

Strengthening LOCAL GOVERNANCE in Jammu & Kashmir
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Dialogue and
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In
Jammu & Kashmir

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Srinagar

Executive Summary

The process of decentralization in the State of Jammu & Kashmir (J&K) started in the 1930's. The Village Panchayat Acts were passed in 1935 and 1951—the first by the Maharaja, and the second by the first elected government of the state. The prospects of these legislative changes resulting in larger decentralization of power initially looked positive, but due to the constant political upheavals in the state from the early 1950's to the 1970's, decentralization was relegated to the margins. Though efforts were made in this direction, decentralization and devolution of powers did not take strong root in political discourse and in the application and design of state policy.

In 1976, the process of administrative decentralization was begun by setting up the Single Line Administration system. This meant empowering decision-making at the local level with the participation of the local populace. The district level was made the node for the operation. This process was intended to entrench a system of democratic decentralization in the state.

The constantly destabilizing political upheavals in J&K, culminating in an armed insurgency in the late 1980's, brought the process of decentralization to a complete halt. For most of the next two decades, the state apparatus was primarily focussed on concerns of security and counter-insurgency, leading to ever greater centralization of power, and the divestment of decision-making at the local level.

In the meanwhile, the agenda for devolution of powers to the local levels was languishing, and it is only with the recent panchayat elections after more than two decades that the demand for a speedy devolution of powers to the elected panchayats is once again rising in the state.¹

However, even this process has been marred as it is being dragged into the opposing discourses of 'mainstream' and 'separatist' politics. As a result, many sarpanches have been targeted, and some even killed, in attacks by unidentified

assailants over the last two years. The resultant fear has prompted many sarpanches to dissociate themselves from the panchayats and they have publicly tendered their resignations.

Coupled with the slow pace of devolution of powers to the panchayats, the attacks on the sarpanches have created a feeling of insecurity and vulnerability, so much so that the demand for security from the state for all elected functionaries of the panchayats has almost become de rigueur.

These issues have complicated an already problematic situation. J&K has peculiar developmental and governance needs that stem from the fact that the majority of districts are either border districts, or hilly districts, and sometimes both. Therefore, standard models of development and governance are not effective for most of the state due to the unique challenges of topography and administration thrown up by border and hilly areas. The presence of elected and empowered decision-making on the ground would go a long way in addressing the specific needs of the different areas of the state.

The experiment with the Hill Councils in Ladakh has yielded some dividends in this regard, as empowered local planning and decision-making has been made possible through the Hill Councils. Despite this progress, the topography, the presence of different communities with their diverse political aspirations, and a long history of conflict have put tremendous pressure on this system that is still very new.

Regardless of these issues, there are possibilities that could emerge as long as there is the political will to devolve substantive powers. The recent report of the Committee on Devolution of Powers to the Panchayats, chaired by the Chief Secretary of J&K, offers a possible way forward.

This present study has tried to engage with these broad concerns. The principal methodology of the study has been to engage with various civil society actors and organizations in the multiple regions of J&K, and to present their arguments in an analytical manner. The conclusions derived, therefore, are only of an indicative nature. It is hoped though, that this study presents an initial point of departure on a subject and issue of concern that is increasingly relevant in the political and civil discourse.

¹ The Panchayats were traditional institutions of mediation and arbitration within communities that had existed in India since centuries. With the passing of various legislations the traditional role of Panchayats has been sought to be formalized and institutionalized with a view to facilitate democratic decentralization and devolution of powers across the country.

SECTION 1

Jammu & Kashmir: An Overview

Topography

The state of Jammu & Kashmir, nestled in the Himalayas, comprises an area of 22, 236 square kilometres. This area is primarily made up of the huge mountain masses constituting the Karakoram, the Great Himalayas, Zaskar and the Pir Panjal ranges. Between these ranges are the elongated valleys of the Gilgit, Shyok and Indus rivers, as well as the oval-shaped and flat-surfaced Jhelum valley, which is most commonly referred to as the Kashmir valley.

Towards the south of the Pir Panjal is the Shivalik range, which is comparatively much lower in elevation, and forms the outer hills of Jammu. Further south, a narrow strip of foothill plains merges into the plains of the Punjab. The principal rivers of the state are the Indus, the Jhelum and the Chenab.

The valley of Kashmir lies between the main Himalayan and the Pir Panjal ranges. It is a long oval-shaped valley that is almost 135 km in length. Jhelum, the main river of the Kashmir valley rises at the southern end of the valley and flows through its middle, receiving numerous tributaries such as the Sindh and the Doodh Ganga, before it enters the Wular lake. From here the Jhelum flows out of the state, across the Line of Control. At the southern end of the valley, the Banihal pass opens the way to the province of Jammu.

North of the valley are the great Himalayan ranges including the well-known Zaskar range, which is bounded in the north by the deep gorge of the Indus River? The Zoji la pass connects the high altitude Ladakh region to the Kashmir valley.

Politics

J&K consists of three distinct geographical and political regions—Ladakh, Jammu and the Kashmir valley. Administratively, however, it is divided into only two divisions—Kashmir and Jammu, with the Ladakh region being a part of Kashmir division.

The state has two capital cities, with Jammu serving as the winter capital and Srinagar as the summer capital. Like all the states of India, it has a multi-party democratic system of governance. The largest political parties are the Jammu & Kashmir National

Conference (NC), the Indian National Congress (INC) and the Jammu and Kashmir People's Democratic Party (PDP).

As a result of unique circumstances in which the last princely ruler of the state negotiated the terms of its accession with the Indian Union, the Constitution of India grants J&K special status through Article 370. J&K is the only Indian state that has its own flag and constitution. The state flag of J&K has the native plough on a red background, symbolizing agrarian labour. The three stripes represent the three regions of the state namely Jammu, Kashmir, and Ladakh.

The state of J&K has 22 districts, ten each in the regions of Kashmir and Jammu, and two in the Ladakh region. The districts vary greatly according to their topography, political economy, land use and indicators of development (see annex IV).

The topographic and climatic factors, along with the political and administrative factors, impose certain limitations on the development of the state. The topographical constraints in particular, have been one of the contributing factors, over the decades, in creating a developmental profile which is marked by low industrial development, high unemployment and a very slow economic growth rate.

Statistics reveal that the hilly districts of the state such as Doda, Kargil and Leh have the highest plan expenditures and amongst the lowest per capita incomes. This indicates that although the plan outlays for these hilly districts are higher than those of the other districts, they do not contribute in any way to greater incomes or greater development in the districts. The reason for this is that the higher plan outlays are actually used to cover the higher per capita cost of developing infrastructure and resources in the hilly areas. This has critical ramifications for the developmental profile of a state in which a majority of the districts can be classified as hilly.

Jammu & Kashmir as a Special Category State

Taking into consideration the topography of the state of J&K, the central government has classified it as a Special Category

State. It has laid out special provisions to counter the impact of remoteness of place, low accessibility and harshness of climate that hinder socio-economic growth. Along with J&K, other Special Category states include Arunachal Pradesh, Assam, Himachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, and Uttarakhand, all of which fall in the Indian Himalayan Region (IHR), except for Assam which has only two hill districts in the IHR. The central government has clubbed these hilly states together as Special Category states for the purpose of devolution of financial grants. These hill states have not been able to perform as well on indicators of socioeconomic development as the rest of the states in the country.

In the context of the special requirements of the hill states, and the need for significant levels of government investment, the Central Plan assistance to Special Category States is provided on special terms. For these states, the per capita level of central assistance is among the highest in the country. J&K receives plan grants from the central government on 90:10 basis, i.e., 90 per cent grant and 10 per cent loan. These plan grants have been crucial in meeting resource requirements for various social sector programmes of the state. However, there is a critical difference in the case of J&K. It does not receive the same treatment as other Special Category states the difference being that Central Plan assistance in the case of the north-eastern states is non-lapsable. This is not the case with respect to J&K and as a result of this, hundreds of crores of central assistance given to the state is returned since it cannot be utilized in the specified periods. Over the years, the state government has requested that it be granted non-lapsable funds like the other Special Category states in order to ensure effective utilization of available plan resources.²

Many civil society groups, especially in the Kashmir Valley, have voiced concerns over the lapsing of funds. They have proposed the formation of a Lapse Fund account for the state, which will enable the state to make full use of the assistance given by the central government. These groups have often pointed that the central government actively discriminates against J&K by seemingly providing assistance, but effectively stopping it from accessing the same assistance.

In addition to this, in the last few years, the central government has increasingly been providing financial assistance to all states through a wide range of Centrally Sponsored Schemes (CSS). The Special Category states however do not get any special concession with regard to funding under CSS. If funding for these schemes is modified along the 90:10 pattern for the Special Category states, it would enable cash-strapped

states such as J&K to avail the maximum benefits from these schemes.

Furthermore, CSS funds are often provided towards the end of the financial year. In case of underutilization of funds, it takes considerable time in getting them revalidated for use in the next financial year. Therefore, a demand for timely release of CSS funds, coupled with the earlier demand of making financial assistance to the state non-lapsable, is often voiced by civil society groups.

Release of funds towards the end of the financial year also has other implications for a state like J&K. The untimely release of funds means that funds are released at a time when in most parts of the state winter is setting in. In hilly districts, this severely compromises the utilization of the funds as the number of working days is tremendously restricted because of inclement weather and snowfall. This implies that schemes such as National Rural Employment Guarantee Act (NREGA), which are designed to provide a hundred days of employment in a year, end up providing beneficiaries with a maximum of 30-45 days of paid work at best.

Considering the marginal nature of the economies that operate in the hilly areas of the state, and the very limited access to cash that beneficiaries normally have in these areas, a scheme like NREGA substantially supplements the cash incomes of poor households. Any restriction on the number of days of work therefore drastically restricts cash flow, and deprives the beneficiaries of a major portion of the benefit that the scheme has been designed for.

Per Capita Incomes, Plan Expenditures comparisons

District Srinagar, Jammu and Kathua are among the top three ranked districts in terms of Gross per Capita Income while **Doda, Kupwara and Kargil which are hill and border districts are the bottom three.**

Per capita district Plan Expenditure is highest in Leh and Kargil districts. The nature of the mountainous terrain underlies the need to have greater plan outlays in these districts to achieve the comparable targets in other districts where the same targets are achieved with lesser plan outlays.

Such schemes, however, whether promulgated by the state or central government, should accommodate the diversity of experience in their original design. They should not establish a standard format of implementation across the country as this

² J&K, Economic Survey, 2009, p. 138

unfairly punishes the outlying districts which are generally the least developed to begin with. It is here that the role of local decision-making and village level planning which feeds into district planning is most important. Therefore, it is critical that structures of local governance should be in place to provide the necessary feedback to higher levels, so that appropriate design accommodations and modifications are introduced in schemes to maximize their utilization and thus empower the local population.

Decentralized Planning as a New Paradigm of Local Governance

The primary principle behind decentralized planning is to bring the decision-making process closer to the locus of the problems and to integrate the decisions with the felt needs of the community. Decentralization addresses two problems: on the one hand, it facilitates development and effective governance and, on the other hand, it ensures the participation of people in governance leading to more sustainable solutions to local problems.

It is ironic that although J&K started very early in the field of decentralized district planning, it has not been able to consolidate the gains from decentralization even today. The initiative of "Single Line Administration" was started in 1976 to plan development at the district level in consultation with the representatives of the people. District Development Boards

(DDB) were constituted for this purpose, and accordingly, Deputy Commissioners of districts were made the District Development Commissioners (DDC) of the Districts; with appropriate delegation of financial and administrative powers they also functioned as the heads of the departments at the district level. DDC's were also designated as Chairmen of the District Development Boards in the respective districts. This concept was eventually reaffirmed and strengthened in September 1993 by issuing comprehensive guidelines towards consolidating this arrangement.³

The key to the success of decentralized planning system, however, depends upon the financial resources available at the district level. Over the years, locals have started to feel that District Development Boards are merely decision-makers for the schemes at the district level within the given sector. They have no manoeuvrability and leverage to decide on inter-sectoral priorities. For instance the DDBs merely implement the allocations that are routed through them and do not possess a mechanism whereby they can alter or define sectoral allocations of say health or education according to the specific requirements in the district.

Structural issues such as these have severely limited not only the role of the District Development Boards as nodal bodies, but also the overall dispensation of devolution in the state. This in turn stands in the way of the larger development goals the state and districts may have set for themselves.

³ Jammu and Kashmir Development Report

SECTION 2

Issues and Concerns on the Ground

The Constraints of Topography

Though the Panchayati Raj institutions have been in existence for a long time, these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons. These include the absence of regular elections, insufficient representation of marginalized sections such as women and scheduled castes, inadequate devolution of powers and lack of financial resources. These issues have a much more intense impact in a state so diverse in topography, language and culture such as J&K. Effective local governance becomes all the more critical to customize interventions according to the felt needs of populations.

In J&K, individuals as well as civil society formations have presented extensive statistics to demonstrate how the hilly districts for instance the regions of the Chenab valley (Doda and Kishtwar) and Rajouri and Poonch (Pir Panjal region), which are otherwise rich in natural resources, are among the most backward in the state. This, they allege, is not only because of topographical constraints, but also because of the neglect these districts have suffered at the hands of successive state governments. Therefore, it is imperative that the questions pertaining to devolving internal autonomy within the different regions of the state be seriously addressed.

For instance, the demand for hill councils, along the lines that have been granted to Ladakh, has been repeatedly mooted for the Chenab valley and the Pir Panjal regions of the state. The gross under-representation of the people from these regions in government and political institutions has been consistently and severely criticized.

Local Governance in Ladakh

The Ladakh region, remote and inaccessible as it is, with an extreme climate, is a very interesting case in the state of J&K for understanding both the limitations and the possibilities of effective local governance in the state.

The vision document for Ladakh that was prepared at the initiative of the Ladakh Autonomous Hill Development

Council (LAHDC) is perceived as a significant document by both community leaders and political actors. It is felt that if the recommendations of the document are implemented, it would put the Ladakh region, especially the Leh district, at the head of the most developed districts of the state. The people of Ladakh feel that the Hill Council wants to move with great speed towards developing and implementing reforms on governance, and avail of all the central schemes that are available in the different sectors. However, this in their view is hindered by the slow pace of administrative procedures in the state secretariat as a result of which a lot of these schemes are not availed in time. The blame for this falls on a perceived bias of a bureaucracy that is primarily composed of officers from Kashmir and Jammu; many instances of this bias have been pointed out.

Though the decision to form Hill Councils has been welcomed by almost all across the districts of Leh and Kargil, the limitations of the powers of the Councils has been constantly decried. It was brought out during consultations with members of the Councils, that while theoretically the letter of the Act says that all employees of the district have to work under the orders of the Councils, but in actual practice the Councils lack key powers such as the power to transfer employees, effectively depriving them of leverage with its own administrative functionaries. This is exacerbated by the fact that all those who work in the councils are on deputation from other government departments, decreasing the leverage of the Councils vis-à-vis the district administration even further.

On the whole, both former and current councillors argue that there is a need for greater functional clarity between the district administration and the Councils. A step towards increasing the leverage of the Councils could be that the Councils be allowed to write the departmental Annual Progress Reports as this will give them greater leverage and weight with the departments and officials under its purview. Another limitation of the Councils that is cited is that the power of nomination in the Councils is manipulated by the state government to its own advantage, thus weakening the democratic character of the Councils.

During the course of conducting the study in Ladakh, the issue of reorganization of districts—and the changes it entails—as well as the delimitation of legislative and parliamentary constituencies, was reflected strongly in discussions with civil society representatives. The fact that a major reorganization of districts took place in J&K in 2006, and a large district such as Doda was reorganized, is often cited to support a similar reorganization in the Ladakh region considering the land size of both the Kargil and the Leh districts. This demand, however, does not take into consideration the fact that the unified Doda district had a much greater population than Leh and Kargil put together, and that district reorganization has primarily used population size and not land size as the main criteria for reorganization. It was nevertheless stressed that large districts fuel administrative inefficiency and lead to lack of utilization of funds and inadequate fund allocations, thus depriving these large regions of the full fruits of a decentralized governance system.

Local Governance and Local resources

Water is a critical resource in Leh, and around 90 per cent of households use ground water for their needs. There are two reservoirs for Leh town which are fed by the Indus river. Before this, Leh was supplied by spring water. Almost every household has hand pumps but the boring levels are increasing every year as water levels fall.

One reason for this is that the hotels and guest houses in Ladakh use very large quantities of water. The Hill Council has become very active around such concerns and the preparation of the Ladakh vision document for the next 25 years is a great achievement in this direction. If implemented, it may help in dealing with such issues.

Only 20 per cent of the villages in the Leh valley use the waters of the Indus and there is no lift irrigation system. This is because sufficient electricity is not available to run the system. As and when the Alchi hydroelectric power project is commissioned, water may be lifted using electricity and the situation may improve.

Water is a precious resource that has been dwindling over the years, and with lower levels of precipitation in Ladakh, the situation is becoming critical. Water conflicts are therefore common. Some areas have the traditional institution of the water officer— Cho Pun—who mediates conflicts. In other areas such as Skara which are fed by spring water, water conflicts are frequent.

With the introduction of modern mechanisms and systems of water management, the traditional role of the Cho Pun has been relegated to the background. As a result, a traditional and effective manner of mediation and water management has been lost. Efforts to reinvigorate this traditional role are on. Many in Ladakh's civil society believe that this might reduce water conflicts in an age when access to this critical resource is becoming difficult.

The Ladakh region has, over the years, also shown signs of a creeping and insidious conflict between its main communities—the Muslims and the Buddhists. Whether it is concerns of the Muslims in Leh, or those of the Buddhists in Kargil, there have been tension and flare-ups. Though there are two nominated candidates from the Muslim community in the Council in Leh, the Muslims especially of Leh town are not happy with their representation in the Council as they believe that the process of nomination is often manipulated. Through this alleged manipulation, candidates that suit the larger party in power are brought in, but they do not necessarily represent the community and its concerns.

Mohammad Deen Khan, Muslim community Leader and Development expert, Leh

The major issues that are facing Ladakh are communalization and the concerns of the minorities both in Leh and Kargil. There is no long term planning; political exigency and adhocism in administrative matters holds sway.

Though the Ladakh vision document was a good achievement it is lying unused on a shelf. The Hill Councils that started off well are not as effective anymore as a result of political interference. There is an important need that Councillors and the Chief Councillors should have technical advisors to guide them on implementation of State and Central schemes.

In addition to the nominated positions in the Leh Council, there are two elected councillors from Turtuk and Chushot, which are Muslim dominated constituencies.

Tsering Samphel, former MLA and Congress District President

There exist strains between the administrative structures of the district administration and the Hill Councils

in Ladakh. The relation between the two depends in great part on the leadership of the Councils.

The demand at the heart of the Leh district is that the people here want administrative autonomy from the state and therefore the Union Territory demand is very strong in Leh. This has stemmed from years of neglect and active bias from the state administration. Whatever Ladakh has got, it has had to fight for it.

GM Sheik, Development Expert, Ladakh

The creation of the Ladakh Union Territory Front (LUTF) and the demand for Union Territory status in Ladakh is a symptom of how governance has been structured in the state for the past many decades. This disaffection against the state government (perceived as Kashmir centric) is also often exploited for political ends by groups that are interested in emphasizing sectarian and communal rifts.

There is a palpable tension between communities in Ladakh, both in the Kargil and the Leh district. Communal flare-ups against the Buddhists in Kargil have taken place many times in the past. Last year, the events in Zaskar, which has a Buddhist majority and a Muslim minority, were indicative of the extreme communalization that had taken place in even remote regions.⁴ In Leh, the approach of the Ladakh Buddhist Association (LBA) is increasingly seen as right wing and, in some cases, extremist by Muslims.

The LBA allegedly disfavours intermixing of communities, promotes street vigilantism and encourages social and business boycotts against the Muslims in Leh. The Muslims of Leh on the other hand, especially those of the town, believe that they are being discriminated against, and their rightful space is being infringed upon.

There is a perception that the dominant position of the Muslims of Leh town in the contracting and tourism businesses rankles with the majority, and therefore their economic space is being stifled through other means. These beliefs and allegations are dismissed by the majority as being baseless and rooted in prejudice.

Another issue for the Muslims in Leh is that they are a very small minority in the district. They feel beleaguered, and believe that there has been a lack of solidarity towards them from the

Muslims in Kargil and from those in the Kashmir Valley who have been preoccupied with their own issues.

Although there are issues that have divided communities in Ladakh there are many other concerns that are shared as well in both Leh and Kargil. In both places, 99 per cent of the population comes under the Scheduled Tribe (ST) category, and therefore the Tribal Sub Plan plays an important role in the development of this region. But there are serious reservations about the effectiveness of this plan as it is alleged that not even 20 per cent of the approved expenditure is released. This is once again attributed to the bias in the state secretariat that sits at Srinagar or Jammu.

In addition to this, there are notified institutions in the country where ST students can avail scholarships. The proposals for the scholarships are however routed through the state secretariat where it is alleged that these files invariably get stuck. This is perceived as a great disadvantage for the students from the Ladakh region. This feeling and perception of discrimination and bias is very strong in the Ladakh region, and over the years has resulted in radical demands from the Leh region. The Leh region has been demanding that the Leh district be separated from the state of Jammu and Kashmir and be federally administered as a Union Territory. The Ladakh Union Territory Front or the LUTF has been spearheading this agitation since the late 1980's.

These concerns are indicative of the social and political dynamics of the diverse population in the Ladakh region. These factors, coupled with the difficult terrain and climate of the region, highlight the need for innovative and responsive models of governance which can fulfil the aspirations of the people, manage tasks effectively and operate in a fair manner.

Governance Issues in the Regions of Kashmir and Jammu

The regions of Kashmir and Jammu present a different set of problems. These regions have experienced great political instability for many decades and a violent insurgency—especially in the Kashmir valley—that has torn its social and political fabric. Political fragmentation and a general cynicism towards the administration pervade society.

The Case of the Valley

Frequent instances of lack of effective and empowered governance, and inadequate developmental efforts can be seen across all districts of the Kashmir valley. This is not very encouraging as it points to the neglected demands in these districts, while at the same time, indicating the potential of what could be done in these areas. The most important issue

⁴ The Zaskar region in Kargil districts saw a major communal flare-up between the majority Buddhists and the minority Muslims in 2012. At the root of the tensions were alleged conversions by a few Buddhist families to Islam. Trouble in Zaskar, <http://www.kashmirtimes.com/newsdet.aspx?q=6943>

that emerged in discussions at civil society gatherings at the community level was that primary health care facilities in the districts were not equipped with adequate facilities. Furthermore, road access to many remote and border districts was so inadequate that the transport of seriously ill patients to district hospitals—much less major cities—was difficult.

Districts in south Kashmir desired improved health facilities, including better maternity facilities, as did the frontier district of Kupwara. Primary health care facilities in the districts were not equipped with adequate pre and post natal facilities. As a result, most of the cases were referred to the only tertiary maternity facility in the valley, the Lal Ded Hospital in Srinagar. In many cases fatalities or complications occurred as a result of the long journey patients had to undertake from far off districts to Srinagar.⁵

It emerged from extensive discussions with community leaders that in their view, corruption was the main barrier in the course of good governance and effective development.

Ashiq Hussain, Sarpanch, Vilgam, District Kupwara

The district of Kupwara, being a border district and also a hilly district, suffers from very bad road connectivity which has a direct bearing on the health care access of a large portion of the population of the district. There is a dire need to improve all weather connectivity within the district.

As it is a border district it has also suffered on account of the impact of the conflict which, for a long time, made civic improvements impossible in the area as the administration was preoccupied with matters of security.

The slow speed of the state government to effectively devolve powers to the panchayats in the Kashmir valley was considered as a very serious issue. Many sarpanches attributed it to possible reluctance on the part of the state government. In the politically fraught situation of Kashmir, they were apprehensive that a lack of effective mandate on their part had the potential to endanger their safety and security. They felt that an immediate clarification of the roles, responsibilities and powers of the panchayats was necessary so that they could live up to the promises that they had made to their electorates when they had stood for the elections.

⁵ Infant Mortality in J&K was 55 while in Himachal it was 47 for the same period (2007), and in Uttarakhand it was 48 Source JK Economic Survey 2008-09.

⁶

Although the panchayats have been allocated 14 departments for which they will oversee the functions and activities, there is still no functional clarity on roles between the district administration and the panchayats.⁶ The Panchayati Raj Institutions (PRIs) at the district, block and village level are the principal authorities for planning and implementation of a number of central schemes such as National Rural Employment Guarantee Act (NREGA), Backward Regions Grant Fund (BRGF) and Border Area Development Programme (BADP).

Abdul Rashid Wani, Dooru, Anantnag

We fought the elections and did not think of our safety and now that the government is not devolving adequate powers to us we are in a peculiar situation where the community looks upon us with suspicion as we are not able to fulfil the promises we made to them.

The Challenges in Jammu

The panchayats in their role of local governance face not only political but also social challenges in many parts of the state. For instance in the Doda district of Jammu, there are numerous villages dominated by people from the scheduled castes (SC). As a result, many of these villages have sarpanches and panches who are from the SC category. Although these people have been elected to their posts by a large number of votes, there have been instances where the upper castes have tried to put hurdles in the discharge of their duties and have tried to browbeat them.

Tilak Raj Sharma, Member, State Level Vigilance and Monitoring Committee, Ministry of Rural Development, Jammu

Local governance is premised on local empowerment. As long as the powers-that-be do not trust the wisdom of local communities, the panchayats will remain feeble and weak. Empowering the local level can revolutionize village life and the village economy.

The majority of the districts in the Jammu region are hilly, and those that are in the plains towards the south are border districts. The problems of connectivity and access are of primary concern to people who live in these districts. Road connectivity has a direct impact on the manner in which populations in these districts access health and educational facilities, especially tertiary health and higher education

facilities. For instance, in the remote corners of districts such as Doda, and in villages such as Kota and Kakoti that are near the border with Himachal Pradesh, road connectivity needs to be improved drastically, and the implementation of national schemes needs to be streamlined for effective benefits to the local communities.

Abdul Rahman, Sarpanch, Thatri, Doda

It is only through empowering panchayats that large scale interventions like the NREGA can be fully successful. Without the mediation of elected representatives such schemes are underutilized and worse, misused for personal gains by vested interests.

As much as effective local governance might have been necessary, the past two decades of violent conflict have affected districts such as Doda in Jammu along with the rest of the Kashmir Valley. Security issues have gained foreground, and those of governance have been relegated to the background. It is only recently that the elections of the panchayats have put local governance back on the agenda. However, the positive impact of the panchayat elections has its limits. The politicization of the panchayat elections has been a great impediment, especially in the case of the Kashmir valley. The portrayal of the successful conduct of Panchayat elections as a vote not just for development but also as a reposing of trust by the people of Kashmir in the political status quo has severely limited the possibilities of the panchayati functionaries at the very outset. It has pitted them in some measure against a significant political discourse especially in the Kashmir valley that seeks a renegotiation of political terms of the state with the Indian union. These factors, combined with the reluctance of the state level politicians and administrators to devolve powers have created a situation where the whole process has become fraught with risks.

A Way Forward

With the recent resignations of the panchayat functionaries, it has become imperative that the functioning of the panchayats should be allowed to be non-partisan, and effective powers be devolved at a faster pace so that the idea of local governance gains currency. This can only happen if the panchayats are allowed, and empowered, to work to their optimum capability. There are indications that the state government is responding to these demands, as can be seen in the recent 'Report of the Committee on Devolution of Powers to the Panchayats', published by the state government.

Some of the salient points of the committee report are:

- The committee has recommended that the functions of 14 departments be devolved to the Panchayats in a manner suggested by the report.
- While the J&K Panchayati Raj Act, 1989 does not have any provision for a State Finance Commission, the state government has enacted, consistent with the recommendations of the 13th Central Finance Commission, the J&K State Finance Commission for Panchayats and the Municipalities Act, 2011.⁷
- The report has also recommended that as the Panchayati Raj Institutions start functioning, it would be necessary to carefully watch their performance, especially in the light of the salient differences between the 73rd Constitution amendment and the State Act.
- The committee report further recommends that the following amendments to the Panchayati Raj Act may be considered for application when the panchayats are next constituted:-
 - i. Amendment to section 6 of the J&K Panchayati Raj Act, 1989 so as to reduce the eligibility for election as panch/sarpanch from the present 25 years to 21 years, along the lines of the 73rd Amendment Act.
 - ii. Amendment to section 45 of the J&K Panchayati Raj Act so as to create a provision for the election of the Chairman-District Planning and Development Board by the electoral College of Panches, Sarpanches of Halqa Panchayat, and the Chairman of the Block Development Council.
 - iii. Amendment to section 4 and other relevant provisions of the J&K Panchayati Raj Act 1989, to extend reservation of women and SC/ST candidates to the levels of Sarpanch of Halqa Panchayat, Chairman Block Development Council and Chairman of District Planning and Development Board.⁸

These recommendations of the committee report indicate a via media that has been crafted to resolve the crises that had resulted from the public and civil society demands for incorporating more progressive features in the current State Act of 1989.

⁷ Report of the Committee on Devolution of Powers to the Panchayats, 2011, p. 7

⁸ Report of the Committee on Devolution of Powers to the Panchayats, p. 17

SECTION 3

Jammu & Kashmir as a Hill and Border State

Broad Concerns in Hill and Border Districts

The border and hilly districts in the state have low per capita incomes. Moreover, their topography limits the possibilities of their development and progress. This is the reason why schemes specifically designed for border areas have been drawn up to better deal with the developmental challenges of these areas. A major example of one such scheme is the Border Area Development Plan, a 100 per cent centrally sponsored programme which was introduced during the 7th Plan (1985-90), and revamped in 1993-94. At present, it is under implementation in 44 blocks bordering Pakistan and China in 11 districts of J&K.⁹

As mentioned earlier, the hill districts of the Jammu region are mostly mountainous. Some of the districts fall in the subtropical zone and some in temperate zone, with a large part of their area at a height of 1,500 meters above sea level. This zone is known for relatively mild but dry summers, with little monsoon rainfall and fairly cold/wet winters. It is mostly a mono-cropped zone with low production and productivity. However other agriculture enterprises such as pomology (cultivation of apples), apiculture (bee-keeping) and animal husbandry are very common and they serve to supplement the modest agricultural incomes obtained through farming. The area is also suitable for seed production of temperate vegetable crops.

The Below Poverty Line (BPL) survey of 2008 reveals that the poorest districts in J&K are Kishtwar, Kupwara, Bandipora, Reasi, Ramban, Kargil and Poonch with more than 30 per cent of their estimated population below the poverty line. Among these, the highest incidence of poverty has been recorded for Ramban, Reasi and Kishtwar.¹⁰ It is interesting to note that these districts are either hilly districts or border districts or both.

The hill districts of Jammu such as Doda, Kishtwar, Rajouri and Poonch have a very difficult and unyielding terrain. The

total cultivable area of these districts as a percentage of the total reported area is among the lowest in the state. These figures are also the lowest in the state when compared with the other districts of the Kashmir division. In other words, this means that a very small percentage of the land area of these districts is arable and capable of yielding crops. In other critical indicators that are important for crop yield like gross irrigated area and net irrigated area as a percentage of respective areas sown, these hilly districts lag far behind other districts of the Jammu and Kashmir regions. This lag combined with the fact that agriculture in these areas has long depended on traditional water sources—which according to consultations at the community level, are receding at an alarming rate across the region—make for a disturbing food security scenario.

Changing weather patterns have also meant that winter precipitation has been insufficient, especially over the past two decades, making rain-fed areas completely barren and uncultivable. This has pushed many people to the margins of subsistence living. Life in the villages across these districts is extremely harsh, especially in winters. The majority of the villages are settled along small water courses and mountain passes. Cultivation of crops is practised on steep mountain terraces, and there are frequent fights over increasingly scarce water resources. Maize is popularly grown in these villages as it requires less water. In fact, it is the only crop that can be successfully sustained on the mountain slopes. A typical village maybe spread across a square kilometre or more of steep mountainous terrain. Houses are linked by narrow paths which sometimes open out to a mountain meadow. Often there is a running water source upstream from where the entire village gets its water. Sometimes water has to be brought in cans or containers from a kilometre away across steep terrain.

Ladakh's Hill Challenges

A more extreme example of hardships owing to terrain is provided by the region of Ladakh which is even more

⁹ Performance Review J&K, p. 61

¹⁰ Performance Review of the J&K Economy 2009, Directorate of Economics and Statistics J&K, p. IV

mountainous than the hilly regions of Jammu, and has a climate that is harsher than anywhere else in the country.

Historically, this region was very well connected with other major trade and cultural centres of the region such as Srinagar, Skardu and Lhasa, and sat astride an important trade route. Just like the larger Kashmir region, it was also a part of an important offshoot of the old Silk Road. These larger connections, mediated through trade and exchange in commodities and skills, had over centuries built diverse capacities in trade and commerce, crafts and arts. With the redrawing of boundaries post 1947, these larger connections and the benefits that accrued from them were lost instantaneously. The recent opening of trade routes in the states across the LoC in 2008 represents a small and feeble beginning towards picking up the historical threads. If this initiative is supported and structured well, in the long term it has the potential of reinvigorating not only the economy of the state but also the historical and cultural connections that had almost been severed.

In the absence of alternate and viable land routes such as the historical Kargil-Skardu route, for most of the year the Ladakh region is disconnected from the rest of the country and the state with the closure of the Zoji la pass due to heavy snowfall during winter. This road connection remains operational only from May to October every year. Therefore, the only connection the region has with the rest of the world is the flight to Jammu, Srinagar or Delhi. This dysfunctional connection that the region shares with most of the major centres in the state and beyond is the cause of major concern and problems for the people of the region. This is especially true in the context of an extremely severe winter that debilitates the region's resources and compromises the ability of its population to deal with medical and other emergencies.

Statistics indicate that compared to the plains of the Kashmir valley, the Ladakh region in general fares worse as far as agricultural indicators are concerned. But as compared to some hilly districts of the Jammu division such as Doda, the Ladakh region is better off as it has a better as well as a larger acreage of cultivable area that is irrigated. However, although the net cultivable area is large and almost all of this area is irrigated (as shown by the figures), the land is not very fertile and productivity is very low. The farmers constantly battle with low and declining yields. Moreover the long winter season allows for just one harvest. These two conditions offset any advantages of having a large cultivable and irrigated area that Ladakh may have compared to some of Jammu's hilly regions.

Local Economy in the Himalayan Region

The land route that connects Ladakh to Srinagar is blocked until April, as are many other parts of the region internally. Therefore,

farming is usually started in the month of May. This is also the start of the main working season which lasts just about four months, from July to October. Apart from tilling and harvesting their meagre lands and producing what they can from it, people work as daily labourers to supplement their income and earn cash. At around Rs 150 a day, this turns out to be approximately Rs 18,000 over four months—one year's typical cash earning for an average household of around 4-6 members.

This income is supplemented by some inputs from land which is typically a holding of 2-5 kanals,¹¹ which provides some amount of barley that can be used as flour, and barley fodder for cattle. Firewood is sourced from trees that are maintained by villagers on common land. This wood is used throughout the year. Those who do not maintain sufficient trees of their own have to spend precious cash on buying firewood from the market.

Case Study: NREGA and its Impact in the Hill Regions

NREGA, a centrally sponsored scheme, was created to alleviate poverty in precisely conditions as harsh as the hilly regions of J&K. It was designed to give 100 days of work in a year to deserving households, so that the incomes of these households could be raised substantially. In the case of the hill districts, NREGA has not had much impact, especially as the funds are generally released in the months of October and work starts thereafter.

October is immediately followed by a very severe winter in most hill areas. There is heavy snowfall averaging between 2 to 4 feet of snow in Ladakh, bringing all work to a halt. At most, villagers who have a job card get a month or so of work which means an income of between Rs 3,000-4,500. Villagers are therefore deprived of a source of funds which could otherwise have added to their yearly income. An earlier release of funds would make the 100 days of promised work possible for them. This is why funds under NREGA are among the most underutilized, especially in districts such as Kargil and Leh.

The overviews of these two remote and difficult regions give us an idea of life in these areas, as well as the possibilities and limitations for development and effective governance in these areas. Most of the districts in J&K have similar, if less extreme conditions.

It is in this context that measures of local governance become all the more important, and a devolved allocation of resources and decision-making becomes critical to the development of the people and communities of the state.

¹¹ A kanal is a traditional unit of measuring land in northern Indian states. It is equal to 20 marlas. Under the British, the marla and kanal were standardized so that the kanal equals exactly 605 square yards (gaz in local languages and in Urdu) or 1/8th of an acre

SECTION 4

Local Governance: Structural Concerns

Panchyati Raj: A Brief Overview

The issue of local governance can be best addressed by examining the history of the legislations that have been promulgated around this subject over the decades. This is especially relevant in the case of J&K which has a unique history as far as Panchayati Raj is concerned.

During the British period, the Panchayati Raj system passed through various phases. However, in J&K it was only in 1935 that the first Village Panchayat Regulation Act No. 1 was promulgated by Maharaja Hari Singh. The spirit behind this act was not to promote Panchayati Raj in the state, but to use panchayats as an extended arm of the government for judicial and civil administration. This act was limited in its objectives, elitist in nature, and had no semblance of a democratic character.

At that point of time, the state was economically and educationally backward. Keeping literacy levels and economic well-being of the voters as the criteria for participation in panchayat elections only helped the rural elite, who owed allegiance to the Maharaja to use these institutions to their advantage.

An analysis of the main functions assigned to the panchayats reveals that out of a total of 58 provisions of the act, 47 dealt with judicial functions. The non-judicial functions of the panchayat mainly included supervision, construction and maintenance.

The Act of 1935 was amended in 1941. The amended regulations covered a wide range of subjects. Power was delegated to the panchayats to maintain all public roads, movable and immovable public properties, and other structures in the villages.

An important feature of the amendment was that besides constructing and maintaining public roads, bridges, wells, ponds and water reservoirs, the panchayats were given powers to levy taxes and generate resources for the development of villages. Regulation of slaughterhouse sites, and examination and inspection of weights and measures was also brought under the control of the panchayats. This devolution of financial autonomy was the first step in empowering the panchayats as real actors at the local level. This legislation was followed by the

passing of the act of 1958, and culminated in the Panchayati Raj Act 1989 which is currently in force in J&K.

Issues of Concern in the Act of 1989

1. *The issue of functional devolution of powers to the panchayats*

There are two major aspects of functional devolution, viz., administrative and financial.

- (a) Administrative: Owing to the lack of clarity in the roles of the district administration and the panchayats, there is a conflict between them. To resolve this conflict, it is necessary to introduce changes in the functions and roles of the field administration. Many powers currently exercised by the district bureaucracy may have to be devolved to the panchayats.
- (b) Financial: Local self-governance will not carry any weight if the panchayats do not have sufficient financial resources at their command. Financial viability of the Panchayats needs to be ensured.

2. *The provision of nomination in the 1989 Act*

The issue of retention of nomination quotas in the Act as opposed to leaving them open for elections needs to be addressed. It is often alleged that retention of nomination quotas provides opportunities to the existing political class to use these quotas for their own benefit. The apprehension is that procedures for nomination are not necessarily consultative or democratic.

3. *Multiple tasks of the Village Level Worker (VLW)*

There is hardly any infrastructure or resource available at the halqa panchayat level, except in the person of the VLW. There is a need to strengthen the capacities and resources at the halqa panchayat level on the one hand, and to reduce the workload of the VLW on the other.¹²

¹¹ Halqa Panchayat: Halqa means the area comprising a village or such contiguous number of villages as may be determined by the government from time to time. The 1989 Act provides for a halqa panchayat for every halqa. The lowest formal tier of the Panchayati structure, halqa panchayats comprise of a certain number of panches and a Sarpanch, all of whom are elected.

On the whole, there are some tendencies towards centralization in the present Act, which can be exploited by the bureaucracy and the local legislators to shape developmental agendas to their preferences. Unless these limitations are addressed, the newly elected panchayats will remain mere figureheads with no real power.

The experiment with the Hill Councils in the twin districts of Leh and Kargil could throw up some possibilities on how to address these challenges.

Local Governance and Hill Councils

In the Leh and Kargil districts, the Autonomous Hill Development Councils formulate and approve the plans for these districts. The Ladakh Autonomous Hill Development Council Act came into existence in the year 1995, and was adopted by the district of Leh in the same year. The district of Kargil adopted it in the year 2003. Each Council consists of 26 elected and 4 nominated members headed by the Chairman/Chief Executive Councillor, who is assisted by 4 Executive Councillors. The Council functions as the District Planning & Development Board for the district, and the DDC acts as CEO of the District

Planning and Development Board. The Council formulates and approves the plans for the concerned districts after the Planning & Development Department conveys the total plan allocations to the said districts.

The prioritization of the sectors, areas and schemes is a critical function that has been given to the Council. After getting the approval of the Council, the plan is finalized and forwarded to the Planning & Development Department for its approval. In this manner, the Council has much more leverage on the manner in which to spend Plan expenditures in the district. Moreover, being an elected body, its decisions reflect the needs and aspirations of the local populace more accurately.

To some extent, the Hill Councils have been able to demonstrate how a model of decentralized planning and execution can work for greater and more lasting benefit for the local communities. However, as the challenges faced by the hill districts reveal, the impediments to governance are not only within the governance structures, but are also caused by topography and differential land and resource use. This means that governance, in order to be effective, has to adapt itself to and address local conditions.

SECTION 5

Key Lessons and Recommendations

- a. On the questions of reforms pertaining to the existing Panchayati structure, greater clarity needs to be achieved between the existing district administrative structure and the panchayats. This will mean, among other things, devolution of powers from the district machinery to the panchayats.
- b. Local self-government carries no meaning if the panchayats do not have at their command adequate resources to discharge various functions. Therefore substantive financial autonomy for the panchayats is absolutely necessary.
- c. There are tendencies towards centralization in the present act state act, which are open to exploitation by the existing bureaucratic setup and elected political representatives. The provisions for election in the panchayati structure have to be made more robust, and arbitrary functions reduced to a minimum.
- d. As revealed in the study, districts that have the highest plan expenditures are among those which have the lowest per capita incomes. These are typically hill and the border districts of the state of which there are many. This implies that the current developmental initiatives have had very little effect in these districts.
- e. The release of funds under Centrally Sponsored Schemes has to be rationalized to prevent underutilization. This is especially pertinent as implementation of flagship schemes of the central government have suffered on this count; a scheme such as the NREGA that is critical for the empowerment of the marginal populations in the state especially in the hill and border districts has only been moderately successful.
- f. The conditions under which funds are to be utilized need to be relaxed in favour of a special category state such as J&K, enabling it to fully utilize allocated funds.
- g. Local capacities and resources need to be built on the ground to facilitate real and substantive empowerment. The top-down approach must be seen only as an initial stimulus to long term empowerment at the grass root level.
- h. There is a critical need to re-evaluate the import-dependent economic model that has become the mainstay of the state economy. From importing staples such as rice, to manufactured goods and most critically energy, the state economy is set on a debilitating and unsustainable economic path in the long term.
- i. The cross LoC trade and travel initiative needs to be operationalized all across the region, and more routes need to be opened. This increase in routes has the potential to bring back focus on the local industry and trade that will be beneficial for the long term empowerment of the local population, especially in areas that are currently on the margins of the state economy.

SECTION 6

Methodology and Scope

This research study was conceived with the aim of bringing out the critical issues facing effective governance in the state of Jammu and Kashmir, especially the ways and means by which local self-governance can be strengthened. Although it does not present an exhaustive list of issues and concerns vis-à-vis local governance in Jammu and Kashmir, it tries to address some of the more salient and representative concerns. The study is therefore indicative in nature.

The method of the study involved analysis of secondary source data, supplemented by consultations at the local level in Ladakh, Kashmir and Jammu with civil society

actors, community leaders, representatives, experts and practitioners of good governance and developmental efforts. The consultations were mostly structured as interviews, but in some cases they formed part of larger meetings at the community level.

Through the study, I have tried to build the argument that Jammu and Kashmir—a border state with serious issues of access and remoteness because of harsh terrain and climate—poses serious challenges to development and effective governance. Political instability and conflict has added a further layer of social and political complexity to these pre-existing issues.

SECTION 7

Annexures

I Comparison of Districts on Critical Indicators

Doda			Jammu	Srinagar	Kupwara	Kishtwar
Cultivable area as percentage of reported area 2007-08	16.53	Lowest along with Kishtwar in Jammu division and lowest in the entire state	35.01	44.87	72.29	16.53
Gross area irrigated as percentage of gross area sown 2007-08	9.91		60.43	82.12	50	13.5
Net area irrigated as percentage of net area sown 2007- 08	9.4		64.72	87.35	50	17.51
Cropping intensity 2007-08	128.23		208.7	148.29	100	129.67
Literacy rate	67.74		83.73	75.21	50.05	63.12
Below poverty line population	29.07		11.97	6.51	32.55	37.72

Source: Economic Survey 2008-09 Directorate of Economics and Statistics, Government of Jammu and Kashmir

II District comparisons: Critical indicators

Socio-Economic % of Indicators 07-08	Cultivable Area as Reported	Gross Area Irrigated as % of Gross Area Sown 07-08	Net Area Irrigated as Percentage of Net Area Sown 07-08	Cropping Intensity 07-08
Anantnag	64.68	71.82	9.40	100.00
Doda	16.53	9.91	100.00	100.00
Kargil	51.78	100.00	100.00	41.97
Leh	22.82	100.00	41.97	64.55
STATE	33.16	40.85	64.55	

Source: Economic Survey 2008-9, p. 481

III Comparison: Jammu & Kashmir and other northern hill states

State	Sex Ratio (2001)	Literacy (2001)	Infant Mortality (2007)	Connectivity Road Length Km/ (2003-4)	
				100 sq km	Per lakh
Himachal Pradesh	968	76.48	47	58.52	516.44
Uttarakhand	-	71.62	48	101.46	1481.82
J&K	892	55.52	55	35.21	316.92

Source: Economic Survey 2008-9, Statistical Supplement, p. 508.

IV Socio-economic profile of districts

As per the survey conducted by the Directorate of Economics & Statistics (J&K) in the year 2007-08, the highest incidence of poverty has been estimated for Reasi, Ramban and Kishtwar districts with poverty percentages of 37.93 per cent, 37.73 per cent, and 31.90 per cent respectively. The lowest incidence of poverty has been worked out for the Srinagar district at 6.51 per cent, followed by Kathua at 11.72 per cent.

On the basis of the BPL head count ratio, the seven poorest districts in the State are Reasi, Ramban, Kisthwar, Poonch, Kupwara, Kargil, and Bandipora, in which more than 30 per cent of the population is estimated as BPL (ranging in between 37.93-31.09 per cent). The highest percentage of urban poverty is in district Kulgam at 15.83 per cent, followed, by Pulwama district at 14 per cent and district Ganderbal at 13.87 per cent.

As per the survey of 2008, the highest estimated literacy rate in the state at a combined (rural + urban) level has been

recorded in district Jammu, with the indicator standing at 83.73 per cent (10.553 lakh). District Samba stood at 2nd rank with an estimated literacy rate of 81.91 per cent (1.998 lakh). District Srinagar stood at 3rd rank with an estimated literacy rate of 75.21 per cent (7.024 lakh). The lowest literacy rate was exhibited by district Rajouri (48.37 per cent) followed by district Kupwara (50.05 per cent).

District Srinagar, Jammu and Kathua are among the top three ranked districts in terms of Gross per Capita Income at Rs 23017/-, Rs 22873/- and Rs 21242/- respectively. Doda, Kupwara and Kargil are the bottom three districts with a Gross Per Capita Income of Rs 15408/-, Rs 12511/- and Rs 9146/- respectively at constant prices for the year 2005-06 (1999-00 base).

Per capita district plan expenditure is highest in Leh and Kargil districts at Rs 4075.79 and Rs 3364.98 respectively (mainly because of high cost structures). Srinagar and Jammu being highly urbanized districts are at the bottom, with figures of Rs 233.54 and Rs 265.67 respectively.



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