

Village council elections in Jammu and Kashmir

A lost opportunity for conflict-sensitive governance

In 2011 elections to village councils (henceforth referred to as halqa panchayats)¹ were conducted in Indian administered Jammu and Kashmir. This governance initiative has unleashed a host of intended and unintended consequences. This policy brief analyses the implications and consequences of the initiative from the perspective of institutional changes and new processes. The analysis is framed in the context of:

- differences among the understandings of various stakeholders of the significance of the halqa panchayat elections of 2011 and their role in ushering in change in Jammu and Kashmir; and
- the institutional challenges inherent in the process of devolution of funds, functions and functionaries to the grassroots in a conflict area.

The policy brief makes recommendations both to the state government and to administrative functionaries in order to ensure that this governance initiative achieves its full potential.

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Background

In 1989, a violent insurgency engulfed the Kashmir valley administered by India, initiating a cycle of violence and counter-violence that would continue through the 1990s. Though the organized insurgency has eventually petered out, with many of the former militant groups laying down their guns and some of them joining a separatist but unarmed movement, there have been ebbs and flows in the tide of violence to date. In the midst of this cycle of violence and competing nationalisms, all types of elections in Jammu and Kashmir have predictably been mired in controversy. There are two reasons for this. First, successive elections at the state level have been systematically rigged, the most blatant case being the state assembly election of 1987, which is largely believed to have triggered the insurgency. Though the state assembly elections in 2002 and 2008 were largely deemed to have been free and fair, the public memory of elections is predictably negative, particularly in the Kashmir valley. Second, the All Parties Hurriyat Conference (APHC), a significant group in the valley, has repeatedly articulated that elections per se (regardless of whether they are free and fair) have no meaning until the 'final settlement' of the 'Kashmir dispute' has been worked out.²

Yet, surprisingly, the promise of halqa panchayat elections in 2011 did not evoke the often extreme opposition that state- and national-level elections evoke in the Kashmir valley, primarily because these were seen to be an apolitical exercise that was not linked to the larger 'cause' of self-determination. Rather, the elections were perceived as an opportunity to return to the normal rhythms of life in villages by allowing duly elected representatives to become legitimate stakeholders in the development process and to make space for citizens to reclaim their agency following years of violence. Even armed militant groups were less vociferous in issuing threats than was the case when panchayat elections were attempted in Jammu and Kashmir in 2001.

The halqa panchayat elections of 2011 were unprecedented in many respects:

- They were held in all constituencies all over the state and not just in some constituencies of the valley, as had been the case in 2001.

- The elections were clearly seen as a step towards mainstreaming human potential at the grassroots in matters of development through self-governance.

- In the perception of the people (and possibly the mainstream parties of the state, as well as militant and separatist groups), the elections were not linked to the larger issue of *azadi* (independence). In their minds, the election was about day-to-day issues.

- The elections were conducted without intimidation by militants or security forces. There were no serious pre-election threats, even from existing militants. Voters ignored the boycott call given by Hurriyat hardliner Syed Ali Shah Geelani.³

- The elections were perceived to be fair and free not just by observers but also by the people themselves, who welcomed the elections and were appreciative of the government for conducting them.

- There was an unprecedented average turnout of 77.71% in the state according to the report of the Committee on the Devolution of Powers to Panchayats.⁴ According to some estimates, the turnout in the Kashmir valley was over 80%.⁵

- Following the elections, panchayats were for the first time notified and constituted, which created a new institutional mechanism at the lowest rung of governance.

- After the elections to the halqa panchayats, activity mapping was undertaken and a committee set up to present a detailed report on the devolution of powers to panchayati raj institutions.⁶

- Devolution of functions and activities of 14 line departments⁷ to halqa panchayats was notified in a state government order (No. 1126-GAD dated 22-09-2011).

Different players, different expectations

Clearly, multiple players – the political party regime in New Delhi, the state government, members of the legislative assembly in the state (MLAs), bureaucrats and administrators of the line departments, the newly elected panchayat representatives and the community – all had different understandings of what this initiative meant, different expectations of the outcomes, and different stakes in making this

new institutional mechanism either work or not work.

The state government: Quite expectedly, the state government's declared rationale for local elections was to bring participatory development at the village level back into the lives of the people. As development funds from Delhi were increasingly to be routed through local panchayats, the government of Jammu and Kashmir realized that it would be expedient to hold these elections in order to be able to continue leveraging such funds.

The political regime in Delhi: While there may have been a genuine political desire to see the local self-government apparatus put in place in Jammu and Kashmir both for the union and for the state government, there was another stake related to India's portrayal of itself as a large, liberal state that can manage its own conflicts. Interpreting the high turnout in these elections, the former minister of external affairs, S. M. Krishna, and the ruling coalition UPA's chairperson, Sonia Gandhi, stated that the elections were a mandate 'against Pakistan and terrorism'. This indicates that the ruling regime had no compunction about appropriating the people's desire to participate in local affairs and development for grander purposes.

Members of the state legislative assembly: The idea of re-energizing units of local self-governance was not well received by MLAs, who felt their position was being threatened.

Bureaucrats and line administration staff: There is no doubt that some bureaucrats were unhappy and sceptical about a move to devolve power to representatives who they felt were not qualified to play this role effectively. This was revealed in field interviews, where reservations were expressed about 'illiterate' panchayat representatives being asked to conduct social audits, take charge of funds, etc.⁸

Panchayat elected representatives and the village community: Predictably, this was where expectations were highest. For both the representatives and the people at large, the initiative was an opportunity for decision making to be devolved to the local level and an end to what they termed the 'MLA Raj' (a reference to the manner in which their lives are controlled by state political leaders most of whom have very little stake in participatory

development work at the village level). Non-elected community members saw a chance to directly participate, through either village council meetings or consultations with their elected representative (now viewed as an 'approachable neighbour' rather than a distant politician linked with corrupt party politics who was never seen in the village).

Such widely disparate expectations were never managed. In the absence of any vital dialogue – between the national and state governments, between the newly elected local representatives and bureaucrats, between bureaucrats and line administrators and the political leadership, between piqued MLAs and newly elected representatives, between the elected sarpanches and community members – a trust deficit was created. In about 12 months after the elections (when PRIA conducted fieldwork as part of the CORE project), the initial euphoria surrounding a 'successful election' and high voter turnout had given way to anger and frustration, because the reality on the ground had not changed. By October 2012, fear had been instilled among the community following militant threats and the killings of some sarpanches.⁹

Challenges to devolution

The 2011 halqa panchayat elections were intended to provide a space that would connect existing structures of governance to the aspirations and choices of the people. The fact that the elections were free and fair and marked by an unprecedented turnout, and that the government had earned the appreciation of the people for conducting them, created an overall positive atmosphere for change. This provided a unique opportunity to bring some element of agency into the lives of an essentially non-combatant larger community who had suffered what is euphemistically called 'collateral damage'. It was a chance for them to have a say in their day-to-day development and administrative needs.

The opportunity came with its own set of institutional and functional challenges. Many would not consider these as unique to Jammu and Kashmir: other states in the country trying to devolve powers to units of local self-governance face similar challenges. However, the fact that Jammu and Kashmir has been the epicentre of a violent, militarized conflict carries with it a legacy of broken trust and

thwarted promises. And squandering opportunities in such a scenario exacerbates old wounds.

Our fieldwork, conducted over six months in 2012, suggests that the following factors contributed to furthering the trust deficit between the stakeholders:

- *The process of elections to all tiers has not been completed.* The Jammu and Kashmir Panchayati Raj Act of 1989 (amended periodically, including in 1992, 2004 and 2011) marked a clear departure from earlier acts, indicated by the use of the term Panchayati Raj Act rather than Village Panchayat Raj Act.¹⁰ This implies a commitment to a three-tiered panchayati raj system with elected institutional mechanisms at the village, block and district levels. Elections to the halqa panchayat level were no doubt just the first step. They were certainly not the end of the process, which needed to be carried to its logical culmination. More than a year after the halqa panchayat elections had been conducted, however, elections to the other two tiers had not been conducted. This did not go down well with the people who voted in large numbers expecting that the entire process would be completed.

- *Lack of a well-thought-out plan to address the predictable conflict between the pre-existing administrative machinery and the newly elected institutions of governance.* The terms of the respective roles of these actors in the planning and developmental process were not sorted out as part of the governance initiative.

- *Uncertainty about the operational modalities of ensuring financial autonomy for the panchayats.* Without some form of financial autonomy, devolved powers remain meaningless. Funds have not been transferred, nor has the roadmap for such a process been made clear to the elected representatives.

- *Poor training of newly elected representatives.* While the government claims to have provided a basic foundation course training to all elected representatives¹¹ in the first year of their election, in interviews with the elected representatives many described the training as 'mere lectures', and several expressed resentment that they were conducted by village-level workers who, according to protocol, were now supposed to be secretaries to the elected representatives.

Recommendations

Had the governance initiative of 2011 taken a conflict-sensitive approach, there is no doubt that the above-mentioned expectations and challenges would have been taken into account. The positive voter turnout was a vote for local issues of governance and for the creation of a space for participation at the village level, and it should not be appropriated for larger political purposes at national and international gatherings. The following recommendations are made in this context and within the framework of conflict sensitivity, bearing in mind that similar future initiatives will need to be implemented both in letter and in spirit if a radical redefinition of power relations at the local level is to take place.

For the state government

- *The doors for dialogue with the people must constantly be kept open* through the use of traditional and social media, as well as other ICT tools, to explain both the opportunities and constraints involved in the operationalization of such an initiative. In particular, representatives of forums such as the Jammu and Kashmir Panchayat Conference and the youth of Kashmir must be engaged with. This would go a long way towards addressing the dialogue gap that has clearly emerged from differing expectations and the people's perception of what the government is doing to facilitate devolution on the ground.

- *Initiate conversations and information flow between MLAs and local-level elected representatives* so that there is clarity regarding roles and responsibilities. The current relationship between these two sets of players is marked by distrust and antagonism, which tends to subvert the governance process.

- *Complete elections to the block- and district-level tiers* as soon as possible. The letter and spirit of the Panchayati Raj Act of 1989 cannot be fulfilled until the specified institutional mechanisms have been established at all levels.

- *Constitute the State Election Commission and the State Finance Commission* to address institutional deficiencies in governance. No further legislation is needed for this, as such a move is already mandated by the duly amended Act of 1989.

- **Restore confidence.** The tragic killing of some sarpanches in the state has created an atmosphere of fear and insecurity. While it may not be possible to provide security cover for over 33,000 representatives, the government and the police must do all they can to investigate and bring to account those responsible for these acts to restore a sense of confidence.

For the state administration

- So far, 14 functions have been devolved to the halqa panchayats. *These functions must be reviewed periodically and backed by corresponding devolution of functionaries and funds* to allay the impression among halqa panchayat representatives that such devolution is merely a paper exercise.

- **Build adequate capacities among local-level elected representatives.** The strategy for capacity building, particularly on functional and sectoral aspects of devolution, should be worked out in conjunction with NGOs and nodal agencies such as the State Institute for Rural Development and the Institute of Management, Public Administration and Rural Development. The capacity-building programme should be directed not just at elected representatives but also at government officials. If the trainings are to have an impact, the manner of their delivery has to be made more participatory.

- Government officials, line administrators, village-level workers and elected representatives must be given a context when they meet through these capacity-training sessions so that there is exchange of information and a more empathetic understanding of respective constraints.

- **Highlight the importance of gram sabha/halqa majlis.** Panches and sarpanches must be informed about the importance of convening

the halqa majlis,¹² so that preparation of village-level plans becomes an inclusive exercise and the community experiences a sense of participation.

- If participation is to be sustainable, it is equally important that *participatory village plans be implemented effectively* and in a timely manner. PRIA's experience in working with panchayati raj institutions for nearly two decades shows that poor progress in the implementation of community plans leads to 'participation fatigue' in the planning process.

Pay reasonable honoraria to panches and sarpanches, as public representatives to offset their expenses in the line of duty (e.g. drawing up plans, convening meetings, carrying out supervisory and oversight functions). ■

Notes

¹ Halqa means a village or such contiguous number of villages as may be determined by the government from time to time. Panchayat refers to the elected council in the village. Panch refers to a member of the halqa panchayat whether elected or nominated – every halqa panchayat consists of not less than seven panches, including the head (who is called the sarpanch and is directly elected by the electorate of the halqa panchayat).

² The All Parties Hurriyat Conference (APHC) was formed in 1993 to achieve the right to self-determination for the people of Jammu and Kashmir. It consists of several social, political and religious groups and separatists who were part of the militant movement. APHC does not accept the writ of the Indian constitution in Jammu and Kashmir and rejects all forms of elections as these are necessarily held under the provisions of the Indian constitution.

³ Interviews held both before and after the polls clearly indicated this. See, for instance, 'Kashmir Ignores Geelani Call', *Indian Express*, 14 April 2011. Available at: <http://www.indianexpress.com/news/kashmir-ignores-geelani-call-78--vote-in-phase-i-of-rural-polls/775972> (accessed 17 February 2013).

⁴ The text of this report is available at http://jkgad.nic.in/statutory/Report_PRIIs.pdf.

⁵ According to Ali Mohammad Sagar, Jammu and Kashmir's minister for rural development and panchayats, around 85% of the population participated in the process. Comments made at the capacity-building and training of Jammu and Kashmir panchayati raj functionaries held in Srinagar, 22–23 August 2012.

⁶ Panchayati Raj Institutions or PRIs are institutions of rural local self-government in India. See note 2 above.

⁷ The 14 functions that have been devolved are: agricultural production, animal and sheep husbandry, consumer affairs and public distribution, education (schools), fisheries, forest, health and family welfare, horticulture, industries and commerce, public health engineering, public works, revenue, rural development and social welfare. Devolution of powers implies the statutory granting of powers from central government to lower levels, and in this case specifically to the local village level. It requires careful activity mapping and operationalization of the powers being devolved.

⁸ Interviews conducted with bureaucrats and government functionaries by the Society for Participatory Research in Asia (PRIA), 14–23 Oct. 2011 and 18–22 Nov. 2011.

⁹ Whether the killings could be attributed to militants or not remains a moot point. In interviews conducted by PRIA with two of the families of the slain sarpanches on 2 October 2012, it was significant that neither appeared to think the killings were the work of militants.

¹⁰ The halqa panchayat elections of 2011 were conducted under the Jammu and Kashmir Panchayati Raj Act of 1989. The 73rd Amendment Act of the Indian constitution per se is not applicable to Jammu and Kashmir unless it is specifically adopted by the state assembly. The Jammu and Kashmir Panchayati Raj Act of 1989 was amended in 2004 to provide for reservations of seats for scheduled castes, scheduled tribes and women, and the 2011 amendments brought it in line with those parts of the 73rd Amendment that relate to the establishment of a state election commission. If one is to understand the full scope of the Jammu and Kashmir Panchayati Raj Act of 1989, it should be read alongside the Panchayati Raj Rules adopted by the state government in 1996.

¹¹ There are 4,128 halqa panchayats and 33,847 representatives who have been elected at this level, as per figures provided by Dr S. N. Alam, Faculty of Rural Development, J&K Institute of Management, Public Administration and Rural Development, at the capacity-building and training of Jammu and Kashmir panchayati raj functionaries held in Srinagar, 22–23 August 2012.

¹² This is known as the gram sabha in other parts of India and consists of all persons who are eligible to vote.

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THE PROJECT

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