



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Panchayat Raj System In Kashmir: A Historical Study Of Its Development From 1935 To 2019

- 1) Bashir Ahmad Wagay, Research Scholar ,Department of Political Science, DeshBhagat University, MandiGobindGarh, Punjab.
- 2) Dr. Rajdeep Kuar, Assistant Professor , Department of Political Science, DeshBhagat University MandiGobindgarh Punjab.

Abstract: One of the cornerstones of India's democratic system is the Panchayat Raj System (PRS), which aims to decentralize power and strengthen rural government. But in Jammu and Kashmir (J&K), administrative hurdles, political unrest, and armed strife have all made its execution difficult. Historical, political, and socioeconomic variables have molded Jammu and Kashmir's (J&K) Panchayat Raj System (PRS), which has experienced substantial changes. Key legal changes, governance obstacles, and recurring issues such as security risks, bureaucratic inefficiency, political resistance, financial dependency, etc. are examined in this article, which traces the evolution of PRS in Kashmir from its foundation, specifically from 1935 to 2019. With the repeal of Article 370 in 2019, the Jammu and Kashmir Panchayati Raj Act, 2021 was introduced, bringing J&K within the national Panchayati Raj structure. Beginning under Dogra control and continuing until the Central Government repealed Art 370 of the Constitution in 2019, this historical endeavor seeks to depict the growth of the Panchayat Raj System in Kashmir.

Keywords: Decentralisation, Grassroots , Supersession, Council, Halqa.

1) Introduction

In India, the democratic decentralization process has progressed from the Union government to the rural government through the Panchayati Raj system. There is no other mechanism that gives the inhabitants of a village the chance for complete democracy, local level development, political awareness, right protection, democratic decision-making, independence, and political power like the Panchayati Raj system. Villagers gain greatly from the Panchayati Raj system, which makes all government policies and development functions available to them. Local self-governance has a long history in India. In 1882, Lord Ripon was the one who created the Panchayati Raj Institution in India during the British Empire. Initiating democracy at the grassroots level, the father of the Indian nation Gandhiji saw the village Panchayat as a crucial instrument for ruler development. In India, the local self government is based on the concept of Gram Swaraj, which means rural self-governance. The idea of Panchayati Raj is ancient and revered throughout India. A part of India's social and cultural ethos, the spirit has persisted through several iterations of form. The concept has its origins in prehistoric periods, when people lived in tight-knit communities that governed themselves by a common goal. The little republics had "practically everything that they require within themselves," as Sir Charles Metcalfe put it. [1] The long-established customs and practices of the community strengthened their dependence on each other. On the other hand, they were limited in their movement and in their capacity to

fulfill their wants and aspirations. Most of these rural communities were able to stay together and self-sufficient because to the self-governance system, which allowed them to meet their fundamental needs independently. Through these village bodies, any matters impacting the villages were brought to the notice of higher-ups. Despite massive political turmoil in urban centers, rural local village councils, or Panchayats, continued unabated throughout the medieval era. [2]

2) Historical Evolution of Panchayat Raj System in Kashmir

Jammu & Kashmir's Panchayati Raj between 1935 and 1989

When it comes to Panchayati Raj, the history of the former Jammu and Kashmir state is quite intriguing. Panchayati Raj, a kind of decentralized administration, was not imposed from outside the area but rather has long been an integral part of its political and social fabric. [3] Traditional Panchayats existed in Jammu and Kashmir, as they did across India, but they were not structured in the contemporary sense.

The Village Regulation No.1 of 1935 A.D., promulgated in the then-state of Jammu and Kashmir, formally recognised Panchayats in 1935. Panchayats in the area had their start with this rule.[4] Prior to official recognition, panchayats were comprised of lower-level Maharaja bureaucrats, "Zaildars," "Numberdars," village leaders, landlords, and other powerful individuals in rural regions. In the past, the panchayat would handle minor disagreements and issues inside the villages. Looking back at the history of these groups reveals how authoritarian leaders and their supporters took advantage of them for their own gain. Jammu and Kashmir's "Jammu and Kashmir Village Regulation No.1 of 1935" laid the groundwork for decentralized local government. [5]The enforcement of the Regulation was entrusted to the newly formed Panchayats and Rural Development Department in 1936. This department was reorganized several times during the years.[6]

2.1. Scenario Prior to 1947

In 1935, Maharaja Hari Singh promulgated Village Panchayat Regulation Act No. 1, marking the first formal initiative in Jammu & Kashmir during the British era. The Panchayati Raj System went through multiple iterations across the country. It is desirable to lay down in Jammu and Kashmir State, the gram panchayats to help in the administrative, civil and criminal justice and also to handle the sanitation and other common concerns of the village. This is among the topics mentioned in the Act's preamble. According to the preamble, the initial goal of the Act was to use Panchayats as a supplement to the central government for matters of law and order, rather than to completely execute Panchayati Raj in the previous state. [7] This Act was very specific in its language and intended to achieve very specific goals. Democracy, or anything even close to it, was nonexistent. According to the Act, five or seven panchs were to be elected, with the "Panchayat Officer," also called the "Wazir-e-wazarat," choosing one of them. This official was vested with the power to decree the manner in which panch elections were to be conducted. In addition, the Act imposed strict regulations on Panchayat election candidates and voters alike. [8]

The right to vote was contingent upon the fulfillment of specific requirements for both voters and those vying for election to the Panchayat. In the Regulation, certain requirements were specified. Here they were:

- A) person ought to be a subject of the state by hereditary law.
- B) one ought to be residing in a rural region.
- C) Must be not insane
- D) He ought to be twenty-one years old.
- E) Him being subject to a revenue tax of five rupees or more

F) He must own property worth Rs 1000.

G) He must earn Rs 700 or more per year.

H) He must have completed high school or have an equivalent educational credential.

The notable Character of Jammu and Kashmir Village Regulation are as follows

1. A simple show of hands will be used to elect the "Panchs" numbered 5 to 7. To fill the position of elected Panch, the Panchayat Officer—also called the Wazir-e-Wazarat—would make an appointment. He also had the power to establish regulations and oversee elections.

2. A Panchayat might consist of a single village or a group of communities that have been governed by the government.

3. The largest villages were granted the right to form more than one constituency, while each village was authorized to form one.

4. The incorporation of any municipal or town area was not possible. Any area could be included or excluded from the Panchayat's territory according to the Panchayat Officer's discretion.

5. The "Sarpanch" of each panchayat was chosen from the panchs themselves.

6. There were a minimum of 5 and a maximum of 11 Panchs in each Panchayat.

7. Elected Panchs must constitute the majority.

8. Unless sooner removed by the Panchayat officer or until his replacement is chosen, a Panch served for a term of three years.

9. At all meetings where he was present, the "Sarpanch" (president of the Panchayat) was nominated by the Panchayat officer.

10. When the Sarpanch was not present, one of the Panchs was chosen to serve as chair.

11. The Panchayat officer has the authority to remove a Panch from office if they are found guilty of misconduct or lack of duty.

12. The deposed Panch has the option to appeal the Panchayat officer's decision to remove them to the appropriate body.

13. Misconduct or disregard of duty could result in the Panch being suspended.

In light of the foregoing, it is quite evident that the call for citizen representation in local government received only lip service. Because of these rules, many people couldn't cast ballots or run for office in the Panchayat. The idea behind these Panchayats was for a small group of people, like the wealthy aristocracy that benefited from the Maharaja's tyrannical rule, to run and oversee the government. When it came to Panchayat concerns, the ordinary people had no voice.^[9]

2.2. Amended Regulation of 1941

In 1941, amendments were made to the 1935 Act. The new rule has a rather wide range of applications. The panchayats were entrusted with the maintenance of all village roads, public objects (movable and immovable), and other structures. They were given the power to build and maintain public infrastructure including roads, bridges, wells, ponds, water reservoirs, etc., as well as the ability to collect taxes and generate funds for the progress and development of the village. The regulation of slaughterhouse locations

and the examination and inspection of weights and measures were also delegated to panchayats. Minor disputes that required litigation to be resolved took a long time for the courts to make a ruling. Adding to the mounting debt crisis in rural regions, these were also rather expensive. Panchayats, according to the government, could more efficiently and impartially resolve most of these cases than regular courts. Resolving these types of disagreements may be less expensive and time-consuming than dealing with more complex legal matters.

The following were some of the characteristics of the revised Regulation from 1941 A.D.

1. A candidate for Panch cannot be elected if:

- a. They are employed full-time by the government
- b. They have been declared bankrupt by the appropriate court
- c. They have a criminal record
- d. The Panchayat officer believes that their criminal record disqualifies them from running for Panchayat.

2. The Panchayats were given the authority to collect taxes for the sake of village development by the Amended Regulation of 1941. As a result of changes to the regulation, panchayats now have more authority to enhance communication, water supply, and sanitation, among other areas.

3. The power to construct, repair, and improve public roads, culverts, and bridges as well as to dispose of sewage and drainage water, as well as to dig wells, ponds, springs, and reservoirs for water, was granted to panchayats. In addition to maintaining clean roadways, regulating the placement of slaughterhouses, and evaluating and inspecting weights and measures, panchayats were also charged with these duties. Panchayats in rural regions also made an effort to raise the bar for elementary and secondary schooling.

A memorandum titled "New Kashmir" was delivered to Maharaja Hari Singh, ruler of Jammu and Kashmir state, by Sheikh Mohammad Abdullah, chairman of Kashmir's most influential political party, the National Conference. In it, the plan was laid out for the transition of Jammu and Kashmir from a constitutional monarchy to a democratic state, with the Maharaja retaining a role similar to the British monarch's as head of state. A detailed plan for the development of Jammu and Kashmir's economy was included to this memorandum. Ultimately, the National Conference proclaimed it the "Naya Kashmir Manifesto" and made it its official platform. The Naya Kashmir plan, which envisioned a welfare state that was revolutionary for its time, garnered tremendous popularity in Kashmir. There was little delay in putting this strategy into action, with "land reforms" serving as the major focus. The Abolition of the "Big Landed Estates Act," passed in 1950, limited property ownership to no more than 22.5 acres; tenants were entitled to the remaining land. After the Maharaja lost political power, a sense of economic powerlessness set in because the majority of Kashmir's arable land belonged to him or his "Jagirdars" and a small group of landowners, the most of whom were Hindus from Jammu. [10] There were provisions in "the New Kashmir plan" that dealt with the state's local bodies, the Panchayats.

2.3. Post 1947 Scenario

In the wake of country's independence, the state administration set out to revive rural areas with a large rebuilding effort. In its 1944 policy manifesto, "Naya Kashmir," the government reaffirmed its commitment to economic restoration, social justice, and democratic decentralization. After several revisions between 1935 and 1941, the government finally replaced the Panchayat Act with the Village Panchayat Act in 1951. A network of village councils called Panchayats was established under this law. Five or seven villages were under the purview of each Panchayat, which frequently collaborated with Revenue Halqas. The power to select members for the Panchayat was also established by this Act. A simple roll call was utilized to choose

the candidates for the slots. Additionally, the rules permitted voting via ballot. People outside of the Panchayat were not allowed to vote for the Sarpanch, the head of the Panchayat. Panchayats do not allow executive officials to serve. The upcoming laws assigned panchayats a wide range of responsibilities in the areas of administration, development, municipal government, and the administration of justice.

Unlike the 1935 Act, the Panchayats were given a lot of authority and freedom to decide how to put it into action based on what their communities needed. In order to facilitate the improvement of cow breeds, distribute improved seed varieties, and deliberate on cases presented before judicial committees, the Act established a Panchayat Board in each Tehsil. This board is also empowered to give stud bulls to farmers. An innovative component of the 1951 Panchayat Raj Act was the establishment of a joint committee of Panchayats. It was usual practice to delegate development responsibilities between panchayats to these committees. Court fees, public contributions, taxes, the village cess fund, and government grants were the main sources of revenue.

The Village Panchayat Act of 1951 in Jammu and Kashmir

Here are some key points of the Village Panchayat Act, 1951:

- (a) Typically, a Panchayat would govern five or seven villages, and those villages would also make up a Revenue Halqa.
- (b) It was intended that adult suffrage would be used to select the majority of Panchayat members. Anyone over the age of 21 who resides, does business, or works for gain within the Panchayat region, as long as they are not mentally disabled, is eligible to vote in Panchayat elections.
- (c) The number of Panchs in a Panchayat should be between five and eleven.
- (d) Elections were not to be held for every Panchayat member. In addition, nominations were made. Nominations for membership could be made by the Panchayat officer. But if the government notifies it, then every member of the Panchayat must be elected.
- (e) The Sarpanch, or head of the Panchayat, was selected by the members of the Panchayat themselves, not by the voters. One of the Panchs in each Panchayat is elected to the position of Sarpanch. This person serves for one year, or until his removal, resignation, or death occurs; however, at the end of that year, the same person might be chosen again for the role. All rules and regulations pertaining to this matter are applicable to this clause. The Sarpanch will hold the position of presided over the Panchayat.
- f) Multiple duties, including those of administration and law enforcement, were imposed on the Panchayat by this Act. The Act's Chapter VII lays out the Panchayats' administrative responsibilities.
- g) Establishing a Panchayat Board at the Tehsil level, which will be given specific developmental and judicial responsibilities.

In 1958, the Jammu and Kashmir Village Panchayat Act was passed by the state of Jammu and Kashmir. This act repealed previous Acts and proposed a two-tier Panchayati Raj system with a Gram Panchayat in each village and a Block Panchayat Board in each block. This paved the way for the Panchayati Raj system to be implemented across the country. Under the provisions of the Act, the State Government is authorized to establish Panchayats in every village or group of villages through public notice and to define the powers of each Panchayat. 194 total There was a lot of overlap between the 1951 Act and the 1958 Act. The Act's implementation left it open to manipulation by different entrenched interests, despite its intention to better the management of Jammu and Kashmir's Village Panchayats.

The Village Panchayat Act of 1958 in Jammu and Kashmir

The 1958 Act primarily included the following provisions:

1. The government has the authority to form Panchayats for each village or group of villages through a gazette notification. The government has the authority to form a Panchayat in any Panchayat Circle through a notification under the 1951 Act.
2. The number of Panch(s) in a Panchayat should be between seven and eleven. The members of a Panchayat will be chosen by election, with the remaining members being nominated. All Panch(s) must be elected by popular vote. If the Authority so desires, all members could be elected.
3. From the date of the Panchayat's constitution, each Panch shall serve for a term of five years. The government has the authority to announce an extension of a Panch's term of office for a maximum of six months.
4. To vote in Panchayat elections, one must be of sound mind, have been a legal resident of the Panchayat region for a minimum of six months, and be over the age of 21.
5. The Panchs of a Panchayat are responsible for selecting the Sarpanch. Sarpanchs serve for the same amount of time that Panchs do.
6. When the Sarpanch is not present, the Panchayat members who are elected to serve as Naib-Sarpanch are responsible for carrying out all of the Sarpanch's duties.
7. The Act specifies in Chapter III all the administrative duties of the Panchayats.
8. As per section 44, a secretary must be appointed for every Panchayat or group of Panchayats.
9. Section 66 establishes the Panchayati Adalat, which is responsible for the civil and criminal justice administration for a specified number of adjacent Panchayats, which cannot be less than five nor more than seven, as announced in the Government Gazette.

This led to the establishment of the Block Development Boards at the block level and the Gram Panchayat at the village level, creating a two-tier Panchayati Raj System. In a number of ways, the government exerted control over the Panchayats. Nominated Panch(es) were available in addition to elected Panch(es), as shown earlier. How many would be elected and nominated was a matter for the "Prescribed Authority" to decide.

As part of the Single Line Administration plan, the Jammu and Kashmir Panchayat Raj Act, 1989 was passed with the aim of reviving the Panchayats and establishing links with other institutions. [11] The Jammu and Kashmir Assembly ultimately approved the Panchayat Raj Act, 1989 in March 1989, after it had been suggested in April 1988. This act administers local administration in the state. The measure became law with the Governor's signature in July 1989. Unlike its predecessor, the "Village Panchayat Regulation Act," the "Panchayat Raj Act" was revolutionary. Unlike the latter, which solely refers to Panchayats at the village level, the former describes the development of Panchayat Raj to encompass Panchayats at the block, district, and village levels throughout the former state. The Halqa Panchayat is the first tier of the Act's proposed three-tiered system, which also includes the Block Development Council and the District Planning and Development Board. According to the 1989 Act's Preamble, "whereas it is expedient to promote and develop Panchayati Raj in the state as an instrument of vigorous local self-government to secure effective participation of the people in decision making process and for overseeing implementation of development Act establishes a three programmes," [12] As an example of a three-tiered administrative organization, the Halqa Panchayat is at the bottom, the Block Development Council is at the middle, and the District Planning and Development Board is at the top. Furthermore, the Act states that there must be a Panchayati Adalat for every Halqa. In Jammu and Kashmir, the Act laid the groundwork for democratic decentralization. In the former state, however, a conducive atmosphere did not emerge thereafter. The former state's situation

deteriorated, the government fell, the Kashmiris took to the streets in large numbers, and the territory was thereafter governed by the Governor and then the President. In 1997, 1998, 2000, 2001, 2004, 2006, 2011, 2014, 2016, 2018, and 2020, the Jammu and Kashmir State Government amended the Jammu and Kashmir Panchayati Raj Act, 1989. These changes made the Panchayati Raj System more democratic and robust.

The Panchayati Raj Act of 1989 in Jammu and Kashmir: A law to establish Halqa Panchayats, Block Development Councils, District Planning and Development Boards, and things related thereto is outlined in the Act's preamble. Panchayati Raj should be encouraged and strengthened in the state as a tool for strong local self-governance in order to ensure that the people are involved in decision-making and that development programs are overseen. The goal of this Act is clearly stated in the preamble: to establish effective PRIs at the Village, Block, and District levels so that residents can have a say in decisions that directly impact them.

Key Elements of the Panchayati Raj Act of 1989 in Jammu and Kashmir:

1. The Act establishes a Panchayati Raj System with three levels: village, block, and district. The resulting institutions would be known as block development councils, district planning and development boards, and halqa panchayats, respectively. Nonetheless, a third-tier elected body called the District Development Council superseded the District Planning and Development Board in 2020.
2. Every Halqa Panchayat has a HalqaMajlis, where "HalqaMajlis" refers to all of the voters in the panchayat.
3. A Sarpanch (the head of the Halqa Panchayat) and seven to eleven Panchs would make up each Halqa Panchayat. The people would have a direct say in choosing the Sarpanch and Panchs. All of the Panchs in a Halqa Panchayat vote for another individual to serve as Naib-Sarpanch. In the case that the Sarpanch is unable to carry out his or her responsibilities, the Naibsarpanch would step in and do the same. The Halqa Panchayat secretary would be an individual working at the village level.
4. The Block Development Council (BDC) is the governing body of each Block, made up of all the Sarpanchs. Each Sarpanch and Panch in a given block would vote for a chairperson to lead the BDC. It is proposed that the Block Development Officer (BDO) take on the role of BDC Secretary. The District Planning and Development Board (DPDB) would also be comprised of all the Block Chairpersons. Aside from the Block Chairpersons, the DPDB would also include Members of Parliament, Legislators (MLA'S and MLC'S) , and Chairpersons of Municipalities and Notified Area Committees. No.
5. Lowered voting age to 18 instead of 21.
6. For every Halqa, this Act envisions Panchayati Adalat.
7. Elections must be held no later than six months after supersession.
8. A Panchayat Advisory Committee will be established.
9. The responsibility for overseeing, directing, and controlling the process of preparing electoral rolls and conducting all elections in accordance with this Act must be vested in the State Election Commission.^[13]

The political situation began to worsen in 1989, and the Legislative Assembly was suspended in 1990, thus the Panchayati Raj Act of 1989 could not be promptly implemented. The former state was unable to hold its Assembly elections until 1996 due to the outbreak of insurgency. The Jammu and Kashmir Panchayati Raj Rules, 1996 were notified and drafted by the National Conference when it constituted the government. The 1996 Assembly elections were supposed to be followed up by the panchayat elections, however that never happened. One of the first announcements made after forming government was the holding of Panchayat

elections. All necessary requirements were proclaimed accomplished, however the elections were still postponed. Following the enactment of the 1989 Act, the first-tier Panchayat elections were held in 2000–2001. There were three rounds of panchayat elections in Jammu and Kashmir, the first of which took place in December 2000 and the second in March 2001. From 1997 to 2020, there have been amendments to the Act 1989 in the following years: 2000, 2001, 2004, 2006, 2011, 2014, 2016, 2018, and 2020. The most recent elections were for the Halqa panchayat (the first tier), the Block Development Council (the second tier), and the District Development Council (the third tier) in 2019. These elections were the first time in J&K's history that a three-tier system of grassroots democracy was put into place. By launching a program they dubbed "Back to the Village," the Jammu and Kashmir government also sought to forge closer ties with its residents. The program was held in every panchayat of the erstwhile state from June 20-27, 2018.

3) Conclusion:

Overall, the former state's decentralization process was not an outside force, but rather something that the people of the state had been doing in various ways since ancient times. People have been deferring to their elders in community affairs since prehistoric times. In 1935, when Maharaja Hari Singh initiated local self-governance in response to the educated youth of the state's desire for representative government, these sentiments were formally referred to as panchayat. It has been crucial in the progress of rural communities. The former state's rural population has seen an improvement in their quality of life because to the various development programs that have been delegated to panchayats. By raising political and social consciousness among the citizens of the former state, panchayats have also made significant contributions to the realms of politics and society. The truth remains, however, that panchayat elections do not take place at the stipulated time periods.. Security, corruption, money, structure, and leadership are some of the issues plaguing Jammu and Kashmir's Panchayati Raj System. True "democratic governance" has been elusive due to factors such as incomplete funding, hazy roles, and general ignorance about Panchayati Raj Institutions. The Jammu and Kashmir Panchayati Raj has failed miserably due to the excessive delay in ensuring regular elections and the non-conduct of polls.

References

- [1]. Sharad Kumar, Panchayati Raj in Jammu & Kashmir, (Srinagar: Popular Publications, 1992), p. 27. 150 Ibid., p. 36.
- [2] Ibid., p. 36.
- [3]. Joya Roy (ed.), Restoration of Panchayats in Jammu and Kashmir (Institute of Social Sciences, 1999
- [4]VidhyaBhushan, Jammu and Kashmir Politics: Its Critical Aspects, (Yak Publishing Channel, 2008).
- [5]Riyaz Punjabi, "Panchayati Raj in Kashmir: Yesterday, Today and Tomorrow", in George Mathew (ed.), Panchayati Raj in Jammu and Kashmir (New Delhi: Concept Publishing Company, 1990).
- [6]Op cit Supra note 152.
- [7]Shri Prakash and Ghulam Mohammad Shah, Towards Understanding the Kashmir Crises, (New Delhi: Gyan Publishing House, 2001), p. 191.
- [8]. Riyaz Punjabi, Panchayati Raj in Kashmir Yesterday, Today and Tomorrow, in George Mathew (ed.), Panchayati Raj in Jammu and Kashmir, (New Delhi: Concept Publishing House, 1990), p. 47.
- [9]Op. Cit , p 38.
- [10]Khalid Wasim Hassan, "History revisited: Narratives on Political and Constitutional Changes in Kashmir," (1947-1990) The Institute for Social and Economic Changes (2009).
- [11]Riyaz Punjabi, op. Cit ., at 43.

[12]Panchayat Raj Act 1989 and Panchayat Raj Rules 1996

[13]The Jammu and Kashmir Panchayati Raj Act,1989

