintenance and management of cattle pounds.
- (xiv) Destruction of stray and ownerless dogs.
- (xv) Removal of obstructions or encroachments in public places.
- (xvi) Control, maintenance and regulation of fairs, markets, minor hats, bazaars and slaughter houses.
- (xvii) Village watch and ward.
- (xviii) Rendering assistance in extinguishing fires.

(b) *Economic Functions :*

The functions allotted under this head generally include :

- (i) Construction and maintenance of minor irrigation works.
- (ii) Maintenance of records regarding population, cattle etc.
- (iii) Registration of births, deaths and marriages.
- (iv) Programmes for improving agricultural production and assisting the development of agriculture.
- (v) Organising labour for community works.
- (vi) Provision of agricultural finance and measures to relieve rural, indebtedness.
- (vii) Bringing under cultivation waste fallow-lands.
- (viii) Preparation and conservation of manurial resources.
- (ix) Establishment and maintenance of nurseries and stores for improved seeds.
- (x) Improvement of cattle and cattle-breeding.
- (xi) Promotion of cottage and village industries.
- (xii) Encouragement and development of co-operation.

(c) *Social Functions :*

Functions included under this head generally include :—

- (i) Layout and maintenance of playgrounds and public gardens.
- (ii) Medical relief.
- (iii) Reclaiming unhealthy localities.
- (iv) Maternity and child welfare.
- (v) Encouragement of human and animal vaccination.
- (vi) Construction, repair and maintenance of roads, buildings, water-ways, drains etc.
- (vii) Construction and maintenance of dharmasalas and rest houses.
- (viii) Maintenance of public roads, radio sets and places of recreation.
- (ix) Establishment and maintenance of libraries, reading rooms etc.
- (x) Spread of education.

(xi) Control and regulation of fairs, pilgrimages and festivals.

(xii) Promotion of social and moral welfare.

The Rajasthan Act provides for the encouragement of family planning.

(d) *Judicial functions* :

All the Acts, except those of Kerala, Madras and Mysore, provide for the vesting of civil and criminal jurisdiction in the Panchayats or bodies specially constituted for this purpose. In the former Andhra area of Andhra Pradesh, Assam, Bihar, the former Punjab area of Punjab and Rajasthan, the Panchayats themselves are allotted this function. In the other States bodies known as Adalati Panchayats or Nayaya Panchayats, as the case may be, are established.

The Panchayats or the Nayaya Panchayats, as the case may be, are generally authorised to try minor civil and criminal cases. The main function of these bodies is to effect a compromise between the plaintiff and the defendant and bring about an amicable settlement.

Sources of Revenue

The Panchayats have access to varied sources of income *e.g.*, taxes, cesses, fees, fines, grants, contributions, loans etc. In some of the Acts, as for example those in force in Bihar and Mysore, tapping of some of the sources has been made compulsory, while other sources may be utilised if their financial needs so require. In Punjab a Panchayat may, with the previous sanction of Government, levy any tax which the State legislature has power to impose. In Himachal Pradesh the Panchayats may impose such taxes as may be approved by the State Government.

The taxes which the Panchayats are generally empowered to levy are :—

- (a) taxes on imovable property;
- (b) taxes on professions, trades and callings;
- (c) taxes on vehicles other than motor vehicles; and
- (d) taxes on agricultural land, etc.

Panchayats in Bihar, Bombay and Kerala are empowered to levy a pilgrim tax.

Panchayats in Assam, Rajasthan and Uttar Pradesh are empowered to levy a tax on fairs, festivals and entertainments.

The Assam Act provides for a Health Tax.

The Assam, Bihar, Mysore, Orissa, Rajasthan, Uttar Pradesh, West Bengal and Tripura Acts provide for a tax or rate for the supply of water.

The Panchayats in Assam, Orissa, Uttar Pradesh, West Bengal and Tripura may collect a sanitation or conservancy tax or rate.

A unique feature of the Andhra Pradesh, Assam, Orissa, Punjab, Rajasthan and Himachal Pradesh Acts is the labour tax or the compulsory impressment of labour for developmental works. In Rajasthan this takes the form of a special tax on all adult male members of a community for the construction of any public work. A person liable to be taxed may be exempted from the payment of the tax if he does voluntary labour.

A major source of revenue available to the Panchayats is the income accruing to them from leases of property vested in them.

Other sources of income are—

- (a) duty on transfer of property;
- (b) cesses on land;

- (c) fees or cesses on commercial crops;
- (d) revenue from fisheries and ferries;
- (e) tolls;
- (f) Octroi;
- (g) revenue from the licensing of merchants in local markets.

A recent trend to augment the income of the Panchayats, is to allot to them a portion of the total land revenue collections. It is 15% in Assam, 6½% in Bihar, 25 to 30% in Bombay, 30% in Mysore and 10% in Punjab.

In Bihar, out of the total income derived by the State from kender-leaf leases, 50% is given as outright grant to the Gram Panchayats in kender-leaf growing districts.

The Adimjatiya Panchayats

A significant fact emerges from the Central Provinces and Berar Panchayats Act of 1946, as subsequently amended by the Madhya Pradesh Act XVII of 1950. Prior to the amendment, the provisions of this Panchayats Act were generally applicable to all areas. When, however, certain areas with predominantly tribal inhabitants were added to Madhya Pradesh following the merger of neighbouring Indian States, it was found that the general provisions of the Act were unsuitable in their application to the Schedule Tribes. Accordingly, provisions were made for the constitution of Adimjatiya Panchayats for these areas, with a much simpler form of organisation. There was another departure in that the Sir Panchas for the Adimjatiya Panchayats were to be nominated by the State Government, and not elected as for the other village Panchayats. This highlights the question whether the elective principle should be followed in constituting Panchayats in the tribal areas.

Revival of the Tribal Councils

The above material suggests two possible ways of solving the problem of tribal self-government. One is to keep in being, strengthen and, where necessary, revive the existing tribal machinery; the other is by the introduction of Statutory Panchayats. The latter have, in fact, already been introduced in the several of the areas covered by the Multipurpose Blocks and although in some cases we have found that they have not supplanted the existing Tribal Councils, this is bound to happen in the course of a few years.

The advantage of the introduction of the Statutory Panchayats is that they will introduce a uniform system of village self-government throughout the country; the elections to them will serve as a kind of training in citizenship, whereby the tribal people will learn to exercise their votes on the wider national field; and that they have been very fully worked out after a great deal of thought.

On the other hand, the advantage of working through the Tribal Councils is that they have evolved naturally out of the conditions of life in tribal India and they command a ready allegiance from the people, who will be more willing to co-operate with institutions which have an established position among them through long use and convention. There is a danger that the introduction of the new Panchayats may defeat the very object of having them, for they may come to be looked upon as alien institutions, something superimposed on tribal culture and not evolving naturally out of it.

If this happens, the people's co-operation and support may be restricted and this will have a general hampering effect.

Many of the functions which are to be entrusted to these Statutory Panchayats could well be discharged by strengthened and revived tribal councils and, in fact, this has already been done in NEFA, whose Tribal Councils have been elaborately described by Dr Verrier Elwin in *A Philosophy for NEFA*.

Moreover, in view of the fact that the tribal people have many customary laws which differ to some extent from those of other people and they have always liked to settle their own affairs within the borders of their own community, it will not be easy for mixed Panchayats to give proper consideration to the tribal point of view. This will not be doubted by anyone who has ever attended a meeting, for example, of a Block Advisory Committee in the interior where the non-tribals sit on chairs and dominate proceedings, while the tribals all too often squat on the ground behind them, do not understand what is going on (for the proceedings are almost always in a non-tribal language) and make very little contribution to the proceedings.

There is a further danger that even in areas where there is a majority of tribal people they will elect as Sir Panchas the non-tribals on whom they are economically dependent. This is already happening; in the Nar-sampet Block of Andhra State, out of 28 Statutory Panchayats, 22 of the Sir Panchas are non-tribals. In the Aheri Block of Bombay, 12 out of 13 are non-tribals. In the Kashipur Block of Orissa, 7 out of 10 are non-tribals. This is not the case everywhere, but these examples do give a reasonable picture of the over-all situation. It will be a long time before the tribal people, at least in the more undeveloped areas, become sufficiently awake and powerful to compete on equal terms with the non-tribals settled among them.

On psychological grounds there is a great deal to be said for reviving and using the Tribal Councils instead of imposed Statutory Panchayats. They derive their authority from ancient times and the fact that they are the expression of the will and power of the whole people. They are supported not only by social, but also by supernatural, sanctions and to give false evidence, for example, may call down the vengeance of the gods as well as excite the scorn of men. Sacrifices are commonly offered to avert supernatural dangers, to implore the divine blessing on a Council's deliberations, and to bring peace between the contending parties.

The Tribal Councils are genuinely democratic bodies, for they are generally attended by all the people in the village and everyone, including women, can have a say. Although at present the work of many of them is confined to the settlement of social and religious disputes or the arrangement of minor details of administration, there is no reason why they should not be organized and developed to take over most of the powers and duties now given to the Statutory Panchayats. Throughout Assam and the north-eastern area, bodies of tribals, who are much less developed than those in other parts of India, are performing these functions with conspicuous success. Throughout India development workers are organizing Youths' Clubs, Young Farmers' Societies and other similar bodies, and if it is possible to organize these it should be possible to give some shape to the existing tribal methods of village self-government.

The principle of election is contrary to tribal tradition in most places and the core of the Tribal Councils depends on certain recognized leaders of the village who in practice listen to anybody who cares to attend their meetings. The whole principle of election to judicial bodies is, in fact, contrary to the Indian tradition and indeed, is scarcely known except in America. The introduction of the elective principle to local bodies among the tribes will certainly create rivalries and jealousies, it will break up the strongly co-operative and disciplined tribal village and will introduce other corruptions of the electoral machine. The attempt to introduce elections to village councils in the tribal areas of Manipur through the Village Authorities in Hill Areas Act of 1956 failed to win the co-operation of many of the tribal people, and the matter is now under consideration.

We realize the difficulties of the situation, especially in places where the Panchayats have already been started. But according to all our reports they have so far made very little progress and we suggest that in all homogeneous tribal areas, they should be withdrawn and a serious attempt should be made to re-establish the Tribal Councils, revive and strengthen them where they are weak, and recognize them where they are strong.

The Tribal Councils have great potentialities. Established in history and tradition, supported by social and religious sanctions, expression of a genuine democracy representing the co-operative and communal temperament of the people, they can be used not only to support law and order but also to further the progress of development throughout the tribal areas.

We recommend, therefore :

1. That in all homogeneous tribal areas, where the new Panchayat Acts have not been introduced, taking advantage of the provisions in these Acts (excepting Bombay) whereby the Governor can exempt a specified area or areas from the operation of the Panchayat Acts, they should not be introduced, but a serious attempt should be made to use the existing machinery instead.

2. If, however, the Panchayat Acts have been introduced in the tribal areas of any State it is a matter for consideration whether the Scheduled Areas should not be exempted from their operation by virtue of the provision in the Act concerned. In the State of Bombay, recourse could be taken to para 5 of the 5th Schedule of the Constitution for this purpose.

3. The above action may be taken in consultation with the Tribal Advisory Council constituted in each State.

4. In each tribal village, which is inhabited by people of one tribe, the existing machinery for settling disputes and administering the affairs of the village should be organized, in the first instance, into a simple Village Council, care being taken that at least one member of every clan in the village is represented. The Chairman should be the traditional headman of the village and if custom so directs the village priests or other traditional elders should also be represented.

5. Where there are members of more than one tribe in a village the same policy may be followed but it should be ensured that at least one member of each tribe should be represented.

6. Tribal group councils should be formed for groups of 10 to 15 villages and one representative should be chosen by each village as a member of the larger body. These simple councils should not be by formal election.

but should consist of the elders who have traditionally managed village affairs. The Chairman should be the leading Chief or headman.

7. In the event of any dispute, the Chairman of the council should be nominated by the Deputy Commissioner/Collector.

8. In view of the fact that in many places the machinery for judicial and administrative work in tribal villages has fallen into disrepair, powers should be given to these Councils on a progressive basis. They may first be given various aspects of development work and the managing of ordinary or forest Co-operatives, and they should be encouraged to settle village and inter-village disputes without having recourse to the ordinary courts.

9. We further suggest that as these Councils show their capacity for managing their own affairs they should be given more and more of the powers enumerated in the various Panchayat Acts until finally they can take over all their functions.

10. Wherever a Tribal Council exists at present in an organized form it should be recognized immediately; where, however, it still has to be revived and developed, the Deputy Commissioner on the advice of the PEO, should recommend its recognition when he is satisfied that it is ready to take over statutory powers.

11. In areas where the tribal population is in a minority and the population is a mixed one, it is evident that any Tribal Council that may exist cannot be vested with the powers of the Statutory Panchayats so far as they affect the non-tribal population. In such areas, if a village Panchayat is to be instituted, provision should be made to ensure that a fair proportion of the members is from the tribal groups. In areas where, although the tribals are in a majority, there is a substantial proportion of non-tribals, or in areas where the State Government feels that it would be difficult to abrogate the provisions of the State Acts that may have already been enforced, steps should be taken to ensure that the Panchayats recognize in their membership the constitution of the villages, and the Sir Panch in such cases should be a tribal to be nominated by the Deputy Commissioner.