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CHALLENGES AND ISSUES OF JAMMU AND KASHMIR PANCHAYATI RAJ SYSTEM

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Introduction

In comparison to the Panchayati Raj systems in other Indian states, Jammu and Kashmir's Panchayati Raj system has far greater difficulties. Since the J&K Panchayati Raj Act of 1989 was put into effect, the state of Jammu and Kashmir has been dealing with a militancy issue that poses a serious threat to the Panchayati Raj system. One of the biggest threats to Jammu and Kashmir's Panchayati Raj system is the possibility of militancy and the boycott of elections by separatists. Despite the fact that there was no threat of militancy in 2011, 77% of adult voters in the valley participated in the Panchayati Raj election. However, the latter scenario was regrettably highly unfavorable. According to the 2018 election results, just 30% of the panchayat halqas in Kashmir had elections. Halqas is made up of a collection of villages, each with a ward that is symbolized by a panch. A sarpanch oversees the halqas. In 708 of the Valley's 2,135 halqas, no candidate ran for office, hence they are still unfilled. A single contender won each of the remaining 699 halqas without any opposition. Thus, there was no combat at all in 1,407 halqas. The lowest turnouts were recorded in the four South Kashmir districts of Shopian, Kulgam, Anantnag, and Pulwama. In reality, there was no polling at all in Shopian and Pulwama. 99% of the halqas in Kulgam had no polling, and 87% of the sarpanch positions had no candidates. In 76% of Anantnag's halqas, there were no contestants. Only 1,656 of the Valley's 17,059 panch wards had elections. There were no candidates in about 64% of the wards. There were 4,537 wards where the candidates were chosen without any opposition. It should come as no surprise that just 95 of the 5,847 panch wards in the four districts of South Kashmir had any voting. The current wave of domestic militancy that has gained hold in Kashmir over the past several years is centred on these four districts. In fact, South Kashmir had repeated gunfights during the election that claimed the lives of civilians, terrorists, and security personnel. While voter turnout was significantly greater in North Kashmir, voting in the south was at best sporadic. The terrorist organisation Hizbul Mujahideen's leader Riyaz Naikoo sent a video message on August 28 advising individuals submitting candidacy for the elections to carry shrouds. Additionally, he threatened to use acid on everyone who took part in the election. The warning and widespread resentment of the Indian government appear to have reduced attendance. Voters and candidates mostly remained away, despite the fact that there was no significant violence specifically directed at the political process.

Less participation in Panchayati Raj and assembly election:

Democracy literally translates to "rule of the people," and it is when a large populace participates in elections that a decent government is established. In J&K, there is extremely little political engagement in the Panchayati Raj elections. The development of the democratic government is primarily dependent on public engagement in any democracy. In several parts of the Valley, militant organisations and separatist leaders frequently posted posters outside of mosques, official buildings, and other significant locations urging people to vote. People's ability to vote is also limited by their attitudes regarding freedom and government repression.

Lack of awareness

Jammu and Kashmir State's condition is not excellent since the bulk of the people has seldom taken part in any state elections. Undemocratic groups and separatist leaders constantly work to dissuade the state's large population from participating in state elections. Because of this, the majority of J&K residents are uninformed of their ability to vote in state elections. Other challenges include a lack of education, a struggling economy, and backwardness, a lack of social media, the threat of terrorism, and an inadequate welfare system, among others. In J&K, panchs and sarpanchs can raise village awareness levels and boost public support for the Panchayati Raj election, but because of the militant danger, they are fearful for their own safety. Because the BDOs, Panchs, and Sarpanchs failed to give the villagers jobs, some people lost interest in the Panchayat elections.

Lack of funds

Jammu and Kashmir's Panchayati Raj system faces significant difficulties due to a lack of financing. In several instances, it has been determined that the village Panchs and Sarpanchs established a plan for village level development with the help of the Gram Sabha. Higher authority cannot be implemented on the same plane. These entire aircraft are altered with the approval of the development and rural department authorities. Which directly violates the Panchayat's autonomy? Building the capacities of all elected Panchayat members who manage these funds and put them to use in Halqa Panchayat's village-level development is crucial.



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Administrative and State Control on Functions and Powers of Panchayat Raj Institution

In the Panchayati Raj system of Jammu & Kashmir, the state government and administrative bodies primarily controlled panchayati raj authority. The fact that every aspect of Panchayat development is carried out at the village level and that the payment system is managed by administrative staff places a significant barrier between workers and village level development projects. It has frequently been noted that the ongoing system of worker remuneration through the administrative body is still in place today. Even though the 1989 statute allows for three tyre systems, the state government has failed to put it into practice, therefore the relationship between the Panchayat Raj system and the state government is also not good.

The Issue of Complimentary Fee of Panchs and Sarpanchs

The state government has previously said that Panchs will receive Rs. 1000 per month and Sarpanchs will receive Rs. However, the payment has still not been made on time. Panchs and Sarpanchs encounter numerous difficulties because they come from a hilly region and suffer all day, but the outcome is negative because they are unable to receive their payments on time. As a result, their interest in the Panchayat remains low.

Corruption and Nepotism in Panchayat

Jammu and Kashmir's Panchayati Raj system has a serious corruption problem since it is evident in every Panchayat administrative division. The primary problem that Jammu and Kashmir's Panchayati Raj system is now confronting is corruption. It has been examined at various administrative and Halqa Panchayat levels under the J&K Panchayat System. Due to corruption, a worker who completed their task in January will receive payment the following year. This indicates that widespread corruption will continue. For instance, a poor individual who wants to build a house under the IAY programme will only be able to get half of the funding, with the remaining portion going to corruption.

Electoral Delays in Panchayati Raj

The Jammu and Kashmir Panchayati Raj Act (1989) gives the Panchayati Raj system a formal constitutional standing and states clearly that elections for the Panchayat would be held every five years, yet this system's elections are still being held on time. The first election was conducted in 2001, the second in 2011, and the third in 2018. In July 2016, the Jammu and Kashmir Legislative Council approved an amendment to the Panchayati Raj election law that enabled indirect elections of Sarpanchs by Panchs rather than direct elections, which also poses a significant threat to local democracy. The Jammu Kashmir Panchayati Raj (amendment) Ordinance bill was then issued by the state governor (N N Vohra) in December 2016, which authorised the State Chief Electoral Officer. Again, on November 4, 2017, the governor (N N Vohra) gave the go-ahead for the proclamation of the Jammu and Kashmir Panchayati Raj (amendment) Law 2017, ordering that there be no delay in beginning the preparations for the conduct of the 2016 elections, which were ultimately held in 2018.

Lack of Education, Security and Wider Representation

Since numerous Panchs and Sarpanches were murdered by terrorists in various parts of the state, elected members of Panchayat are always concerned for their safety. Ajay Pandita alias Bharti, a 40-year-old Kashmiri Pandit sarpanch of Anantnag, south Kashmir, was recently assassinated by terrorists in the month of June 2020. In Larkipora, Pandita of the hamlet of Lukbawan was assaulted in his orchard. All elected members of the Panchayat demanded security protection from the state government in order to preserve their lives, but the administration did not comply. Many Panches and Sarpanches resigned as a result of these adverse circumstances.

Due to their lack of education and knowledge, illiterate Panches and Sarpanches cannot properly represent their Panchayat body, communicate with higher authorities, or demand any Panchayat level scheme for village development. It has also been noted that illiterate Sarpanches frequently seal documents without reading what is written on them.

The majority of the tribal community in Jammu and Kashmir cannot participate in this election if it is conducted during the summer, because all nomadic tribes move their animals towards steep terrain throughout the summer. The tribe population is currently the third-largest in the state of Utah. Tribal people who live in nomadic groups are still not well served by Panchayati Raj development, which is why they show less interest in Panchayati Raj elections.

Poor Infrastructure of Panchayati Raj System

Another problem with the Panchayati Raj system in Jammu and Kashmir is its infrastructure; there is no real Panchayat building in the hamlet, and even if one were to exist, the Panchayat employees would not be there.



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There are few connection roads and effective transportation options through the Panchayati Raj system in many mountainous locations. It has long been observed that because of the distance and poor condition of the roads, residents in hilly areas do not travel to the polling station to cast their ballots. People shun all Panchayat activities as a result of the absence of roads and convenient routes. This is another significant problem with the Panchayati raj system.

Harsh Winter Season and Limitations Allied to it

The winter season is a significant difficulty for the Panchayati Raj system, particularly in the state of Jammu and Kashmir. Almost the whole region is covered in snow at this time, and all development projects must be postponed or cancelled because of the extreme cold and heavy snowfall, if any work is carried out by a Panchayat in a steep terrain, harm from avalanches and landslides would also result.

Lack of Women participation

Due to family obligations, women do not fully participate in panchayat elections. In the general consensus of the valley, it is considered a taboo for women to participate in the political and social setups, besides numerous other social illegalities perpetrated against women.

Limitations of the Jammu and Kashmir Panchayati Raj Act, 1989

In no way can the Jammu and Kashmir Panchayati Raj Act of 1989 claim to have decentralized authority or established a democratic atmosphere at the local level. Government interference in panchayat composition is one of the Act's most fundamental faults. This Act allows for nominations at every level, including the Halqa Panchayat, the Block Development Council, and the District Planning and Development Board, in contrast to the 73rd Amendment to the Constitution, which mandates that all seats in the panchayats be filled by individuals elected directly from territorial constituencies within the panchayats.

Only at the local level is the direct election of panchayats a reality. Directly elected citizens are not present on either the Block Development Council or the District Planning and Development Board, only the head of the Block Development Council is chosen, although it is an indirect process because the panches and sarpanches in the block made up the Electoral College. No direct election is allowed for the District Planning and Development Board either. Only the vice chairman of the Board is chosen; the actual Board members make up the Electoral College.

Dominance of Political Parties

The majority of panches and sarpanches in Jammu and Kashmir are members of significant regional political parties, making it more difficult for the average voter to vote in local elections.

The nomination process was included in the Act to make up for another serious shortcoming, which was that no seats were reserved for women, members of the scheduled castes, or members of the scheduled tribes (SCs/STs). The State Act gives the government the authority to nominate women to the panchayats if it determines that their representation is necessary, in contrast to the 73rd Amendment to the Constitution, which allows for the reservation of 33% of seats for women by direct election.

By resurrecting and establishing the legitimacy of the ancient system of justice, Panchayati Adalats have been utilised in several States as an addition to the regular court system. Recently, the Gram Nyayalyas Act was also passed by the Union Government in order to deliver justice at the local level. However, the State legislation undermines the independence of the institution of justice at the local level by giving the State Government the authority to appoint the members of the Panchayati Adalat and to dismiss its chairman or any member. It amounts to adding a third branch of justice under the supervision of the State government to the conventional system of justice and the judicial system, both of which are meant to be separate from the executive. The nomination concept alters not only the privileges enjoyed by the nominated members of the panchayats but also runs counter to the democratic essence of panchayats. Nominated members' representation is at the State Government's discretion and is not a privilege guaranteed by the Constitution for any of these groups. In reality, the government may readily impact the panchayats' autonomy through the use of discretion.

Co-optation or nomination has two effects. First of all, this meant that there were just a few token women present, and nomination by the majority party in power meant that pliant or kinswomen were chosen. In order to later nominate their "own women" after only electing male candidates, political parties and governing party factions interested in controlling panchayats make sure that women do not run for office, even if some of them show enthusiasm. In this way, co-optation served as a tool of patronage for the dominant political



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or social organisations that work to impede the advancement of women's representation in elections, as well as a basis for the idea that women are weaker and incapable of running for office.

According to a 1983 study on panchayats in Maharashtra, "A respondent, who was ambitious and had previously successfully run for office, said that her party had persuaded her not to run for office during the last Zilla Panchayat (ZP) election because her winning the election would deprive the party of an additional seat in ZP as well as the Panchayat Samiti. There is no room for co-option in the event that a female candidate is elected, and the co-opted member has the same voting rights as elected members. Therefore, rather than fostering effective representation of active women, political parties use the co-option law to increase their support and improve their position in the panchayat body (D'Lima 1983). Over time, the State Government has incorporated numerous beneficial aspects of the 73rd Amendment Act to address these 1989 Act constraints.

Post Abrogation of Article 370 Scenario of the Local Self-Government

Following the destruction of Article 370 of the Indian Constitution, the Bharatiya Janata Party (BJP) and its allies issued jubilant reverberations, but they did not endure long. On August 5, 2020, the former state would have been divided into Jammu and Kashmir and Ladakh, two Union Territories. Back then, the BJP camp was jubilant, and its leaders openly said that it was now time for POK (Pakistan Occupied Kashmir) and Aksai Chin to be fully assimilated into India. According to them, Article 370 was a barrier to J&K's enfranchisement with the Indian State.

The government's approach was to stifle public discourse while imprisoning the leaders of the major political parties. These were mostly political figures who supported J&K's inclusion in the Indian State. Former chief ministers, ministers, lawmakers in office and former J&K legislative assembly members were all either placed in custody or placed under house arrest. Among them, Mehbooba Mufti (who is still in custody), Farooq Abdullah and his son Omar Abdullah, Mohammad Yousuf Tarigami, and Saifuddin Soz are well-known figures. They were followed by thousands of individuals, many of whom spent a considerable amount of time in custody. These included attorneys, members of civil society, and journalists.

The second component of the plan was to influence certain people, particularly those who had been elected to local bodies. The idea was to promote them as genuine representatives of the people in place of the former major political leaders. The BJP and its IT unit launched an endless effort to delegitimize mainstream political parties and their leadership. One of the salvos was that a few governing families had appropriated all the benefits of Kashmir's unique status and had accumulated incredible riches, and that they had also seized the majority of the Center's funding.

Before the epidemic hit, a group of elected local officials met with Home Minister Amit Shah to discuss this apparent issue. Shah has emphasised that Kashmir lacked the benefits of democratic administration since the 73rd and 74th Constitutional Amendments had not been put into effect there. According to Shah, local bodies would be empowered and be better equipped to rule themselves democratically as a result of the J&K Constitution being declared invalid. As I noted in these columns at the time the group saw Shah, this is a ridiculous argument. The columns describe how the former state of J&K adopted both amendments and included them in the acts of their local bodies.

It is important to look at the developments in local bodies in J&K and Ladakh a year after Article 370 was consigned to history. Nothing has taken place. These are Talib Hussain's encouraging comments, one of the delegates who had spoken with Shah. The Block Development Council in Shangas in Anantnag is presided over by Talib. He said that no attempts had been taken to revitalise local government and that it was instead being handled by bureaucrats more like a tamasha (pageant). He said that they were being treated like "praja" while the raja, or king, was sitting in Delhi giving sermons to his subjects. As the year went on, "we lost a sense of citizenry," he claimed. Despite being in charge of the BDC, he said that the bureaucracy makes all of the decisions. Power has not been decentralised. Talib emphasised that the BJP is elevating carefully chosen individuals with little credibility. For 6,000 group IV vacancies, he said that approximately five lakh applications were submitted, indicating that there was unemployment in the state. Talib noted that any resources they had were also slipping from their hands. Having first embraced the shift in status, the people of Jammu are now regretting their decision. He said that Jammu residents are also impacted by the new domicile legislation.

Khursheed Malik, a former panchayat chairman who ran unsuccessfully for the BJP in the Kashmir Valley assembly elections, delivered the harshest criticism of the administration's one-year tenure. Even though it is what the BJP sought to promote to oppose the mainstream parties, Khursheed claimed that local body administration over the last year has been a charade. Over the past two years, the BJP has essentially controlled J&K; the first year was under the governor and the last year was under the LG. The poor performance



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of local body members in the most recent council election demonstrates how severely the BJP screwed up. He said that the valley was devoid of moral authority.

Khursheed explained the meaning of moral authority by using the fact that 85% of voters participated in the local body elections while former CM Omar Abdullah was in office. With such widespread involvement in the political process, a quick shift appeared to be approaching. He said that during that time, separatists had posted firmans (an edict) on the doors of elected local body representatives ordering them to resign. According to Khursheed, several elected officials protested in Srinagar against the separatists' autocratic instructions and opposed their diktats. The Hurriyat and others were the targets of this frontal assault, but the delegates kept up their work for the people. Additionally, the electorate backed their own will and the elected municipal officials, who had a strong mandate from the electorate. Khursheed stated that the BJP has revoked all of that.

Local bodies in the area have lost their legal standing as a result of the change in status and the annulment of the J&K Constitution. According to Khursheed, falsehoods are being propagated throughout the nation, and even those who supported the Indian people have faced severe mockery. He noted that earlier governments had issues as well, but at least they could speak out without fear in response to the dread that the BJP has stoked. When he was chosen as the panchayat chairperson, he said that during a meeting, he had publicly criticised Rahul Gandhi for his politics in Kashmir. According to him, after voicing his critique, he was given the opportunity for a hearing, although under the current law, criticism of this nature would result in a sedition prosecution.

According to Doctor Ishey Namgyal, President of the Leh Municipal Council, there was first joy in Ladakh, but now there are more anxieties than celebrations. He claimed that it is unclear what would happen to the long-standing land protection legislation and the domicile question. Regarding the proposals of the 15th Finance Commission, Namgyal stated that the local body has not yet received any funding. The bureaucracy, he said, is in charge of making decisions, and elected bodies are not even involved. As people have begun to lose trust in BJP governance, he warned that the modifications made to land and domicile problems may ignite a movement towards alienation similar to that in the north-eastern region of India.

Even while the BJP is touting the previous year as evidence of its pro-nationalist agenda and celebrating it, the party and the government have failed horribly in practice. The inhabitants of the region have lost trust in both resources and their right to be citizens of this nation, putting their attempts to impose alternative leaders to one side.

Conclusion

To conclude there are various other challenges before Panchayati Raj in J&K viz; mismanagement in the Panchayati system, political influence, corruption, lack of motivation, inappropriate use of funds, lack of responsiveness, lack of transparency, lack of skills and man power, lack of infrastructure, and lack of proper guideline. Panchayat system neither develops nor properly works because of these challenges.

Decision making processes in panchayats need to be better defined, to diminish the possibility of elite capture, proxy participation and single point decision. Panchayati Raj Institution are working almost in every state of India. The concept of governance in the context of Jammu & Kashmir needs to be elaborated and detailed. Long spells of Governor's rule, suspension of municipalities and other local bodies and non-existence of panchayats have had a bearing on the governance of the state. As a result, even during normal times, the governance in the state was marked by arbitrariness and lack of systems and precedents. Killing of sarpanchs by the militants created more threat among the panchs and sarpanchs of the valley. Two-third of the state had been severely hit by militants due to whom the outreach of government officials also got affected. To sum up we can say that Panchayati raj institutions are existed in J&K state but are not functioning to that extent as is expected. There is need to revive and activate the panchayats and revitalize the administration at grassroots level. To overcome these problems, it becomes imperative to take a few measures that will prove beneficial in the long run. Educated youths of J&K should tackle the situation bravely and should work for the development of their area.

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