

*Nepal's*

PANCHAYAT

DEMOCRACY

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# NEPAL'S PANCHAYAT DEMOCRACY





His Majesty King Birendra Bir Bikram Shah Dev

## INTRODUCTION

The history of democracy in Nepal began in 1951 when through a united struggle of the King and the people, the century-old family rule of the Ranas was ended. The next decade saw experiments in the political system borrowed from the west. But mutual bickerings among political parties, pursuit of selfish interest by a handful of people and general ignorance of the country's problems led to a situation where even the national unity, independence and sovereignty were endangered. This led to His late Majesty King Mahendra's historic step of 1960. The parliament was dissolved, political parties were disbanded and a new political system suited to the Nepalese soil and the genius of its people was promised.

The Constitution of Nepal promulgated on December 16, 1962 embodied the basic framework of the Panchayat System, a new and original political system suited to Nepalese conditions. Years of rigorous implementation have proved this system to be ideal for the political, social and economic development of Nepal. To sustain its dynamic character reforms

have been introduced from time to time. Significantly the first amendment to the Constitution of January 1967 and second amendment of December 1975 testify to this. Such reforms have helped strengthen the dynamic as well as democratic character of the Panchayat System.

The term "Panchayat" is derived from a social system that has existed in Nepal from time immemorial. Under this system a council of village elders or "Panchas" solve local problems by mutual consultation. The Panchayat System is built up from the village to national level with a number of intermediate tiers. The Village Panchayat of today nevertheless is in some respects similar to the traditional Panchayat. Its main function is to solve local disputes, mobilise local resources and concern itself with economic development at the village level. At the apex of the Panchayat pyramid is the Rastriya (National) Panchayat which is the country's supreme legislative body.

What the Panchayat System seeks out to achieve is laid down in the very Preamble of the Constitution of Nepal. It commits itself to end all forms of exploitation--social, political or economic— through class co-ordination and harmony. Also, it is committed to induce maximum participation of the people in the administration and development at all levels of its tiered structure through a programme of decentralisation of power.

## **MONARCHY IN PANCHAYAT POLITY**

It is stated in the Constitution of Nepal that the sovereignty of Nepal is vested in His Majesty the King. It states that all executive, legislative and judicial powers emanate from him. His Majesty exercises these powers through organs established

according to the Constitution and existing laws and in accordance with the lofty tradition of the Shah Dynasty wherein the well-being of the subjects has been the uppermost concern.

The active and explicit leadership of the Monarch is the most important feature of Panchayat democracy. The King is not only the head of state but also the supreme national leader, as He is actively involved in the affairs of the nation.

The history of Monarchy in Nepal dates back to the ancient times. The legitimization of the King's authority is based primarily on Nepalese customs and traditions to the extent that even today the rural masses regard the King as incarnation of God Vishnu. Since the Panchayat System is deeply rooted in Nepalese customs and traditions the Monarch has become the focal point around whom the whole political system revolves.

The Nepalese history is replete with examples of close co-operation between the people and their rulers. King Prithivi Narayan Shah who, about two centuries ago, unified the many warring principalities into a strong and viable kingdom is looked upon as a great ruler. It is through his conquests and able statesmanship that the Nepalese enjoy today a proud identity of their own. King Tribhuvan Bir Bikram Shah led the struggle against the Rana autocracy and ultimately succeeded in ending the century-old family regime. And, it was His late Majesty King Mahendra who introduced the Panchayat System after a decade's experiment in party system based on the political systems of the west. At present His Majesty King Birendra who has time and again expressed his faith in the Panchayat System is leading the country on the path of development.

## **SOME FUNDAMENTAL CHARACTERISTICS**

The Panchayat System has certain fundamental characteristics that distinguish it from other democratic systems of government. Some of these are:

### **A partyless democracy**

An important characteristic of the Panchayat System is that it is a partyless system. The system does not recognise the existence of any political party, nor does it encourage partisan feeling. This is the result of the country's sad experience with political parties before the introduction of the Panchayat System in 1960. The success of the Panchayat System has been able to prove that democracy without political parties is a distinct possibility.

### **Class Co-ordination**

The Panchayat System is based on class co-ordination than class conflict. Class organisations such as Peasant's Organisation, Labourer's Organisation, Elders Organisation, Youth Organisation, Women's Organisation and Ex-servicemen's Organisation help mobilise the organised strength of the various classes to channel it into the country's development. The importance of class organisations is seen also in the fact that to be elected to any office in the various tiers of the Panchayat one must become a member of one of these class organisations.

### **Exploitation-free society**

It is mentioned in the Directive Principles of the Pancha-

yat that one of the objectives of the system is to create a democratic, just, dynamic and exploitation-free society. The many and various programmes introduced since the dawn of the Panchayat System have contributed to the creation of such a society. Social and economic reforms too, have been introduced to help the common man free himself from different forms of exploitation.

### **Decentralisation of power**

Decentralisation of power is another main feature of the Panchayat System. It seeks to transfer power to the different tiers of the Panchayat pyramid so that the local panchayats can become administratively self-reliant. A programme for the gradual transfer of power to the lower rungs of the Panchayat system is underway. It is felt that such a programme would strengthen the democratic character of the Panchayat System.

### **STRUCTURE OF THE SYSTEM**

The Panchayat System is built up of a tiered structure ranging from the Village and Town Panchayat at the lowest rung to the Rastriya (National) Panchayat at the top. In between these are a number of tiers that correspond to the administrative division of the country.

The country is divided into 14 zones and 75 districts. In other words, each zone has a certain number of districts. A village or a group of villages comprising a population of about 1,000 in the sparsely populated northern region and about 2,000 in the other regions of the country, constitute



a Village Panchayat. Just as each zone consists of a number of districts so also each district comprises a certain number of Village Panchayats.

### **Village Assembly**

Each Village Panchayat is divided into 9 wards with approximately equal population and each of these wards elects 5 members from among themselves to become members of the Village Assembly. Two others are nominated by the district committee of the Go-to-the-Village National Campaign, a constitutional organ entrusted with the responsibility of evaluating the performances of political workers, bringing the total number of Village Assembly members to 47. The Chairman of each of the ward committees is a member of the Village Panchayat.

The Village Assembly meets at least twice a year. Its main function is to analyse and evaluate the work of the Village Panchayat. It also studies the income and expenditure of the Village Panchayat and examines its proposed programme for the coming year.

### **Town Assembly**

Any town with a population of at least 9,000 can be declared a Town Panchayat by His Majesty's Government. A Town Assembly is constituted in any town thus declared a Town Panchayat. In the course of forming a Town Assembly the Town Panchayat is divided into a number of wards ranging from 9 to 33, with each ward containing approximately the same population. All the eligible members of the different wards elect from

among themselves 5 persons to the Town Assembly. The 5 persons thus elected in each of the wards constitute the Ward Committee and the total number of elected representatives from all the wards constitute the Town Assembly.

### **Village Panchayat**

In order to carry out the day to day work of the Village Assembly an 11-member executive committee is elected. This is the Village Panchayat. It consists of one member from each of the nine wards of the Village Panchayat and 2 nominated members. In nominating the 2 members the National Campaign district committee gives priority to social workers, intellectuals or minority community and if there is no female member in the Village Panchayat, one of those nominated must be a woman.

The 11 Village Panchayat members elect the Pradhan Pancha (Chairman) and Upa-Pradhan Pancha (Vice-chairman) by two third majority. Failing this, the National Campaign district committee nominates the Pradhan and Upa-pradhan Panchas from among the Village Panchayat members.

Being the political unit at the grass-roots the Village Panchayat assumes a very important place in the country's political life. In addition, the Village Panchayat has the important task of carrying out development activities within its area such as building and maintaining roads and bridges. In order to carry out these activities the Village Panchayat maintains a fund by collecting local taxes, soliciting donations and receiving government grants. It is also the work of the Village Panchayat to provide health facilities and primary education to the local people. It is vested with certain judicial authority

in the adjudication of petty disputes.

### **Town Panchayat**

Like the Village Assembly the Town Assembly also elects an executive committee to handle its day to day work. This body is called the Town Panchayat. One member from among the five elected to the Ward Committee in each of the wards represents the ward in the Town Panchayat. In addition to these 2 to 6 members are nominated by the National Campaign district committee depending on the number of wards in the Town Panchayat area. Like in the case of Village Panchayat priority is given to social workers, intellectuals or the minority community. And if there is no woman in the Town Panchayat a woman is nominated from the Town Panchayat area. The Town Panchayat also elects by two-third majority the Pradhan (Chairman) and Upa-pradhan (Vice-Chairman) Panchas from among the members, failing which the National Campaign nominates them from among the members.

In addition to the Pradhan and Upa-pradhan Panchas, the Town Panchayat sends one-third of all the elected members to the District assembly. Like the Village Panchayat the Town Panchayat is involved in development activities in the urban areas. Apart from welfare activities it also has the power to settle minor disputes.

### **District Assembly**

In each of the 75 districts of the country there is a district Assembly. It comprises all the Pradhan and Upa-pradhan Panchas of the Village and Town Panchayats,

representatives from the Town Panchayats comprising one-third of the total number of wards in the Town Panchayat area, and the 5 members nominated by the National Campaign zonal committee to the District Panchayat. If the total number representing the Village and Town Panchayats is less than 20, His Majesty's Government nominates members to bring the number to 20.

### **District Panchayat**

Every District Assembly has an executive committee which is called the District Panchayat. The district is divided into 9 areas and each is represented by a District Panchayat member elected by the District Assembly. The District Panchayat comprises 9 members thus elected and 4 others nominated by the National Campaign zonal committee. While nominating such members the National campaign gives priority to social workers, intellectuals, minority community and backward class. And if there is no female member in the District Panchayat the National Campaign zonal committee nominates a woman from among the women of the district concerned.

The District Panchayat elects a Chairman and Vice-chairman from among themselves by two-third majority. Failing this, the National campaign zonal committee nominates the Chairman and Vice-chairman from among the District Panchayat members.

The District Panchayat is an important unit in the Panchayat System. The responsibility for the development of the district is entirely entrusted to it. Since each district is allotted at least one seat in the Rastriya Panchayat the members of the

District Panchayat as members of the Zonal Assembly are involved in the important act of electing Rastriya Panchayat members. Since the development activities in the district like construction or maintenance of road, bridges, wells, ponds. etc. as well as the projects undertaken by the government are entrusted to the District Panchayats, they play a significant role in keeping up the momentum of development activities. The District Panchayats are also involved in the development of agriculture and cottage industry as a medium for raising the living standard of the people. In addition to making arrangements for medical facilities and education for the people of the district, the District Panchayat takes prompt measures to combat natural calamities like floods and land-slides.

### **Zonal Assembly**

The country has been divided into 14 zones and 75 districts for administrative convenience. A Zonal Assembly is constituted in each of these zones. All the members of the District Panchayats in a zone are members of the Zonal Assembly. They remain members of the Zonal Assembly as long as they are members of the District Panchayats. The Zonal Assembly elects a Chairman and a Vice-chairman from among its members.

The Zonal Assembly works as an electoral college for the election of Rastriya Panchayat members. It is the members of the Zonal Assembly who elect all the Rastriya Panchayat members in the zone. It is also the responsibility of the Zonal Assembly to co-ordinate the activities of the different Panchayats and class organisations in the districts of the zone. It also

evaluates, supervises and offers guidance to the performance of the local Panchayats.

### **Rastriya (National) Panchayat**

The Constitution of Nepal provides for a national legislative body which is called the Rastriya Panchayat. The Rastriya Panchayat is a unicameral legislature. It comprises 112 members elected from the districts by the Zonal Assemblies and 23 members—20 percent of the total number—nominated by His Majesty the King. The total number of Rastriya Panchayat members is 135.

All the members of the Rastriya Panchayat, elected from the districts as well as nominated by the King have a term of 4 years. Since about one-fourth of the members elected from the districts retire every year their places are filled by elections. The country's 14 zones have been divided into four groups and elections are held every year in one of these groups. This gives an element of permanence to the Rastriya Panchayat.

A candidate seeking election to the Rastriya Panchayat must complete 25 years of age. There is a provision for the recall of members. A Rastriya Panchayat member can be recalled if 50 percent of all the members of the Zonal Assembly passes a motion of recall and if it is approved by the Go-to-the-Village National Campaign Central Committee or if two-third members of the joint meeting of the concerned Zonal and District Assemblies pass a motion for the recall of a member. The Rastriya Panchayat member represented in the Council of Ministers, however, is exempt from the provision of recall.

In addition, if the National Campaign central committee

finds that a member of the Rastriya Panchayat is not behaving in a manner befitting his high office it can submit a report to this effect to His Majesty and if it is approved the post becomes vacant. And, if a Rastriya Panchayat seat becomes vacant in any of these ways it must be filled as soon as possible. The seat is filled by election or nomination depending on how the recalled member has represented in the Rastriya Panchayat. The new member assumes the seat for the remaining term of his predecessor.

The Chairman and Vice-chairman of the Rastriya Panchayat are appointed by His Majesty the King from among the members on the recommendation of the Rastriya Panchayat. Both the Chairman and Vice-chairman are elected by two-third majority. If no one succeeds in securing two-third of the votes, His Majesty the King appoints the Chairman and Vice-chairman from among the Rastriya Panchayat members at the instance of the National Campaign central committee.

His Majesty the King summons all sessions of the Rastriya Panchayat. The time between the adjournment of one session and the start of the next should not normally be more than one year. Every year His Majesty addresses the Rastriya Panchayat and summarises the activities of the government in the previous year and of the goals and policies in the coming year.

Although originally the Rastriya Panchayat sessions were held in camera, the Second Amendment to the Constitution of December 1975 has provided that ordinarily they remain open to visitors. Decisions are taken by majority votes and the quorum is one-fourth of the total number of

members or 34. Before a newly elected or nominated member of the Rastriya Panchayat can participate in the House or the committees he must be duly sworn-in by the Chairman.

The most important function of the Rastriya Panchayat is its legislative function. As the only legislative body in the country it has the onerous responsibility of introducing new laws to meet the needs of time. In addition to framing new laws, it also passes the ordinances promulgated by His Majesty the King when the Rastriya Panchayat is not in session.

The Rastriya Panchayat has a financial function too—to pass the annual budget estimates of the country. Every year, just before the beginning of the new fiscal year, the Finance Minister presents an estimate of the income and expenditure for the forthcoming fiscal year. During the days that follow the budget speech the members discuss the proposed budget, the sources of income, proposed taxes and expenditures. The Rastriya Panchayat also scrutinises the Auditor General's report on the income and expenditure of His Majesty's Government. The Rastriya Panchayat studies the report and gives its suggestions before it is submitted by the Auditor General to His Majesty the King.

The Rastriya Panchayat exercises vigilance to see that the Council of Ministers does not deviate from the correct path. If the government makes any mistake the Rastriya Panchayat may seek explanation and if necessary may also recommend measures aimed at rectifying it. Also, by altering the proposed expenditures in the budget it can control or guide the government. The bills introduced by the government can also be



altered to control the government from misusing power.

#### PRIVILEGES

The Rastriya Panchayat enjoys certain privileges which are deemed necessary to enable it to carry out its duty.

The most important of these privileges is that of freedom of speech. When a member of the Rastriya Panchayat speaks in the House or in the committees he enjoys a right of free speech.

Another privilege of the Rastriya Panchayat is that no one can assign motives to its actions. In the same way no one can bring into publication a wrong and misleading interpretation of a statement made by a member in the House. A similar privilege grants them immunity against arrest for the period between the publication of the date for the start of the Rastriya Panchayat session and its adjournment. But members or officials can be arrested under the Security Act or for criminal offence. In such a case the Chairman of the Rastriya Panchayat has to be notified immediately.

The breach of privilege of the Rastriya Panchayat is considered a contempt of the Rastriya Panchayat. The House decides whether or not there has been such a breach of privileges. In the case of contempt the Chairman in accordance with the decision of the House can order detention of the offender for the maximum period of the duration of the Rastriya Panchayat session.

#### COMMITTEES

The Rastriya Panchayat has an organised system of

committees which comprises a Steering Committee and five other committees. The work of the Steering Committee is to advise the Chairman on ways of conducting the work of the Rastriya Panchayat. It comprises 14 elected members and a number of ex-officio members. Among the ex-officio members are the Chairman and Vice-Chairman of the Rastriya Panchayat who are also Chairman and Vice-Chairman of the Steering Committee, the Prime Minister, Finance Minister, Home Minister, Panchayat Minister and Law and Justice Minister. The members are elected on the basis of proportional representation and by single transferable votes. Except for the ex-officio members, others are for a period of 2 years.

Bills can be introduced by the Rastriya Panchayat members only through concerned committees. After due deliberation in the Committee, the Committee Chairman submits the bill to the Rastriya Panchayat for deliberations.

These committees are:

*I The Panchayat Committee* which looks after Home Panchayat, administration, class organisations, law and justice and defence.

*II Financial Committee* which looks after finance, accounts and estimates.

*III Social Committee* which looks after health, education foreign affairs and communications.

*IV Water Resources Committee* which looks after water, electricity, forest, food, agriculture, irrigation and land reform.

*V Development Committee* which looks after planning, industry, commerce, works and transport.

## SOME CONSTITUTIONAL BODIES

### Council of Ministers

It is mentioned in the Constitution of Nepal that His Majesty the King can exercise the executive power of Nepal in accordance with the Constitution and other existing laws directly or through ministers or other officials to subordinate Him.

Article 25 of the Constitution provides for the formation of a Council of Ministers to aid and advice His Majesty the King. It mentions that the duty of the Council of Ministers is to exercise the supervision and control over the administration of the country in accordance with the provisions of the Constitution and other existing laws of Nepal and directives issued by His Majesty the King from time to time.

It is also mentioned that depending on the need the Council of Ministers would comprise the Prime Minister, Deputy Prime Minister and other Ministers. The Council of Ministers can be formed by His Majesty the King under His own or the Prime Minister's Chairmanship. Even when the Council of Ministers is formed under His own chairmanship His Majesty can appoint a Prime Minister and a Deputy Prime Minister.

It is provided in the Constitution that the Prime Minister, Deputy Prime Minister and other Ministers are appointed by His Majesty the King from among the members of the Rastriya Panchayat. His Majesty the King can appoint a person who is not a member of the Rastriya Panchayat in the Council of Ministers for the maximum period of one year.

It is mentioned that the Council of Ministers and individual Ministers are responsible to His Majesty the King, each Minister being at the same time responsible for the work of his Ministry.

In addition to the Ministers, His Majesty also appoints Ministers of State and Assistant ministers from among the members of the Rastriya Panchayat.

### **The Raj Sabha (State Council)**

Article 23 of the Constitution of Nepal provides for the formation of Raj Sabha (State Council) comprising some ex-officio members and other individuals known for distinguished service. The Prime Minister, Chief Justice, Chairman of the Rastriya Panchayat, Chairman of the Go-to-the-Village National Campaign Central Committee, Ministers, Bada Guruju, Army Chief of Staff, Chief Commissioner of the Commission for the Prevention of Misuse of Authority, Auditor General, Chairman of the Public Service Commission, Chief Election Commissioner, Attorney General and the Mul Purohit (Chief Priest) are the ex-officio members of the Raj Sabha, while the others are nominated by His Majesty the King.

The main function of the Raj Sabha is to make arrangement for the Regent or Regency Council on the demise of the King or his abdication. In such a case the meeting of the Raj Sabha decides on the accession to the throne by the heir-apparent according to the law, custom and tradition. If the heir-apparent is not yet 18 years of age the Raj Sabha will declare the Regent or Regency Council in accordance with the rules made by His Majesty the King. Should one-fourth members

of the Raj Sabha propose that a meeting be called because His Majesty is unable to call it owing to mental or physical disability, a meeting is called by the Secretary of the Raj Sabha. It then becomes the primary task of the Raj Sabha to ascertain whether or not His Majesty is able to call such a meeting. If at least two-third of the members decide that it is true, the Raj Sabha will declare His Royal Highness the Crown Prince as Regent if he has attained the age of 18 or a Regency Council if it is not the case. But the Regent or Regency Council will cease to exist on the demise of His Majesty, His abdication or if His Majesty notifies the Raj Sabha that He is able again to carry on the affairs of state.

In order to carry out the day to day work of the Raj Sabha as laid down in the Constitution a Standing Committee of 7 to 15 persons is appointed by His Majesty the King. The members are appointed for a period of 4 years.

### **The Go-to-the-Village National Campaign**

The Go-to-the-Village National Campaign was originally a programme designed to bring about rural awareness and assist in the economic development of the villages. The programme was intended to check the flow of rural population into the cities and turn the attention of the urbanites to the plight of the rural masses.

The Second Amendment of the Constitution promulgated by His Majesty King Birendra in December 1975 has elevated the National Campaign to constitutional status. It is now made a vehicle for bringing about greater discipline among the Panchayat workers, to make them more

active and dedicated.

The Constitution assigns it the responsibility of interpreting and consolidating the ideological aspects of the Panchayat System by promoting training, organising and evaluating the performances of the Panchayat workers, formulating political programmes and supervising their implementation, organising Pancha rallies and arranging contacts between different tiers of the Panchayat System.

The Constitution provides for the establishment of a central committee of the Go-to-the-Village National Campaign which is entrusted with the work of organising similar committees at other levels. It forms zonal, district and village committees.

### **The Supreme Court**

The Constitution of Nepal provides for the establishment of a Supreme Court of Nepal. It consists of the Chief Justice and unless a larger number is prescribed by law, not more than 6 other justices. The term of office of the Chief Justice and other justices is 10 years but His Majesty the King can extend it for a specified period if he deems it fit. But the Chief Justice and the justices must retire at the age of 65.

Article 71 of the Constitution vests in the Supreme Court responsibility in matters of enforcing fundamental rights conferred by Part 3 of the Constitution. Within this jurisdiction it has the power to issue directions, orders or writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. The Supreme Court also has appellate jurisdiction regarding civil, criminal and constitutional matters.

It is provided in the Constitution that the Supreme Court shall not overrule its final decision, although in certain situations and conditions specified by the law it can review its decision. But if His Majesty the king on the advice of the Judicial Committee forwards a petition made to His Majesty for review, the Supreme Court shall have to review its earlier decision and take a decision according to the law.

There is also a provision for the establishment of a Judicial Review Commission to look into the appointment, transfer and promotion of gazetted officials in the judicial service. It is also to be consulted in the case of departmental action against gazetted officials. The Commission comprises the Chief Justice, Law and Justice Minister or Minister of State and the Chairman of the Public Service Commission.

### **The Commission for the Prevention of Misuse of Authority**

The Second Amendment to the Constitution of Nepal has made provision for the establishment of a commission for checking misuse of authority.

The Commission is to comprise a Chief Commissioner and any number of commissioners to be appointed by His Majesty the king. It is required that the Commission should submit a report of its work every year.

It is also provided that the Commission can look into cases of the misuse of authority and take final decision. But the decision can be reviewed by a commission to be constituted by His Majesty the king with the advice of the Chief Justice.

## **The Public Service Commission**

Provision has been made in the Constitution of Nepal for a Public Service Commission the members of which are appointed by His Majesty the King. The purpose of the Commission is to bring about uniformity in the appointment, transfer, and promotion in the civil service. The Public Service Commission is consulted in the case of laws pertaining to civil service, in principles relating to appointment, promotion or departmental actions, in determining the suitability of candidates for transfer from one service to another or in matters relating to departmental actions against gazetted officials.

The Public Service Commission is also consulted in matters relating to terms and conditions of employment, appointment, and promotion in organisations which are owned or controlled by His Majesty's Government.

## **The Election Commission**

There is also a provision in the Constitution for an Election Commission which comprises the Chief Election Commissioner and any number of commissioners to be determined by His Majesty the king.

The work of the Election Commission is to conduct, supervise and control the elections at different levels of the Panchayat System. It is specified in the Constitution when the Election Commission should organise these elections.

## **The Attorney General**

His Majesty the King appoints the Attorney General.

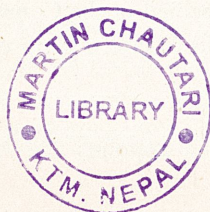


It is the duty of Attorney General to provide legal advice to His Majesty the King, His Majesty's Government or officials specified by His Majesty.

### The Objective

The ultimate objective of any political system is the general welfare of the people. Nepal's Panchayat System has sought to achieve the welfare of the people through many economic and social reforms introduced since the advent of this form of democracy. These reforms have been gradually removing the exploitations in different forms and manifestations that have plagued the Nepalese society. If the Civil Code (Mulki Ain) has reformed the antiquated legal system in the country, the land reform programme has helped transfer land from the rich landlords to the landless peasants.

More recently legal provisions were made for raising the status of women in the Nepalese society. The slogan of "politics for development" envisages maximum participation of the rural masses in politics and administration with the objective of achieving speedier economic development.



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