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Problems and Challenges faced by Panchayati Raj Institutions in the Union Territory of Jammu & Kashmir

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The creation of the institution of Panchayati Raj was a landmark in Indian history for democracy to percolate deep down to the grass-root level. It is seen as a mechanism through which the unheard's voice could find a place in the planning and implementation process. The 73rd Constitutional Amendment Act, 1992, passed by the union government of India becomes the Panchayati Raj law, on April 24, 1993. This amendment act gave the constitutional status to the Panchayats. The power of the local bodies to govern and manage local issues is the highest level of democracy observed in India. Its outcome is the people's involvement in running their affairs, which results in direct and participatory democracy at a local level, whereas at the national level, it is a parliamentary democracy.

The concept of Panchayati Raj in Jammu and Kashmir is the original one; it was the Maharaja Hari Singh, the ruler of the erstwhile state, who introduced the concept of Panchayati Raj in the state in 1935 when he enacted the first Village Panchayati Regulation Act No 1. To see the development concerning the Panchayati Raj in other states of the nation, the government later came with new and comprehensive legislation, which is called the Jammu and Kashmir Panchayati Raj Act 19891. Even though Panchayati raj institutions provide opportunities to the local people to participate in the political and development process at the grass-root level, but these institutions still do not work suitably in the Union Territory of Jammu & Kashmir.

The present paper deals with the problems and challenges faced by the representatives of these institutions and emphasize the effect of militancy in the proper functioning of these institutions in the union territory of J&K.

Keywords: Panchayati Raj, Democracy, Militancy, Governance, Grass-roots.

Introduction

The role of Panchayati Raj Institutions in the socio and economic development of people at the grass-roots level is admirable². Panchayats as institutional vehicles for development has been part of the Indian System for ages. In ancient times, the Panchayati Raj system prevailed during the Chola Period. The Resolutions of 1881 and 1882 passed by Lord Ripon can be the origin of modern local government in India. The development of local self-government in India owes its progress to Lord Ripon's sincere efforts in this direction. His most remarkable contribution was in the field of local self-Government³. After independence, the Indian government appointed

a committee under the chairmanship of Balwant Rai Mehta in 1957 to analyze the functioning of the Community Development Program (1952) and the National Extension Service in (1953)⁴. The committee submitted its final report in November 1957 and recommended establishing a three-tier Panchayat Raj system, which are Gram Panchayat, Panchayat Samiti, and Zila Parishad. Finally, National Development Council accepted this recommendation in 1958, which eventually came to be known as the Panchayati Raj institution⁵. Pandit Jawaharlal Nehru, the then Prime Minister of India inaugurated this scheme. Rajasthan was the first state to adopt the system of Panchayati Raj in Nagaur district on 2nd October 1959. During the 1950s and 1960s, other state governments adopted this system later. The second state was Andhra Pradesh, while Maharashtra was the ninth state. The 73rd Amendment Act, 1992 of the Indian Constitution gave the constitutional status to the Panchayats. After the enactment of the 73rd Constitutional Amendment Act, almost all the States/UTs except Arunachal Pradesh ratified appropriate legislation for setting up viable and responsible Panchayats at different levels in their respective States. However, some states and Schedule VI areas in States are exempted from the purview of this enactment⁶. Each of the States / UT has formed the State Election Commission (SEC) to guarantee elections to the Panchayati Raj Institution once every five years. Part IX of the Constitution about the formation of Panchayats does not apply to Jammu & Kashmir, Meghalaya, Mizoram, Nagaland, and hill areas of Manipur. In the National Capital Territory of Delhi, the Panchayati raj was suspended by the State Government, and no steps have been taken to bring back the PRIs to date⁶. Article 40 of the Constitution of India, which reads as “Organization of village Panchayats - the State shall take steps to organize Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government” is instrumental in introducing Panchayati Raj soon after 1950, when India became a republic³.

Panchayat consists of two words, ‘Panch’ and ‘Yat,’ Panch means five, and Yat means assembly. ‘Raj’ literally means governance or government. Thus Panchayati Raj means a group or government of five peoples. The 11th schedule of the Indian constitution lists 29 functional areas within the purview of the decentralized planning level, including agriculture and allied activities, social forestry, irrigation, small-scale industries, including food processing industries, drinking water, housing, roads, culverts, education, women and child development programs, etc. Resources and funds allocated to various departments by the state governments and from centrally-sponsored schemes to the district and sub-district levels can be dovetailed within a local area plan, which would ensure better utilization of resources under an umbrella with priorities assigned to activities based on the felt needs of the people⁷.

The Jammu and Kashmir Panchayati Raj Act, 1989

To see the development regarding the Panchayati Raj in other states of the nation, the state government comes with new and comprehensive legislation called the Jammu and Kashmir Panchayati Raj Act 1989. It was in this viewpoint that two senior Ministers of the state cabinet of that time, Muhammad Shafi and Abdul Rahim, instead visited the Karnataka and Andhra Pradesh to see the working of the new Panchayati Raj with their naked eyes. In this way, the Jammu and Kashmir Panchayati Raj act 1989 replaced the old legislation of the Jammu and Kashmir village panchayat act of 1958¹.

The incredible feature of this act was the provision of Panchayat Adalats, and it gives the three-tier model of Panchayat, which are:

- Halqa Panchayat.
- Block Development Council.
- District Planning and Development Board.

In comparison between the preamble of the Village Panchayati Regulation Act of 1935 and the Panchayat Act of Jammu and Kashmir of 1989, we see a change in the development of self-government, as the former focuses on helping the administration and the latter on the emphasis on improving local governance. The distinction between the first and the second generation of Panchayat is the shift of attention to the development of self-government in its full meaning.

Objectives of Present Study

The purpose of this document is to highlight the problems and challenges faced by Panchayati Raj institutions in Jammu and Kashmir in the current scenario and also to highlight the impact of militancy on the Panchayati Raj System in Jammu and Kashmir.

Research Methods

In this paper, an analytical method is used and it is based on secondary data. This secondary data is collected from several Research Papers, Magazines, Books, Journals, Articles, J&K Rural Development & Panchayati Raj website, newspapers, etc.

Problems and Challenges Faced by Panchayati Raj Institutions in Union Territory of Jammu and Kashmir

1. Lack of Security to representatives of Panchayati Raj Institutions: - This problem is faced by almost all the representatives of Panchayati Raj institutions, whether they are Panch's, Sarpanch's, or Block Development council chairpersons. Only the recently elected District Development council members are given the police protection currently for a temporary period. The Panch's, Sarpanch's, and BDC's demand for the security, but unfortunately, they are not provided with the same. That is why these representatives always remain worried about their lives because the current situation of the union territory is very disturbed. This nonavailability of security is also the main reason, especially in the south Kashmir districts, that these representatives resign from their posts due to threats to their lives from various unknown terrorist organizations. Many Panch's and Sarpanch's got killed after the 2011 elections by terrorists in J&K⁸.
2. Lack of people's participation in Panchayat elections:- Democracy means "rule of the people" when the population participates in the elections, then they choose a good government. In J&K, people's political participation in the Panchayati Raj elections is very low⁹. The Involvement of the maximum people makes the system more accountable, and transparent and this is also one of the main features of democracy. Unfortunately, most of the J&K population does not participate in the Panchayati elections due to the conflict and disturbance. Often the Militant organization and separatist leader's posters are pasted outside mosques, government premises, and other places in various districts of the Kashmir division, forbidding people not to participate in the polls¹⁰.
3. Lack of awareness:- Most people, especially in the Kashmir valley, are not interested in the system or ignorant of the advantages of the said system because this system is not rightly implemented. The bureaucratic delays, political interferences, economic reasons, and social pressures that made the Panchayati Raj's dysfunction can be controlled if a common man knows about the system. The construction and welfare works that are delivered to the panchayats and the running body, i.e., Panch's and Sarpanch's by the government, can improve the level of the villages and increase the faith of every native towards the nation and national integration and may make their participation in the government works if people are aware of the system. Their awareness may help to choose the suitable persons of the society as their leaders. But it is only their insufficiency of knowledge and detachment that they don't participate, and the

persons who are interested in leading are in no way worth it but are selected and hence govern according to their choice, which has made the system ineffective¹¹. More awareness about the system and its benefits would make more and more people come into it.

4. **Lack of funds:-** The lack of funding in the Panchayati Raj system of Jammu and Kashmir is a great challenge. In many cases, the village Panch's and Sarpanch's, in consultation with the whole Gram Sabha, prepare a developmental plan for village level development for a particular financial year. But the same plan is not implemented on the ground by the implementing authorities, who are mainly the officials of the rural development department who make changes in these developmental plans frequently without the consent of these Panchayat representatives or with the interference of any political leadership¹². This non-implementation is directly an attack on the autonomy of village Panchayat. It is paramount to build capacities for all elected representatives of Panchayat, which handle all these funds and implement in all village level development of Halqa Panchayat¹³. The Plans vetted by these Panchayat representatives should be final and implemented in the same way as prepared at the gram sabha level. The funds should also be allocated to them so that they are spent transparently and effectively, increasing the motivation of these representatives.
5. **Poor infrastructure of Panchayati Raj system:-** It is another problem of the Jammu and Kashmir Panchayati Raj system as there are no proper Panchayati buildings in the villages; if somewhere is available, then the employee of Panchayat is not available there⁵. Panchayat members are not given any offices so that they can work properly. The block development council members are also provided accommodation in rented infrastructures. The newly elected District Development council members are still looking for their permanent offices. These members can only function in a better way when they are provided with adequate infrastructure from the village level to the district level.
6. **Non-implementation of 73rd Amendment Act, 1993:-** After the abrogation of Article 370 on 05th of August 2019, which revoked the special status of Jammu & Kashmir and bifurcated the state into two union territories of J&K and Ladakh, the 73rd amendment act is still not implemented in the union territory. The Panchayat raj system still works according to the provisions of the Jammu & Kashmir Panchayati Raj Act, 1989. In all other Indian states/U.T's, the Panchayati Raj institution had implemented this act except some tribal states¹². Jammu and Kashmir Panchayati Raj systems are not so powerful compared to other state's Panchayat raj institutions. It is also a big Challenge to the J&K Panchayati Raj system⁵.
7. **Illiterate representatives of Panchayati Raj Institutions:-** Another issue for the Panchayati Raj system is that most of the Panch's, Sarpanch's, BDC's, and DDC's are not literate or not educated enough. Being illiterate, a person can't demand or make a suitable developmental plan for his panchayat or area as he lacks the knowledge and awareness about it. They are not able to represent their Panchayat body properly; neither they know how to present the grievances of people to the higher authorities because of lack of exposure. It has also been observed that illiterate members of panchayats put their seal and signature on any page if people demand without actually knowing about it.
8. **Delay in Panchayat elections:-** According to the Jammu and Kashmir Panchayat Raj Act, 1989, there should be periodic elections after a gap of every five years. But the actual position is not that. Panchayat elections were held in 2001, 2011, 2018, and recent bye-elections in 2020. It clearly shows that elections are not held periodically, which is also a problem in the Panchayati raj system in J&K.
9. **Administrative control on functions and powers of Panchayat Raj institutions:-** Most of the powers of Panchayat are governed by administrative machinery. There is an interference of

administration in the matters related to Panchayat development even at village levels, and Panchayat members are not given full authority to exercise in their fields or function independently wherever needed. The relation between the Panchayat Raj system and government is also not good even though the act of 1989 provides three tier systems, but the government has failed to implement them.

10. Threat from terrorist organizations and Boycott of Separatists: - This is one of the significant and foremost problems and challenges in the Panchayati Raj system in the Union territory of Jammu & Kashmir. The U.T of Jammu and Kashmir is presently suffering from a militancy problem, which makes it difficult for the proper functioning of these institutions. The threat of militancy and separatist's poll boycott is a crucial challenge to the Panchayati Raj system of Jammu and Kashmir¹⁴. In 2011, a total of 77% of the valley's Adult franchise participated in the Panchayati Raj election without any militancy threat, but unfortunately, later situation became very unfavorable. The elected Sarpanch's and Panch's were troubled about their families, properties, and lives because many Panch's and Sarpanch's were killed by militants in different parts of the valley. The voters were also given threats, and separatists gave a complete boycott call to these elections. A woman representative got killed in the Budgam district of the valley for the reason that she participated in the Panchayati Raj election. Whenever there is a time of the election, the separatists 'call for the boycott of these elections' and threats are issued by the militant organization to both contesting members as well as voters through audio and video clips, which go viral on social media platforms not to participate in the election process¹³. Kashmir valley being more prone to terrorism, people feel it better to remain far from this process because of these threats to their lives, family, and property.

Conclusion

To conclude, other factors that add to the challenges and problems of the Panchayati Raj institutions in the newly created union territory of Jammu & Kashmir are the political interference, mismanagement in the Panchayati system, corruption, lack of motivation, inappropriate use of funds, lack of responsiveness, lack of transparency, lack of skills and workforce and lack of proper guidance. These issues hamper the functioning of these institutions. When these issues are addressed, more and more people will come to join these institutions. Compared to other parts of the country, the Panchayati Raj institutions in J&K lack much behind. The administration should take the necessary steps to make it at par with the model operating in the rest of the country.

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