

Jammu and Kashmir on the Path of Empowering Grassroots Democracy

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journals.sagepub.com/home/ipa**Farooq Ahmad Waza¹ and Jos Chathukulam^{2,3}**

Abstract

The de-operationalisation of Article 370 has given a new lease of life to grassroots democracy in the erstwhile State of Jammu and Kashmir. The Union government has made it clear that the main priority is to strengthen grassroots democracy there. At present, the erstwhile State which was once battered by militancy, insurgency as well economic and political instability has embarked on the path of democracy. Though there have been criticisms that the eagerness and interest taken by the Union government to foster local democracy in Kashmir is an attempt to whitewash the absence of democratically elected State government, the recent developments in the erstwhile State including the completion of delimitation exercise at a quick pace to form democratically elected governments in the union territories of Jammu and Kashmir implies that there is some hope at end of the tunnel.

Keywords

Jammu and Kashmir, grassroots democracy, local governance, decentralisation, devolution

Introduction

In the erstwhile State of Jammu and Kashmir, a three-tier local government structure consisting of Halqa Panchayat (HP), Block Development Council (BDC) and District Planning and Development Board (DPDB) (now changed to District Development Council (DDC)) existed under the Jammu and Kashmir Panchayati Raj Act, 1989. However, the decentralisation programmes were operated within a

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controlled framework till the de-operationalisation of Article 370. In 2020, in the post-bifurcation period, the Union government modified the 1989 Act and it gave more power to the people at the grassroots level. The first section discusses the history of local governments in Jammu and Kashmir. This section particularly looks into the various legislations including Backward Regional Grants Funds (BRGF) aimed at fostering local governance in the erstwhile State and assess their efficacy and success in bringing the experience of grassroots governance to the people. It further looks into the Devolution Index to understand the status of devolution of funds, functions and functionaries in Panchayati Raj Institutions (PRIs) in Kashmir before the repealing of Article 370. The second section looks into the revival of grassroots democracy following the repealing of Article 370. The third section discusses the elections to BDC in 2019 and DDC in 2020, and critically examines their role in strengthening the local government structure in the union territories (UTs) of Jammu and Kashmir. The fourth section looks into the Back to Village programme and its impact on the decentralised governance, followed by a conclusion.

Methodology

The authors contacted and conducted interviews with sixty sarpanches and panches in Jammu and Kashmir between December 2018 and February 2020 and from November 2020 to December 2020. In addition, the authors have done intensive fieldwork in Kashmir in 2015, 2016, 2018, 2019 and 2020 to monitor the implementation of the BRGF scheme, for preparing a devolution index for the erstwhile State, to cover the local government elections held in 2018, 2019 and 2020. Considering the situation in Kashmir, the authors have ensured complete anonymity of the interviewees. The 'Back to Village Programme' initiated by the UT to revitalise HPs and the decentralised governance were also assessed and evaluated by the authors. The authors used both the BRGF and Back to Village programme as tools to assess their efficacy in fostering and strengthening local governments and local democracy in the UT.

Historical Background of Decentralisation in Jammu and Kashmir

In 1935, Maharaja Hari Singh promulgated the Village Panchayat Regulation Act. The preamble of the 1935 Act states, 'it is expedient to establish in Jammu and Kashmir state the village Panchayats to assist in the administrative, civil and criminal justice and also to manage the sanitation and other common concerns of the village' (Punjabi, 1990). However, owing to the non-democratic nature of Panchayats envisioned under the 1935 Act, it became dysfunctional (Aslam, 1999). The 1935 Act was amended in 1941 and the Panchayats were delegated the power to levy taxes and maintenance of public amenities and properties. With the end of Dogra rule¹ in 1947, followed by the Instrument of Accession (1947), all previous Panchayat legislations were repealed and it was replaced with the Jammu and Kashmir Village Panchayat Act of 1951. Based on the recommendations of the Balwantrai Mehta Committee (1958), the

Jammu and Kashmir Panchayati Raj Act, 1958, was enacted to strengthen grass-roots-level governance. However, it failed to accomplish the target owing to political instability. By 1970s, Village Panchayats became dormant. Later the government introduced the Jammu & Kashmir Panchayati Raj Act, 1989, and it provided for a three-tier system of the PRIs—HP at the village level, BDC at the intermediate level and DPDB at the district level. It also provided for a *Panchayati Adalat* for every *Halqa*. The 73rd and 74th Amendments to the Constitution of India were adopted by the Parliament in 1992. However, since the erstwhile State was accorded special status under Article 370, the laws passed by the Parliament of India were applicable to Jammu and Kashmir only after the state government gave its concurrence. Despite the 73rd Constitutional Amendment, no changes were incorporated into the 1989 Jammu and Kashmir Panchayati Raj Act. Meanwhile, in 1996, the erstwhile State framed Jammu and Kashmir Panchayat Rules. The first elections to the Panchayats in Kashmir were held in 2001, but these were dubbed as a ‘paper exercise’ (Chowdhary, 2001) as polling took place in only 208 out of 2,348 constituencies in Baramulla, 152 out of 1,695 in Kupwara and 53 out of 759 constituencies in Srinagar. In Badgam, no polling was held in any of the 1,022 constituencies (Wani, 2014). In general, there have been criticisms that the political processes and institutions in Jammu and Kashmir suffer from a legitimacy crisis, and PRIs are largely viewed as a part and parcel of the ‘existing power structure’ that has no real connection to the aspirations of the people in the valley (Chowdhary, 2001). People’s response to Panchayat elections in Jammu and Kashmir has always been different due to the tensed political situation. The people are generally reluctant to come forward, especially in Kashmir valley to cast their votes even in Panchayat elections as they fear it would provoke militants. The fact that many sarpanches and panches have been targeted by militants also created a fear in the mind of the locals. According to the 2003 Planning Commission (now NITI Aayog) Report on Jammu and Kashmir Development, two-thirds of the State had been severely hit by militants due to whom the people as well as the governance in the State have been on the receiving end. Officials and civilians have become direct targets of militants, and as a result people are scared for their lives, especially while venturing outside their homes (Forum for Human Rights in Jammu and Kashmir, 2020; Planning Commission, 2003). Meanwhile, in the 2011 elections to the Panchayats in Kashmir and this time around 80 per cent of the electorate exercised their right to vote from 13 April to 27 June 2011 (Wani, 2014; Waza, 2014). Owing to a better voter turnout, it was hailed as the ‘first real Panchayat elections in Jammu and Kashmir in 33 years’ (Singh, 2011). In 2011, the 1989 Act was amended to incorporate the provisions for State Election Commission and State Finance Commission. After the election, the State government transferred powers and functions of fourteen departments, including agriculture, health and rural development, to the PRIs. The PRIs were made responsible for the implementation of various Centrally-sponsored schemes (CSSs). A long list of functions was transferred to Halqa Panchayats, but without adequate funds and functionaries to operate (Wani & Waza, 2014; Waza, 2014). The main sources of income of Panchayats were the nominal

amounts received as grants and funds for CSSs, including Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS). The role of HPs is limited to implementation of CSSs, especially MGNREGS and preparation of Gram Panchayat Development Plan (GPDP).

Owing to the political instability, the erstwhile State was under President's rule many a time and the prolonged militancy also hindered the smooth functioning of grassroots democracy. Due to the absence of a proper governing mechanism, the benefits of various development plans did not reach the poorer sections of the society, causing governance deficit. Despite promising greater powers and funding to PRIs, successive governments, which ruled the erstwhile State over the years, did not do much for strengthening them.

Moving on to the devolution of powers, functions and functionaries to PRIs in the Jammu and Kashmir, the erstwhile State has been a low performer when it comes to devolution (Devolution Report, 2015–2016; Centre for Rural Management, Devolution Index, 2016–2017). The major reason for the poor performance is due to 'backsliding of local democracy' (Bermeo, 2016). In the devolution index constructed by Tata Institute of Social Sciences (TISS), Jammu and Kashmir, Bihar, Assam and Uttarakhand were poor performers in the devolution parameters (Basu, 2015). The fiscal devolution index published by MoPR for 2015–2016 also listed Jammu and Kashmir as a poor performer when it came to devolution and operational core of decentralisation (Vijayanand, 2018).

In 2016–2017, the Centre for Rural Management (CRM), a multifaceted research organisation based in Kerala, prepared a devolution index. Though the State showcased poor performance in terms of devolution framework, funds, functions and functionaries, when it came to accountability and transparency, it performed well. This indicated a positive message that grassroots level functionaries were willing to do their jobs even though the shortage of funds and functionaries might be hurting the process. See Tables 1 and 2 for details regarding the devolution index in Jammu and Kashmir.

Table 1. Jammu and Kashmir Devolution Index 2007–2008 to 2016–2017.

Sl. No	Year	Index	Rank
1	2010–2011	28.90	22
2	2011–2012	NA	NA
3	2012–2013	28.85	21
4	2013–2014	32.95	19
5	2014–2015	NA	25
6	2015–2016	NA	21
7*	2016–2017	27.85	28

Source: Reports of National Council of Applied Economic Research (NCAER), Indian Institute of Public Administration (IIPA), Tata Institute of Social Science (TISS) and Centre for Rural Management (CRM)/Data furnished by Government of Jammu and Kashmir.

Note: * After 2016–2017 devolution index studies were not conducted.

Table 2. Devolution Index of Jammu and Kashmir by Policy, Practice and Policy Adjusted Against Practice: 2016–2017.

Sl. No	Indicators	Devolution Index by Policy		Devolution Index by Practice		Devolution Index of Policy Adjusted Against Practice	
		Index	Rank	Index	Rank	Index	Rank
1	Framework	12.00	32	31.57	31	21.79	31
2	Funds	12.50	30	4.66	31	8.58	30
3	Functions	33.04	28	7.62	26	20.33	29
4	Functionaries	35.14	25	32.91	25	34.03	26
5	Accountability & Transparency	56.35	19	37.52	29	46.94	26
6	Performance	35.10	27	13.30	31	24.20	31

Source: Government of Jammu and Kashmir and field survey conducted by Centre for Rural Management (CRM) Kottayam, Kerala for construction of Devolution Index 2016–2017.

Role of BRGF in Promoting Grassroots Democracy in Jammu and Kashmir

The Backwards Regional Grants Fund (BRGF), introduced in 2006–2007 financial year, was designed to redress regional imbalances in development through decentralised planning. The primary objectives of the BRGF were to address the critical gaps in local infrastructure, strengthening grassroots governance, facilitating capacity building and participatory planning.

In the erstwhile State of Jammu and Kashmir, five districts in Jammu, including Doda, Kishtwar, Poonch and Ramban and Kupwara in Kashmir, were selected for the implementation of the BRGF. At the time of the introduction of BRGF, there were no elected functionaries in the PRIs in the erstwhile State but a High-Power Committee and District Planning Committee (DPC) were constituted. In addition, Rural Development and Panchayati Raj Departments were designated as the nodal departments while Public Works Department, Forest Department and the Block Development Offices jointly implemented the scheme. Meanwhile in 2011–2012, the elections to the HP were held, and consequent to the elections to the Panchayats, the elected functionaries (sarpanches) were given foundation and functional courses to implement the programme.

It is also worthwhile to comment that Jammu and Kashmir could score a value of 3.81 which is higher than that of Arunachal Pradesh (2.94) and Jharkhand (2.57) (Independent Evaluation of BRGF, Centre for Rural Management (CRM), 2016–2017b). As per the official records, a total of ₹225.16 crore was released to the selected five districts in Jammu as on October 2015 and out of this cumulative release, ₹214.32 crores were sanctioned as ‘development grant’ and ₹10.84 crore as ‘capacity building grant’ (Daily Excelsior, 2015; Independent Evaluation of

BRGF, Centre for Rural Management (CRM), 2016–2017b). The Panchayati Raj Department of Jammu and Kashmir communicated utilisation of only ₹163.50 crore. Though when BRGF was introduced, the absence of grassroots government was creating a void. Post-2011 Panchayat elections, the panchayat functionaries got involved in the process, and during this time there was a strong need felt to leverage and strengthen the PRI structure here.

De-operationalisation of Article 370 and Revival of Grassroots Democracy in Jammu and Kashmir

It has often been argued that the special status under Article 370 hindered the development of the erstwhile State, especially by restricting the implementation of the progressive laws made by the Union government. However, this scenario changed on 5 August 2019, as the Union government suspended Article 370. Under Jammu and Kashmir Reorganisation Act 2019, two UTs (Jammu and Kashmir and Ladakh) were formed by bifurcating the erstwhile State. The UT of Jammu and Kashmir has a legislature but the UT of Ladakh does not have a legislature. In an affidavit submitted by the Union government, the erstwhile State is experiencing ‘unprecedented era of peace, progress and prosperity’ after the de-operationalisation of Article 370 (*The Hindu Bureau*, 2023).

As per the 2019 Jammu and Kashmir Reorganisation Act, the ‘Union government has the power to make adaptations and modifications of the laws, whether by repeal or amendment for the application of any law made before the appointed date till the expiration of one year from the appointed date in relation to UTs’. Since then, the laws passed by the Parliament have been extended to the UT of Jammu and Kashmir. It eventually paved the way for the revival of grassroots democracy in the UT. The strengthening of PRIs became one of the focal priority areas of the Union government. It has been reported that the repealing of Article 370 has brought grassroots democracy to the doorsteps of citizens.

The last elected State government in Jammu and Kashmir collapsed in June 2018 after the Bharatiya Janata Party (BJP) walked out of its coalition with People’s Democratic Party (PDP) and after that it was placed under President’s rule. Meanwhile, in December 2018, elections to HPs were held. The elections saw good response in the regions of Jammu and Ladakh. However, in Kashmir, regional parties boycotted the elections by citing them as a face-saving exercise by the Union government to justify the absence of an elected government through constitutional means in the erstwhile State. Threat by militants also created fear among minds of the people.

In August 2019, the Union government repealed the special status of Jammu and Kashmir under Article 370 and made it a UT. It was in the first week of September 2019, barely a month had passed, and Jammu and Kashmir was still under unprecedented lockdown and communication blockade when delegations of Panchayat members from Kashmir met Prime Minister Narendra Modi and Union Home Minister Amit Shah. The elected functionaries in the Panchayats were told they were the real leaders of the people to represent the new politics in *Naya* Kashmir and the alternative to dynastic and corrupted political leadership in

the Valley. Insurance coverage of ₹2 lakhs to each elected functionary in the Panchayats was also announced. The Union Home Minister, Amit Shah, as a part of his *Sampark Abhiyan* assured the people of Jammu and Kashmir through these elected functionaries that communication blockade will be lifted, and Jammu and Kashmir will be granted statehood as soon as normalcy was restored.

2019 Block Development Council (BDC) Elections

The process of emboldening the elected functionaries of Panchayats started when the elections to select Chairpersons of BDC (the Intermediate Panchayat/or the second tier) were held in October 2019. It was the first democratic exercise in the UT after the de-operationalisation of Article 370 and the Congress, PDP and the NC boycotted it. Nearly 98% polling was recorded (Express Web Desk, 2019). The elections were held in 307 Blocks and of these 217 were won by Independents, 81 by BJP, eight by J&K Panthers and one by INC² (Joshi, 2019). The BDC chairpersons were elected by the 23,629 elected Panchayat functionaries who emerged as winners in the HP election held in 2018 (Waza, 2018, 2019).

Amendment to the Jammu and Kashmir Panchayati Raj Act (1989)

The Jammu and Kashmir Panchayati Raj Act, 1989, was amended in the post-bifurcation period in order to bring in conformity with the 73rd Constitutional Amendment Act. It introduced a new structural framework in the PRIs like DDCs and DPCs. The DDCs consist of fourteen members directly elected by the people from the territorial constituencies of a district for a term of five years. Reservation for women, Scheduled Castes and Scheduled Tribes in these sections are also included in the DDCs. Each DDC has a chairperson and a deputy chairperson and they are elected from among the members. Each DDC has five standing committees. DPC is headed by the Member of Parliament representing the area; its other members include MLAs representing the district, chairperson of Municipalities, DDC chairperson and district-level officers.

The State Administrative Council headed by Lieutenant Governor Manoj Sinha hailed the amendment of the 1989 Act as it eventually paved the way for elected three-tier PRIs. With Assembly elections ruled out, till the Delimitation Commission was established³ in 2021 which submitted its report and boundaries of the electoral constituencies were redrawn. DDC is designated to act as an alternative government in the UT to ensure development at the grassroots level. The DDC elections and by-elections were viewed by the Union government as an opportunity to resurrect the mainstream politics, to revive frozen political activity in the UT and thereby strengthening the grassroots democracy in the UT.

District Development Council Elections—2020

The elections to DDCs were held from 28 November to 19 December 2020, in eight phases. By-elections to constitute the vacant Panchayats were also held.

The DDC elections were held on party basis. It generated a very keen interest in the UT and at the national level as well. It was the second electoral exercise after the de-operationalisation of Article 370 and 35-A. The parties of Gupkar Alliance also decided to fight collectively under the banner of People's Alliance for Gupkar Deceleration (PAGD).

The decision by PAGD to contest the elections threw a challenge to BJP and undermined its prospects to create a new crop of leaders to clip the wings of the mainstream parties. The PAGD was also under pressure as its participation was construed as acceptance of the new reality. Further, it urged the people to vote for PAGD candidates as it was important to keep BJP and Jammu and Kashmir Apni Party (JKAP) at bay and deny them a space to implement their agenda. Above all, it offered an opportunity to mainstream politics under the umbrella of PAGD to make their point heard and test their strength amidst the questions being raised on their role and relevance in BJP's Naya Kashmir.

The first ever DDC elections was contested by 2,178 candidates including 450 women. It saw an overall voter turnout of 51.42%. There was a significant variation in polling percentage in two regions of the UT. It was high in the Jammu region with 68% turnout, while in the Kashmir region it remained at 34%, but was far better compared to last Panchayat elections in 2018. The BJP and JKAP fought the election on development issues. BJP sold its slogan of building Naya Kashmir where peace, progress and prosperity shall inform lives of the people. While the JKAP was more concerned about using elections as an opportunity to gain public acceptability, and to counter the narrative that the party was Centre's party and 'Team B' of BJP. The DDC elections showed that the people in Kashmir had not lost interest in electoral politics even after the de-operationalisation of Article 370 and Article 35-A of the Constitution of India. There were apprehensions that the people might lose confidence in political process in the aftermath (BBC, 2019). However, the people of Jammu and Kashmir including those in Kashmir valley participated in large number in DDC elections. The enthusiastic response to DDC elections conveyed the message that the people were in favour of resolution of their issues through peaceful and democratic means. It also showed that the people favoured Kashmir-centric parties than the new political setup. The PAGD, also known as the Gupkar alliance, which consists of J&K National Conference, PDP won more than 100 seats in Kashmir valley, and the BJP emerged as the single largest political party by securing majority of the seats in Jammu (Beigh, 2021). Out of 278 seats (result on two seats was then withheld), the writ of PAGD largely prevailed as the alliance won 110 seats, 84 in Kashmir and 26 in Jammu region. The BJP won 75 seats, 72 in Jammu and 3 in Kashmir. Congress won 26 seats, 17 in Jammu and 9 in Kashmir, the JKAP won 12 seats, and the independent candidates won 50 seats (Beigh, 2021).

The PAGD winning 110 seats was no mean achievement given the difficulties its candidates faced. They were kept in cluster accommodations and were not allowed to campaign on the security pretext. The Union Ministers from Delhi visited the UT and campaigned for their candidates even in South Kashmir—the epicentre of militancy. The Union government could not possibly ignore the mainstream political parties in its endeavour to restore the political process in the UT.

The biggest achievement for the Union government about these elections was its legitimacy—the exercise was owned by the people through participation and contestation and above all it remained free from violence. However, the meaning of DDC election was undermined by subverting the people’s mandate. This happened owing to delay in administering oath and allegiance to elected DDC members and in electing the chairpersons of DDC. Conducting a peaceful election in Jammu and Kashmir was not an easy task, particularly given the context within which DDC elections were held. It was BJP’s pipe-dream of a public outreach exercise aimed at making a new beginning and start political activities in the UT. And the plan did succeed. The Union government declared the successful conduct of elections and people’s participation as the ‘victory of democracy’ and people’s mandate for democratic decentralisation of power. It is equally important in sensitising the bureaucracy to accept Panchayats as the basic stakeholders in governance and development. With funds directly reaching into the accounts of Panchayats, it is important to strengthen Gram Sabha for participatory democratic local self-government and to act as a watchdog in enforcing social accountability.

The Union Budget of 2021–2022 allocated ₹1,08,621 crores for the UT of Jammu and Kashmir. In the Budget, the Union government also earmarked development funds for DDCs and BDCs. While ₹200 crores were allocated to 20 DDCs, ₹71.25 crores were allocated for 285 BDCs (Ashiq, 2021). Then there is Aspirational Panchayat Development Programme to provide financial assistance of ₹10.00 lakh to selected 285 Panchayats (One Panchayat per Block), Aspirational Block Development Programme and Aspirational Towns Development Programme for the holistic development of the Municipal towns in the UT (Department of Information and Public Relations, 2023). In the Union Budget of 2023–2024, ₹120 crores were allocated for the establishment of DDC and BDC and PRI accommodation offices in the UT, ₹5 crores earmarked as ex- gratia to members of BDCs, DDCs and Panchayats (Union Budget 2023–2024).

Back to Village: A Novel Attempt to Empower Grassroots Democracy

Though BRGF scheme could not completely succeed in fully strengthening the local government systems in the erstwhile State, in the post de-operationalisation period, new avenues and platforms have been emerging and the Back to Village (People’s Campaign for Grassroots Planning) is one among them. The initiative is aimed at empowering the local governments, especially HPs at the grassroots level (Gireesan, 2022). It lays stress on the centrality of the PRIs to plan and implement GPDP in a campaign mode through *Janbhagidari* (people’s participation). In first phase of the Back to Village, a total of 5,000 officers reached out to people in 4,483 HPs in the UT (Gireesan, 2022). The second phase gave emphasis to the devolution of powers to HPs and the third phase focused on grievance redressal based on the feedback and inputs gathered from the previous two phases.

Conclusion

The de-operationalisation of Article 370 has in a way opened a fresh chapter in the lives of the people of Jammu and Kashmir in terms of development and democracy at the grassroots level. To empower grassroots democratic institutions, all the 29 subjects listed under the 11th Schedule of the Constitution of India have to be devolved to the HPs in the UT of Jammu and Kashmir. Though elections to local government institutions is a good move, there have been no authentic studies or research as to verify the success of recently initiated moves surrounding local governments. It is true that the local citizens are in favour and support of sound grassroots-level governance. However, there have also been reports that the elected sarpanches, those elected to BDC and DDC are not able to freely exercise their duties due to threat to their life and security (Zargar, 2021). The fieldwork of the authors has validated the reports. Union government has reiterated several times that their main priority is to strengthen the grassroots democracy in the UT. The Back to Village programme is a promising initiative that has all the potential to strengthen local democracy in the UT; it has proven to be more effective than the BRGF scheme. In May 2022, it was announced that the delimitation process had been completed and polls could be conducted. This showed that the government was eager to constitute a democratically elected government in Jammu and Kashmir. The demand and efficacy of the people for grassroots democracy may be a compulsion for such a move from the Union government.

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Notes

1. The Dogra Dynasty ruled Jammu and Kashmir from 1846 to 1947.
2. The Congress candidate filed the nomination much before the INC officially announced its decision to boycott polls.
3. In March 2020, the Delimitation Commission was constituted to redraw the electoral constituencies of Jammu and Kashmir.

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