Chapter 7
Observations, Conclusions and Suggestions.

As per 2011 census, the rural population of India is 72.18 percent while the urban population is 27.82 percent.\(^1\) Mahatma Gandhi, the father of nation, often emphasized that India lives in villages as at the time of independence about 82.7 percent population of India lived in villages. He said unless the village life is revitalized, the nation as a whole cannot progress. He was of the view that Indian villages had lost their republican character as they were brought under the purview of centralized bureaucratic control during the British rule. Gandhi wanted to restore the earlier democratic character of Indian villages. He presented a new system of village governance which he called Village or Gram Swaraj.\(^2\) The swadeshi spirit of Gandhi helped him to discover an indigenous alternative to modern democracy as modern democracy according to Gandhi is highly centralized, it is hierarchical in nature and its power is concentrated in the hands of a top few in the hierarchy who are unwilling to share power with others. This defeats the purpose of democracy as individual has no voice whatsoever in shaping the policies of the government. Since the village was a small unit, all its members could contribute to the village in a significant manner and they could influence the planning of their village. In a Village Swaraj, individual persons could be the architects of their own governance.\(^3\)

The government of the village will be conducted by Panchayat of five persons annually elected by the adult villagers, male and female, possessing minimum prescribed qualifications. The Panchayats will have all the powers as they will be the legislature, Judiciary and executive combined.\(^4\) Gandhi’s ideas of decentralized governance were not given due respect by constituent Assembly. It was brought into his notice that his ideas on village governance had gone totally unnoticed by the Constituent Assembly. He said it is certainly an omission calling for immediate attention if our Independence is to reflect the peoples’ voice. The greater the power of the Panchayats, the better for the people. Despite his observation on these lapses of the Constituent Assembly, even the revised draft of the Constitution which was reintroduced in the Constituent Assembly on November 4, 1948 did not consider it worthwhile to include Gandhi’s

\(^{1}\) Census 2011, available on: http://censusindia.gov.in/ (visited on November 30, 2016)
\(^{3}\) Kuruvila Pancndikattu, Gandhi: The meaning of Mahatma for the Millenium 160 (CRVP, 2001)
\(^{4}\) S. Mukherjee and S. Ramaswamy, Political Science Annual 90 (Deep and Deep Publications, 1996)
concept of Gram Swaraj. Consequently, after lots of debates and discussions and pleas of the Gandhians, an amendment moved by K. Santhanam was accepted by the chairman of the drafting committee Dr. Ambedkar. This amendment got incorporated as Article 40 in the Constitution of India which reads as ‘The State shall take steps to organise village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of ‘Self-Government’. This was nothing more than a lip service to Gandhian ideas as any item under the Directive Principles of State Policy could not be legally enforced. It leaves everything at the sweet will and discretion of the concerned State Governments. This led to enactment of Gram Panchayat Acts by various states but they were no more than half-hearted attempts for the creation of rural local development institutions. In Jammu and Kashmir also village Panchayat Act was passed in 1951 which replaced the Village Panchayat Regulation (as amended in 1941).

The eradication of rural poverty has been a major concern of third world countries and donor agencies for many decades. Various approaches have been used to eradicate rural poverty. Community Development (CD) emerged as the dominant approach in the early 1950s in many third world countries, especially in Asia and Latin America. However the CD movement declined in the 1960s when it was realized that it was not effective in reaching the poor. The term Community Development (CD) was first officially used in 1948 at British Colonial Office’s Cambridge Conference on Development of African Initiative. The CD programme was aimed at helping British colonies in Africa prepare for independence by improving local government and developing their economies. Thus, CD included political, economic and social development objectives. The first major CD programme was launched in India in 1952 with support from the Ford Foundation and United States Foreign assistance agency. Post independence, India also experimented with the Community Development Programme. The first major rural development programme launched in India was Community Development Programme, 1952 and core philosophy was overall development of rural areas and people’s participation. It was intended to affect every aspect of rural life. It was launched on pilot basis on October 2, 1952 and rapidly implemented. By the end of first five year plan, it covered only one-fifth of population and by

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5 Supra note 2
the end of second five year 70 percent of rural areas got covered. By 1964, it covered whole country. However the CD movement lost momentum in the late 1950s and by the mid-1960s the critics of the Community Development Programme called it a total failure as programme did very little to reach the poor in India. One of the aims of the programme was to stimulate the initiative and action of communities at the village level but this was not achieved. It failed to arouse popular participation in upliftment of rural India.\(^9\) But people’s participation was not forthcoming and a probe was ordered. As a result Balvantray Mehta Study Team was appointed to find out the reason behind the failure of this comprehensive Programme. The Study Team suggested scheme of democratic decentralization for streamlining the Community Development Programme and also for creation of new system for rural local government.\(^10\) The government that derives its authority from the people should redistribute it to the people so that the people can plan for themselves what is best for them. The concept took the shape of Panchayati Raj in India.\(^11\) The Committee recommended three-tier system of Panchayati Raj to shift decision-making centers closer to the people. The states were persuaded to accept the recommendations and devolve adequate powers to popularly elected Panchayat bodies.\(^12\)

In Jammu and Kashmir, at the same time government also passed village Panchayat Act, 1958 which replaced the 1951 Act. The Panchayati Raj system was first adopted by Rajasthan and then other states followed the suit. However, Panchayati Raj failed on account of various reasons. These institutions were although best perceived as the means through which the voice of unheard could be heard, but that could not happen. After having met with some initial success, these were unsuccessful in proving themselves to be people’s institutions. The concept of Panchayati Raj developed during the 1959-64, became stagnant during 1964-71 and decayed thereafter. Even the attempt of Ashok Mehta Committee failed to revitalize the Panchayati Raj Institutions. However, some states like Karnataka, Andhra Pradesh, West Bengal did take a lead to empower and revitalize the Panchayats. The non-Congress governments of these states took concrete steps to strengthen the Panchayati Raj Institutions in the post-general election period (1980-1983). But in the rest of the country, the Panchayati Raj Institutions remained paralysed due to gradual erosion in their powers, depletion of their resources, lack of political will etc. The poor governance of Rural Development Programmes by the government agencies led to

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\(^9\) Supra note 7.
\(^10\) Supra note 6
\(^11\) Supra note 8.
siphoning of virtually 85 paisa out of every rupee spent on these, and those for whom these poverty alleviation and employment generation programmes were meant could receive only the remaining 15 paisa. This dismal state of affairs led to realization that constitutionalisation of Panchayati Raj Institutions and empowerment of them is essential so that these could become institutions of self-government and could make and implement plans for economic development and social justice. Thus, 73rd Amendment Act was passed which led to establishment of a new system of Panchayati Raj in all the states in 1994 through the enactment of conformity legislations. The ultimate objective of 73rd Amendment was to bring good governance. Since independence number of endeavours have been made from time to time to bring good governance. These systematic reforms were political, administrative and constitutional; parliamentary, electoral and judicial; economic, social and educational. Role of NGOs was recognized in promotion of good governance and many initiatives were taken to bring transparency in the governance and make the government responsive. Moreover, corruption is antithetic to good governance and in India, it has become way of life. In order to check corruption and improving the quality of governance persistent efforts have been taken like Right to Information Act, 2005. It is admitted by all who believe in democracy that a democratic form of government in a country must be sustained by a system of local-self governing institutions. Lord Bryce said, “the best school of democracy and best guarantee for its success is the practice of local-self government”. Those aspiring for good governance believe in democracy and democracy is epitomized by a system of local self-government. In India the champions of local self-government, however, kept on arguing that benefits are not reaching people concerned despite plethora of schemes and massive investments in rural sector. It was also realized that infrastructure at the local level was in a very bad state and it was one of the reasons for poor delivery system. People’s participation was not there and development model was based on ‘Top-down approach’. The central government realized that without people’s participation through Panchayats, rural development was not possible and dream of good governance cannot be realized. As a result this landmark amendment was passed in 1992 which led to fundamental restructuring of rural governance based on the philosophy of democratic decentralization. The democratic decentralization is prerequisite of good governance and good governance has to start

16 Supra note 14 at 15.
from the grassroots. The 73rd Amendment not only gave constitutional status and 29 functions to the Panchayati Raj Institutions but also provided mechanism for free elections and required financial resources. Besides, it sought to ensure the empowerment of women and weaker sections like scheduled castes and scheduled tribes, through reservations. The Panchayati Raj system contained in-built provisions for good governance. It not only gave constitutional status to Gram Sabha but also made the Gram Panchayats responsible to it. It provided for mechanism for transparency in the working of Gram Panchayat through the social audit by the Gram Sabha. For democracy to be successful at the national level, the grassroots institutions have to be strong. The local authorities have to respond to the felt needs of the people. It is a government which initiates and implements rural development programmes. It must gain support of the people in the discharge of these programmes. The positive response of the rural community to development programmes strengthens democracy. It was hoped that Panchayati Raj system in general and the institution of Gram Sabha in particular will ensure that fruits of rural development programmes reach the poor for whom these were meant. But these hopes were belied. The ground realities are that the Panchayati Raj Institutions have not been able to become institutions of self-government in almost all the states even after more than two decades of the passage of the 73rd Amendment. They continue to remain the conduits for the distribution of funds for various schemes of central and state governments. These PRIs are still not able to generate their income through levy of tax or fee. They neither prepare plans for economic and social justice nor in fact implement them. At some places plans are prepared by Gram Panchayats with the help of bureaucracy and Gram Sabha members are not taken on board. The task of planning remains with central and state governments and implementation continues to be done by the bureaucracy. There are states which have transferred some of the functions listed in the eleventh schedule but that is only on paper, the reality is that these remain by and large, with the state government. The financial condition of the Panchayati Raj Institutions continues to be dismal because neither the state governments have fully transferred to them the resources recommended by the State Finance Commission nor have the PRIs made use of their powers of

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20 Supra note 15 at 453.
21 Supra note 19
raising their own resources. Moreover, there is awareness deficit among elected members of Panchayats and capacity building is not effective. Their lack of awareness about their role is being exploited by bureaucracy to avoid transparency and accountability. Although the representation of the weaker sections like women, SCs and STs has increased but participation of them is not effective and they remain on the periphery of the rural power structure. The existing Panchayati Raj system has not been able to translate the vision of Gandhi. The PRIs must improve continuously and this can be done by another amendment to the Constitution of India in order to give strength to the Panchayats. Both union and state governments should join hands in making the PRIs more effective so that dream of good governance becomes reality.22

As far as Jammu and Kashmir is concerned, the performance of Panchayats has been unsatisfactory. This socio-legal research has attempted to find out the structural and operational shortcomings of Panchayati Raj system in Jammu and Kashmir. The State of Jammu and Kashmir in India has suffered from armed conflict for over 60 years, beginning with the partition of Pakistan from India in 1947.23 The armed conflict affected the socio-economic development of the state in general and rural areas in particular. In the absence of local institutions, the socio-economic development of rural Jammu and Kashmir has been severely affected. A number of initiatives have been taken for socio-economic development and one of the these initiatives is, a program of state, regional and local devolution reforms through Panchayati Raj Institutions (PRIs) and autonomous arrangements. It was realized that decentralization will bring government closer to people by providing greater opportunities for people to participate in decision-making. But the positive effects of decentralization depends on how the decentralization reforms are structured and managed at the local. Decentralized governments are thought to promote greater government responsiveness and greater equity among citizens within a democracy; this in turn allows citizens to develop the capacity to participate more effectively in their government. Decentralization reforms have been found to improve democratic governance by opening new avenues of popular participation, making governmental policy-making more responsive to local needs, and empowering communities to generate their own programs for the improvement of schools, roads and health services and for countering poverty. PRIs are able to bring broader and more extensive participation from previously excluded members of the population.

22 Supra note 18 at xvii
reservation ensures participation of these groups and strengthens democracy.\textsuperscript{24} There was intense
democratic political debate at the national level to revive the experiment of democratic
decentralization. In Jammu and Kashmir too, efforts were made to revive the process of
democracy at the grassroots. The state government repealed the Jammu and Kashmir Village
Jammu and Kashmir Panchayati Raj Act, 1989 was passed with the objective to promote and
develop Panchayati Raj in the state as an instrument of local self-government to secure effective
participation of the people in the decision-making process and for overseeing developmental
programmes.\textsuperscript{25} The State framed the Jammu and Kashmir Panchayat Rules-1996 based on its
own 1989 Act to overcome the deficiencies so as to put it at par with the Central Act i.e. The
Constitution (Seventy-third Amendment) Act, 1992.\textsuperscript{26} The Act could not be implemented
immediately on account of armed militancy. The 1989 was the year when the political situation
started deteriorating and in the same year Panchayati Raj Act was also passed. The armed
militancy made it very difficult to pay attention to issues beyond law and order. However, the
Act, 1989 came into force in 1997. The Act of 1989 was considered to be harbinger of the second
democratic upsurge in the Jammu and Kashmir State, the first being of course the radical land
reforms. The Jammu and Kashmir State is one of the very few States to experiment with
decentralization in spite of the fact that it remained politically turbulent in the post-1947 period.
\textsuperscript{27} When this Act was introduced, it was perceived to be a radical initiative as it went beyond the
concept of delegation of authority. It rather encompassed the concept of sharing of power
through democratic decentralization at the grassroots level.\textsuperscript{28} Under 1989 Act, elections were
held in 2001 for the first time though Act governing the Panchayat elections was retrograde and
did not conform to all-India scheme of Panchayats as provided by the 73\textsuperscript{rd} Amendment.
Panchayats were constituted after 2001 elections following a 23 year gap.\textsuperscript{29} The devolution through
PRIs was halted in 2006 due to the failure by the Jammu and Kashmir state government to hold
new Panchayat elections and from 2006-2010 elections were not held despite of demands. The

\textsuperscript{24} Ibid.
\textsuperscript{26} Gull Wani and Effat Yasmin, “Democratic Decentralization in J&K: Gender and Political Change” 54Mainstream
\textsuperscript{27} Ibid.
\textsuperscript{28} Mohammad Shafi, “Revival of a Democratic Tradition” in George Mathew (ed.) Panchayati Raj In Jammu and
\textsuperscript{29} Rekha Choudhary, “Panchayat Elections in Kashmir: A Paper Exercise” 36 EPW 1674(2001) available at:
Panchayat elections were held in 2011 in Jammu and Kashmir after a gap of ten years instead of mandatory five years.

Structurally, the Panchayati Raj Act 1989, had flaws and did not serve the purpose of making the Panchayats as units of self-governance. The 1989 was amended in 2004, 2011, 2014 and 2016 but still it continues to remain flawed legislation. There are various other challenges for the democratic decentralization in Jammu and Kashmir as the 1989 Act has also not been implemented in letter and spirit. The critical analysis of the Jammu and Kashmir Panchayati Raj Act, 1989 and empirical study revealed the following weaknesses.

Halqa Majlis. The Constitution (73rd Amendment) Act, 1992 envisaged Gram Sabha as the foundation of Panchayati Raj System. In Jammu and Kashmir, Panchayati Raj Act was passed in 1989 and there was no provision for Gram Sabha. The members of the Halqa Panchayat were not accountable to the people after their election as the provision for the lowest tier of Panchayati Raj i.e. Gram Sabha was not incorporated in the Act. The Jammu and Kashmir Panchayati Raj Act, 1989 came into force in year 1997 but there was constant demand for incorporation of provision for Gram Sabha which was subsequently added in 1999. The higher turnout in 2011 established representative democracy at the grassroots level but that would be meaningless if the people have not the right to decide upon the development of rural society in which they live. A real democracy however is, participatory, in which all citizens have the possibility and the right to participate in the decisions that affect their lives. The democratic decentralization in Jammu and Kashmir was introduced to promote participatory democracy and Gram Sabha plays central role in that. The Jammu and Kashmir Panchayati Raj Act, 1989 uses the term Halqa Majlis instead of Gram Sabha. Gram Sabha is a Hindi term and its Urdu translation is Halqa Majlis. Since Urdu is the official language of the state of Jammu and Kashmir, therefore, the term Halqa Majlis is mentioned in the Jammu and Kashmir Panchayati Raj Act, 1989. The preamble of the Act laid down that it is expedient to promote and develop Panchayati Raj in the State as an instrument of vigorous local self-government to secure the effective participation of the people in the decision-making process and for over-seeing implementation of development programmes. Therefore, the objective was to secure effective participation of people in decision-making. But it is a Halqa Majlis which provides a platform to people to participate in decision-making and there was no provision with regard to Halqa Majlis when the law was enacted in 1989. Even the main lacuna of all the Village Panchayat Acts of the J&K state has been the lack of provision for Halqa Majlis or Halqa Sabha and this flaw was not corrected in the 1989 Act. However, the state government framed the Jammu and Kashmir Panchayat Rules-1996 based on its own 1989 Act but rules were also silent as regards Halqa Majlis. The Jammu and Kashmir
Panchayati Raj Act, 1989 was passed three years before the 73rd Constitution Amendment. The passage of 73rd Amendment Act, 1992 however, made it obligatory for all the states to constitute Gram Sabha. The 73rd Amendment Act does not contain any comprehensive provisions for Gram Sabha, it only provided a sketch or outline. As it was made mandatory for all States to constitute Gram Sabha, therefore, all States have consequently provided for the institution of Gram Sabha in their respective Panchayat Acts and have ordained powers and functions. Once the 73rd Amendment accorded constitutional importance to this institution by making its meetings compulsory, the Gram Sabha suddenly acquired importance. The Jammu and Kashmir State was not under obligation to enact conformity law or incorporate the provision for Gram Sabha. The Gram Sabha was declared to be focal body in the Panchayati Raj by 73rd Amendment Act to make the Panchayat accountable and transparent. Realising the importance of the Gram Sabha, the Jammu and Kashmir government also incorporated the provision for Halqa Majlis which corresponds to Gram Sabha in 1999 and brought changes in Rules as well. A good thing about the Act is that it makes it mandatory for the Halqa Panchayats (Halqa Panchayats corresponds to Gram Panchayat) to ‘lay for sanction’ its plans and budget to a Halqa Majlis. However, powers and functions of Halqa Majlis have not been clearly defined. Also the Act does not state whether the recommendations given by the Halqa Majlis are binding legally and cannot be tampered with. It is the substructure on which the entire superstructure of the Panchayati Raj Institutions stands and the superstructure cannot function unless Halqa Majlis is strengthened. The Gram Sabha/Halqa Majlis enables each and every voter of the village to participate in decision making at the local level. It provides a platform to people in village to meet and discuss their common problems, to debate and analyse the development and administrative actions of elected representatives and thereby assure transparency and accountability in the functioning of village Panchayat. Unfortunately, this institution has remained week since its inception as the working of Halqa Majlis has never been effective. The authority of giving powers and functions to Gram Sabha/Halqa Majlis vests in the State legislature. Various States have made comprehensive provisions in this context but Jammu and Kashmir is still lagging behind. The powers and functions of Halqa Majlis have been kept undefined. The lack of earnestness of the government for making Halqa Majlis functional is clear from the data of this empirical study. In other States, the Sarpanch ceases to hold office if he fails to convene two consecutive

31 Girish Kumar, Local Democracy in India 206 (Sage Publications India Pvt Ltd,2006)
33 Supra note 26
34 http://yojana.gov.in/cms/(S(ywrwtrosl2azkr5iwou0j55))/pdf/Kurukshetra%5CEnglish%5C2013/Kurukshetra%20 May%202013.pdf (Visited on November 27, 2016)
general meetings within the prescribed period. Under Jammu and Kashmir Panchayati Raj Act, Sarpanch shall be removed for failure to attend the six consecutive meetings of the Halqa Panchayat but there is no disqualification for not convening Gram Sabha meeting. This shows lack of seriousness on part of government. Various States have made it mandatory for Block Development officers to attend himself meeting of Gram Sabha or depute the officer to do so but there is no such direction for BDOs under 1989, Act. The only obligation for BDO under the 1989, Act is to arrange the preparation of budget and annual report when the Halqa Panchayat fails to prepare it. The BDO shall preside over the Halqa Majlis of such Halqa Panchayat and place before the Halqa Majlis such budget and annual report. There is no quorum fixed for general meetings as well as for adjourned meetings of the Halqa Majlis. Besides that, there is no sub-quorum for women and Scheduled Castes and Scheduled Tribes which makes their participation in Halqa Majlis mandatory. There is no provision for extra-ordinary meeting of Halqa Majlis on the requisition of members of Halqa Sabha. Last but not the least, how would elderly and persons with disability attend Halqa Majlis meetings, Act is silent on that. The government should amend the Panchayati Raj Act in the state and introduce a system of ward sabha at ward level in every Panchayat. The government needs to take the process of decision-making to the lowest level so that every individual participates in development of the state.

**Halqa Panchayats.** The chapter three of the Act lays down the powers and functions of Halqa Panchayats in section 12 which is absolutely wrong. Power’ has been defined as – the legal right or authorization to act or not to act; an ability conferred on a person by law to alter, by an act of will, the rights, duties, liabilities and other relations, either of that person or another. On the other hand, the term ‘Function’ has been defined as ‘the duty of the office’. What is mentioned in the section 12 are functions and not powers. The powers and functions of Halqa Panchayats should be clearly defined and separately mentioned. Presenting all the functions and powers in a jumbled up manner under a common heading should be avoided. Besides that functions like attestation, certificate issue, disaster management, relief and rehabilitation can be added. Moreover, the organization structure of Halqa Panchayats is not clear to stakeholders, its direct participants, functionaries and beneficiaries. There is confusion with regard to shape, structure and interaction of constituent parts. Some people understand it as an organization confined to limits of Halqa Panchayat office; to others it means the body of elected representatives who will conduct the government of village. This confusion should be cleared.
It is the duty of the Sarpanch to convene atleast two general meetings of Halqa Majlis during a financial year as per section 4 of the 1989 Act. But in the Panchayat rules, this duty is not mentioned. In Rule 82, the duty to arrange the Halqa Panchayat meeting is mentioned but not the Halqa Majlis meeting. Other than that there is no disqualification mentioned in section 7 of the Act for Sarpanch if he fails to hold two consecutive general meetings of the Halqa Majlis.

**Panchayat Secretary.** The Village Level Worker or Multipurpose Worker or Gram Sevika shall be Secretary of the Halqa Panchayat as per section 8 of the Act. The role of the Secretary of Panchayat vis-à-vis Halqa Panchayat is not well-defined. This creates confusion. The VLW, Multipurpose Worker or Gram Sevika are likely to lack commitment to Halqa Panchayat. This provision needs review. In some states there are separate services for Panchayat and rural development. The cadres of VLW, Multipurpose Worker and Gram Sevika should be integrated into the cadre of Panchayat Secretary whose role should be that of assistance to Halqa Panchayat. There should be separate Panchayati Raj cadre. Besides that, as per section 51 of the Panchayati Raj Act, 1989, the secretary of the Halqa Panchayat shall act as the judicial clerk to the Panchayati Adalat for the purpose of recording its proceedings and decisions and such other duties as may be prescribed. This will put extra burden on secretary of the Halqa Panchayat. If the Act has separated the development Panchayats from the Panchayats for administration of Justice i.e. Panchayat Adalats then the staff for these two independent bodies should be separate and there should be separate secretary for Panchayat Adalat. Therefore, this provision needs review.

**Disqualification for membership:** The Protection of Civil Rights Act, 1955 and The Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, 1989 were passed to abolish untouchability and to check and deter crimes against persons belonging to SCs/STs by persons belonging to other communities. As per Panchayat Acts of some states, no person shall be a member of a Panchayat or continue as such who has been convicted of an offence under the Protection of Civil Rights Act, 1955. The section 6 of the Jammu and Kashmir Panchayati Raj Act, 1989 does not include any such disqualification. The reservation for scheduled castes and scheduled tribes gives them representation but not protection against atrocities and violation of civil rights. Therefore, it should be included in the section that Sarpanch or Panch will be disqualified for practicing untouchability or for commission of crime against scheduled caste or scheduled tribe against the Halqa Panchayat member or any member of Gram Sabha.
**Perpetual Succession.** As per section 9 of the 1989 Act, Halqa Panchayats shall have perpetual succession and existing Halqa Panchayats will continue till new institutions are established. But the Jammu and Kashmir government issued a notification on 16th August 2016 for dissolution of Halqa Panchayats on completion of five years term and conferred the powers of Halqa Panchayats on Block Development Officers and Panchayat secretaries. Thus what is mentioned in the provisions of 1989, Act was not followed by the government and Halqa Panchayats were dissolved.

**Panchayat Advisory Committee:** No advisory committee was constituted under section 8-A since 2011 and role of the advisory committee is also not well-defined. Whether the Halqa Panchayat should be superseded or not is considered by Panchayat Advisory Committee and then it makes the recommendation to government. No other function is given to this committee.

**Staff for the Halqa Panchayat:** Section 26 of the Act a Halqa Panchayat may employ such staff as is necessary for carrying out the duties imposed on it by this Act and may suspend, dismiss, or otherwise punish such servants and Halqa Panchayat shall pay the remuneration to such servant out of the Halqa Panchayat Fund. But no staff was appointed as majority of the elected members were unaware of this provision and those who were aware said that they require staff for day to day functioning as everything is done by them. In those Halqa Panchayats where Panchayat Ghars have been constituted, the elected members said that they wanted chowkidars as theft took place and all the basic facilities like utensils and refrigerators etc were stolen. They were of the view that if their honorarium is not given on time how could they appoint staff and there is no direction of the government for appointment of staff. None of the Panchayats had facilities like staff, computers and phones.

**Remuneration:** The Halqa Panchayats were constituted in 2011 and term ended in 2016. The honorarium and sitting fee were not paid to elected members for five years. In 2013 government announced that honorarium and sitting fee shall be given. After 2013 it was disbursed but not on monthly basis. It used to be given after months. The elected members expressed their dissatisfaction as regards honorarium and sitting fee. According to them it is meager and government is insulting us.

Panchayat Ghars: 40 Halqa Panchayats surveyed for research but Panchayat Ghars have not been constructed at all Panchayats. There was demand for construction of Panchayat Ghars where they do not exist and also for repair and renovation of the existing ones. None of the Panchayat Ghars had facilities like staff, phones and computers. Moreover, Panchayat Ghar at some Panchayats was given by the Sarpanch to his relatives for personal use and that is evidence of the fact that Halqa Panchayat meetings never took place there. There should be punishment for using Panchayat Ghar which is Government building for purpose other than Halqa Panchayat meetings and other day to day official work.

Halqa Panchayat Fund. The Halqa Panchayat Fund which 1989 Act provides for has not been constituted. The Halqa Panchayats can levy taxes and fees. The Halqa Panchayats hesitate to levy and collect taxes. Elected Panchayat leaders are reluctant to impose taxes and fees for fear of losing future elections as imposition of taxes and fees on village people who are generally poor perceived to be regressive. Therefore, Halqa Panchayats relied more on grants from government and even they have not been released. PRIs need additional resources apart from government grants and financial autonomy to fulfill their functional obligations. But the record on transfer of funds to Panchayats for the subjects devolved upon them is not encouraging. The Panchayats can become self-governing bodies when there is financial autonomy and resources at their disposal to carry out their functions. Steps must be taken to encourage Halqa Panchayats to develop their own resources by way tax, fees etc.

State Finance Commission. Jammu and Kashmir State Finance Commission for Panchayats and Municipalities Act, 2011 was passed. According to section 3, The government shall, as soon as may be from the commencement of the Act, and thereafter at the expiration of every fifth year, constitute a “State Finance Commission for Panchayats and Municipalities” to review the financial position of Panchayats and Municipalities and to exercise the powers conferred upon and to perform the functions assigned to it, under the Act.

The Commission shall make recommendations to the Government as to:— (i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and the allocation between the Panchayats at all levels of their respective shares of such proceeds; (ii) the determination of taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats; (iii)
the grants-in-aid to the Panchayats from the Consolidated Fund of the State.\textsuperscript{36} State Finance Commissions have been established in the various states of India so that they can help in improving the financial condition of the local bodies such as Panchayati Raj institutions and municipal bodies but in Jammu and Kashmir it has not been constituted so far despite of the fact that Act was passed in 2011.

Moreover, Rs 186 crore was released by the Union Government during the previous financial year i.e. 2015 for Jammu and Kashmir state for carrying out developmental activities at Panchayat Halqa level by involving the Gram Sabhas but the state failed to utilize it. Even during the current year i.e. 2016 there has been uncertainty over the utilization of this amount as Gram Panchayat Development Plans (GPDPs) for large number of Panchayats are yet to be formulated by the field functionaries of the Rural Development Department in consultation with the Halqa Majlis. The guidelines issued by the Union Ministry of Finance for the release and utilization of grant stipulated that Gram Panchayat Development Plans are to be prepared by the Halqa Panchayats and they have to be participatory plans involving the Halqa Majlis. However, very few Panchayats came out with the Development Plans during the last financial year because of the slackness on the part of elected members and lack of supervision from the concerned officers of the Rural Development Department. Due to this slackness, the entire amount remained unspent and people remained deprived of the developmental activities, which could have been carried out by making use of such a huge amount. Before all the 4198 Halqa Panchayats in state could prepare their respective GPDPs, the Halqa Panchayats were dissolved in 2016 and conferred the powers of Halqa Panchayats on the Block Development Officers (BDOs) and Panchayat Secretaries. However, the slackness in formulation of GPDPs by the BDOs in consultation with the Halqa Majlis continued as a result of which entire amount of Rs 186 crore has remained unutilized even today.\textsuperscript{37} Therefore, the Panchayats cannot fulfill their functions without sufficient funds and this makes them ineffective.

**State Election Commission.** The government of Jammu and Kashmir has failed to establish the State Election Commission in the state which would take independent decisions for holding such


Panchayat elections. Previously, it was Chief Electoral Officer of the state and now after amendment, State Election Commissioner has the power to hold elections. There was no provision for State Election Commission but in 2011 an amendment was made to incorporate the provision for State Election Commission but from 2011 to 2016 this body was not constituted. The state government should have constituted SEC before completion of the term of the Halqa Panchayats in 2016.

**Reservation for Women and SCs/STs:** Although a lot remains to be done to eradicate the barriers to women’s political participation but 33% reservation has increased their participation. The field study revealed the ground reality. In border areas the elected members strongly opposed the reservation of seats for women for the post of Sarpanch. They said that sometimes shelling takes place near the border and when such emergency arises it is difficult to approach female Sarpanch in such circumstances as women are not allowed to move out of their houses at night. Therefore before reserving seats the government should consult the people at the border areas. Apart from this women participation in the Halqa Majlis meetings and Halqa Panchayat meetings is less. There is no sub-quorum for women. The Gram Sabha/Halqa Majlis meets only on papers across the country and even in Jammu and Kashmir situation is not different. To make the Halqa Majlis effective and functional institution, the Sarpanch should be made responsible for not holding Halqa Sabha meetings. Some statutory arrangement is required to make the participation of women compulsory in Halqa Majlis meetings. As far as Halqa Panchayat meetings are concerned again some measures are required to be taken that in the reserved seats where the women Sarpanches and Panches were elected, their male relatives like husbands (who is famously called Sarpanch-pati), sons or even father-in-laws don’t rule by proxy as this practice is prevalent in Jammu and Kashmir as well. For attending meetings, permission of the parents/in-laws/husbands is considered necessary and is not given to them which puts constraints on their mobility and they can not do justice to their position. The Sarpanches should encourage the female Panches to attend meetings and play their role themselves. Inspite of the provisions for women empowerment, the ground realities reveal that the real power still remains in the hands of men.

The rate of participation of SCs/STs was considerably low in the Panchayati Raj institutions. The 1989 Act was amended to provide reservation for scheduled castes and scheduled tribes for the post of Sarpanch as well as Panch. The objective was empowerment and reservation will not

http://drdj.nic.in/Pyt.htm (Visited on December 07, 2016).
only ensure participation in decision-making processes but they can also exert pressures and exercise authority by virtue of such empowerment. The grassroots realities were empirically examined and data does not depict rosy picture. There have been challenges before the elected representatives from the weaker sections as caste prejudices still keep the SCs/STs away from functioning effectively as members or chairpersons of Halqa Panchayats. The data reveals that an overwhelming elected members including those belonging to SCs and STs do not know that there is reservation for them. Women belonging to weaker sections hardly attended the meeting and if they attended they kept sitting silently in meetings and listened to others. In Halqa Majlis meetings also situation remains same as participation of males and females of weaker section was less and out of all those who participated only few participated actively. In view of these, it becomes imperative to adopt those strategies which makes grassroots democracy participatory democracy. There is need of orientation programmes for the Panchayat leadership belonging to scheduled castes and scheduled tribes and also for Halqa Majlis members belonging to weaker sections like SCs and STs.

**Absence of three tier system.** The 1989 Act provided for three-tier system at the Halqa, Block and District level. But the second tier BDC (Block Development Council) and third-tier DPDB (District Planning and Development Boards) have not been constituted since 1989. The BDC is a body corporate whereas DPDB has not been given status of body corporate having perpetual succession. Hence, DPDB exists at the mercy of the state government. The elections to the BDCs were announced but were postponed and hence the elections of these two bodies fell pray of political tussel. The BDC has role in removal of Sarpanch but due to absence of this second tier, Sarpanches at many places could not be removed for gross misconduct. Without second and third tier the Panchayati Raj can never become a reality in Jammu and Kashmir.

**Panchayat Adalat.** The Panchayat Adalat would revitalize the concept of participatory grassroots level dispute resolution if they are empowered. Panchayat Adalats in Jammu and Kashmir are only on paper and no concrete steps were taken to empower them. The Government has established Adalats in majority of the Panchayat Halqas across the State but still 30 percent Panchayat Halqas are without Panchayat Adalats due to non-submission of judicial panels. Apart from constitution nothing else was done to empower them. The Government did not impart any training to members of Panchayat Adalats and there was no direction for Panchayat Adalat members as to how they should exercise their powers and perform their functions.
Training. The data of the empirical study reveals that training to elected representatives was not effective and there is huge awareness deficit. The majority of the elected members had no knowledge about the provisions of the Act. The awareness level of Halqa Majlis members was too low and had no knowledge about Halqa Majlis meetings.

Most of the Panches were called to BDOs office and some to District headquarters. Some elected members especially Sarpanches got training at IMPA (Institute of Management, Public Administration and Rural Development) at Jammu. The training period lasted for 2-4 days. At the training elected members were made aware about the provisions of the Act and were also told that powers of 14 departments have been delegated to Halqa Panchayats. The respondents were of the view that training has helped them to some extent but they could not perform their functions well due to lack of funds at their disposal and there is no autonomy at all. There were some elected representatives who did not receive any training because of long distance from their residence to training place and were not made aware about the training. There were few elected representative who said that training was just a formality. The Panches were not given some study material like Act. The researcher participated in training of Sarpanches at IMPA once to get first-hand experience of the how training is imparted and found that the only few Sarpanches actively participated and rest of Sarpanches had passive participation.

The analysis of the data reveals that training given to elected representatives was not effective at all and without proper training the elected members will remain unaware as to their powers and functions. One aspect that is emphatically appearing from the empirical study is lack of awareness among elected members and members of Halqa Majlis. Many studies reiterated vital need of capacity building of elected representatives and awareness generation programmes for rural masses i.e. Halqa Majlis, for empowering them. The masses need to be trained to participate in Halqa Majlis meetings to discuss their grievances. Another outcome of empirical study is that the rural poor have little or no participation in their own developmental efforts. The impact of non-participation is lack of awareness of the common masses. The starting point for development cannot be anything else other than the people themselves. The developmental efforts have often concentrated on physical and economic factors, while the human element is ignored.  

39 Supra note 8
The elected representatives were given training but the empirical findings make it clear that the training for capacity building was not effective and awareness level of elected representatives is very low despite of the fact that only 10.36 percent respondents out of 328 elected representatives were found to be illiterate and rest of the respondents were literate who can understand the Act and its Rules if proper training is given to them. Although capacity building is much more than training but training of its elected functionaries is one of the most important requirements for capacity development. The training of elected members should concentrate mainly on skill development, attitudinal change, voluntary participation and knowledge of their powers, functions and various responsibilities and also the philosophy and idea behind the establishment of Panchayati Raj Institutions in the J &K State. Last but not the least, the capacity building of elected functionaries alone will not help in realization of dream of Panchayats as units of local self-government unless capabilities of the Halqa Majlis members improved and that is possible by awareness generation and capacity building of members of Halqa Majlis.

**Conclusions:** In the light of the discussion in various chapters and the findings of the empirical analysis in the preceding chapter, the hypotheses stand validated, to a considerable extent, that genuine decentralization or Panchayati Raj is essential for good governance in general and for the socio-economic development of rural areas of Jammu and Kashmir in particular. The Panchayati Raj Institutions can, undoubtedly, play a vital role in meeting the aspirations of people and in providing basic services to them. However, mere enactment of Panchayati Raj Act is not enough for this purpose. Its effective operationalisation is perhaps more important for this purpose. Undoubtedly, the local institutions, have to be strengthened so that people are able to take any effective part in the decision-making process at the grassroots. But in Jammu and Kashmir, Panchayati Raj Act has not been operationalised in letter and spirit. Despite the announcement for holding the Block Development Council elections, these were consistently postponed on the one pretext or the other. Despite the fact that the 5 year term of Halqa Panchayats has ended in 2016, elections have not been held. Even the existing Halqa Panchayats have been dissolved. The third-tier, District Planning and Development Boards, have never been formed till now despite the fact that the Jammu and Kashmir Panchayati Raj Act (1989) had stipulated their creation. Neither the State Election Commission nor the State Finance Commission have been constituted so. Moreover, Panchayat Adalats were constituted only at some places but even those were not empowered. It is being consistently argued 73rd
Constitutional Amendment Act (1992) is not applicable to Jammu and Kashmir because of Article 370. But the provisions of 73rd Amendment could certainly be incorporated in the Jammu and Kashmir Panchayati Raj Act provided the Government of J&K has the political will to do so. As a matter of fact, neither the political leadership of various parties nor the bureaucracy of the state is interested in good governance through democratic decentralization. They have a misconception that it will reduce their powers. Whereas, the fact is that it will only facilitate their work and reduce their burden. The Panchayati Raj elite and the rural masses have also to share the blame for this dismal state of affairs as they have never put pressure on the government for genuine devolution of powers. The civil society, the media and the academia, barring a few exceptions, have also remained indifferent in this context.

The researcher in no way holds that there is no loophole in the 73rd Constitutional Amendment Act (1992). She strongly agrees with the contention that this Amendment needs an Amendment. As a matter of fact, there is need for adding one more List i.e., Panchayati Raj List in addition to the existing Union, State and Concurrent Lists. Only this may ensure that the state governments are compelled to undertake genuine devolution of three F’s – functions, functionaries and funds. Therefore, in Jammu and Kashmir there is possibility to go beyond 73rd Amendment. The Jammu and Kashmir has its own Constitution and Panchayats should be given constitutional status. The government of J&K moved a bill in 2016 to amend the Jammu and Kashmir Panchayati Raj Act, 1989 to allow indirect election of Sarpanches by Panches instead of a direct election. This move of the government was opposed as this would weaken the Panchayati Raj Institutions and would lead to horse-trading. This move of government was contrary to 73rd Amendment also. The justification given for indirect election was rift between Panches and Sarpanches which hampers the process of implementation of various schemes on the ground. It was regressive step and due to opposition amendment could not be passed initially. The constitutional status to Panchayats in Jammu and Kashmir will give specific mandate to the state government for the establishment of three-tier structure of Panchayati Raj, elections will be held on time, Halqa Majlis which is basic unit of democracy will get constitutional recognition and meetings of Halqa Majlis will be held as per the Act.

The empirical findings reveal that Halqa Majlis/Gram Sabha meetings were held once in a while at some places. Those were not timely and regular meetings. Due to absence of quorum not many people participated. The Halqa Majlis meetings failed to secure the participation of people especially women and SCs and STs. The plans were not presented before the Halqa
Majlis for their consideration and sanction by Halqa Panchayats. At some places elected members of the Panchayats of several Halqas expressed that whenever they proposed a developmental scheme to the government, it was returned with so many amendments that the original purpose gets missing and the plans transform to a complete contrast to what the original plan and purpose was. Thus members of the Gram Sabha members did not participate in plan making.

The establishment of five working groups was announced by the Prime Minister of India at the Round Table Conference held at Srinagar, 2006. The report of the Working Group on good governance recommended that Panchayati Raj needs to be implemented in letter and spirit and there should be financial devolution according to the recommendations of State Finance Commission. For reviving the institutions of local self-government, there should be capacity building, effective transfer of funds, funds, functionaries and there should be activity mapping. The Godbole committee Report had suggested that Jammu and Kashmir should consider extending the provisions of the 73rd Amendment of the Indian Constitution. The Report of the Committee on devolution of powers to the Panchayats, 2011 (Madhav Lal Committee) also recommended some amendments and implementation of Act in letter and spirit. But these recommendations have been on papers. There is a sense of deprivation and feelings of alienation among the masses and it gets further compounded because the benefits of the development programmes do not reach them. The second and third tier have not been constituted and corruption is rampant at Halqa Panchayat level. The Halqa Majlis which is the lowest unit of self-governance has not been strengthened. The effective Halqa Majlis keeps a check upon Halqa Panchayat activities and also assure transparency and accountability. It was expressed by many members of Halqa Majlis that publicity was not given to its meetings in advance. It may be due to the fact that people’s participation was likely to go against the vested interests. Thus bad governance at the Halqa Panchayat level, lack of adequate finances at the disposal of Halqa Panchayats and weak Halqa Majlis intensify the feelings of alienation and deprivation.

The 2001 Panchayat elections in Jammu and Kashmir was quest for grassroots democracy and were held despite of the fact that there was inhospitable security environment and desperate attempts from many to thwart the attempts of the Government to hold Panchayat

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elections. In Kashmir Division more than 50 per cent Panch seats remained vacant and those in
place hardly performed any function. A number of Panches and Sarpanches have become target
of militancy and lost their lives, thus spreading a fear psychosis among others.\textsuperscript{41} Even the
militancy affected areas of Jammu like Doda, Kishtwar, Rajouri and Poonch bore the brunt of
militancy. The Panchayats were constituted in Jammu division and also in Kashmir division but
in Kashmir they were very less in number. The term of Panchayats was over in 2006. In 2011
again Panchayat elections were held in vibrant political environment. There were threats by
militant groups but inspite of that voter turnout was high. During elections and thereafter there
were threats from militant groups and unknown agencies. Since 2011 elections more than 10
Sarpanches have been killed and many injured by militants in the Valley in the last five years
while 20 resigned following threats from militant outfits. But in Jammu Division there has been
no incident of killing of elected representatives. The demand for security arose in Kashmir
valley but no measures have been taken so far to create a sense of security and even the
investigation with regard to killings has not been able to find out the culprits behind all those
killings. While reports of threats and killings emanated in Kashmir valley, none of the
respondents to our survey in four districts of Jammu Division complained of any threats. But the
elected representatives living in borders of these four districts supported the idea that security
cover should be given to them.

Decentralization brings decision-making governance closer to the people. Local
governments have both authority and resources to respond quickly to problems from below
without waiting for their approval at higher levels. Devolution of powers, responsibilities and
resources to local government promotes good governance and better service delivery. Devolution
promotes transparency and accountability of the local government and participation of people in
local decision-making. The Panchayati Raj Institutions assure the participation of people
including the disadvantaged groups to participate in governance and improve their livelihood
standards. The national development can be recognized or acknowledged when the state can be
able to combat poverty, to trim down unemployment and can be able to have good governance
for providing social, economic and political justice to its citizens.\textsuperscript{42}

\textsuperscript{41} Planning Commission of India, “Panchayati Raj- A Retrospect ”
\textsuperscript{42} T.M. Joseph, Decentralised Governance and Development 04 (Deep and Deep Publications, 2009)
Institutions and Panchayati Raj Institutions bring governance closer to people. Infact the good governance has to start from the grassroots as it works closely with people.

The State of Jammu & Kashmir is accorded a special status under Article 370 of the Constitution. Had there been no Article 370, the 73rd Amendment Act, 1993 would have been applicable to Jammu and Kashmir and the state would have framed its Panchayati Raj Act keeping in view 73rd Amendment and the benefits of the same would have been passed to the population of this state without much hassle. There are many gaps in the state Act when compared with 73rd Amendment. The J&K has its own constitution and section 16 states that state shall organize village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. Article 243G of the Constitution of India mandates for devolution of powers but there is no such provision in Constitution of J&K and leaves the devolution at the discretion of government. But Article 370 is not a bane as far as empowerment of Panchayats is concerned and state can empower the Panchayats provided there is political will. The 1989 Act, does not fully incorporate the spirit of democratic governance and there are other lacunas as well like neither State Finance Commission has not been constituted nor State Election Commission. The Panchayat Adalat provision is not in 73rd Amendment but it is there in Jammu and Kashmir Panchayat Raj Act, 1989 though these Adalats have not been constituted across the state and where they were constituted, there they remained unempowered. Thus Article 370 is certainly not a barrier in empowerment of Panchayats and incorporation of provisions of 73rd Amendment. The field study revealed that there is deep seated feeling that successive governments have failed to develop a bond with the rural masses and that has led to trust deficit. The Panchayat elections gave a hope that Panchayat institutions will bring socio-economic development of the rural masses but these democratic institutions were not empowered and they failed to meet the aspirations of people. The people’s social, political and economic conditions have not improved despite of development programmes. The democratic institutions are still suppressed, there is improper implementation of development programmes. Besides that there is lack of basic amenities, apathetic attitude of bureaucracy towards the miseries of masses. There implementation of all developments programmes is not satisfactory, on account of lack of accountability, corruption, lack of information among masses and non-participation of people in planning. The constitution of Halqa Panchayats created a hope that the gap between government and masses will get bridged but that did happen. As Panchayati Raj Institutions are
not effective, it is inconceivable to think of welfare of people of the state. The role of government is not only enactment of law but its implementation which is indispensable. There is no use trumpeting about grandiose schemes for rural poor if government does not mean to implement them the way they ought to be implemented i.e. by empowering Panchayati Raj Institutions.

The empowered Panchayati Raj Institutions certainly help in checking the feeling of alienation among rural masses. In Jammu and Kashmir the empowerment of Panchayats is more important than any other state as because of militancy, for more than 25 years, the problems and sufferings of common man have increased. The Panchayats will help local people to discuss, debate and finalise their plans according to their needs and this will also develop sense of belongingness which is missing. Violence and militancy only resulted in sufferings. For every small and local issue people have to approach to M.L.As, M.Ps and senior govt. officials. The Judicial Panchayats will solve local dispute in villages this will result in harmony in the Panchayat. Panchayat also provide opportunity to local people to express their opinion through their elected members. They certainly deserve empowerment. Only they can ensure good governance. And by providing good governance they can check alienation.

The Jammu and Kashmir Panchayati Raj Act, 1989 sort to usher the democracy at grassroots level in J&K. This Act was passed towards energizing grass-root democracy. The Act offers substantial space for responsive and participatory governance. It reaches out to women, SCs and STs with enabling provisions to assimilate them into the mainstream politics. The Act was passed with the intent to deepen the democracy. It is an established fact that being connected to grass-roots people, the Panchayats and the elected representatives have the feel of ground realities, sufferings of people and local conditions and they also know their real requirement as they are familiar with every nook and corner of the village and, above all, they are answerable to the people. The involvement of Panchayats ensures greater transparency in working and fund utilization. But inadequate devolution of functions, functionaries and funds to PRIs has led to inefficiency in decentralized rural governance in Jammu and Kashmir. The successful implementation of welfare programmes is dependent on empowerment of Panchayati Raj Institutions. For example, the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) scheme, the flagship programme of the Central Government, is yet to get implemented in a proper way in Jammu and Kashmir even as seven years have passed since it
was launched. To curb corruption and misappropriation of NREGA funds Government of India in 2009 mooted an idea to appoint Ombudsmen at district level to oversee the better implementation of this scheme. The job of these Ombudsmen is to oversee and monitor the implementation of this national flagship programme at the District level. MGNREGS was extended to J&K almost 10 years back but till date not even a single Ombudsman has been appointed in any of the districts in Jammu & Kashmir. Besides that social audit by Gram Sabha is the most important provision in MGNREGA but in Jammu and Kashmir Halqa Majlis does not do social audit and 98% elected representatives answered that social audit is done by team sent by government. They were unaware of the fact that social auditing has to be done by Halqa Majlis. Even the Halqa Majlis members were completely unaware of the provision. Thus relevant information about the development programmes is not available and there is improper implementation of development programmes. There are various other schemes under implementation through Panchayati Raj Institutions like Indira Awas Yojana, Integrated watershed Programme etc. Under Integrated Water-shed Programme the Action Plan has to be prepared by Halqa Panchayat and approved by Halqa Majlis/Gram Sabha. Thus empowered Panchayati Raj Institutions play pivotal role in effective implementation of developmental programmes and suppression of democratic institutions is one of the reasons that objectives of different development programmes could not be fulfilled. So, the Panchayati Raj Institutions (PRIs) play a vital role in selecting the beneficiaries and proper implementation, monitoring and supervision of programmes at the field level. Bottom-up planning is essential for the achievement of the goal of rural development instead of top down planning. The Panchayat Raj Institutions play major role in the preparation of plans for rural development. The 73rd Amendment can be termed as the initiation of contemporary planning activities in India. The top-down approach shifted to bottom-up approach towards planning. It was realized that planning commission should not decide what rural India wants rather village Panchayats should guide Planning Commission what has to be done for rural India. In Jammu and Kashmir Panchayats were given the responsibilities to make plan according to their requirements as they are familiar with the local conditions. The Act enabled the Halqa Panchayats to initiate bottom up

participatory planning process and implement such plan after assessing the felt needs of the people and identify the gravity of development gaps and problems in each sector. The guidelines for issued for preparation of Gram Panchayat development plans but in state of Jammu and Kashmir, the bottom-up planning is still an unrealised dream. Lastly, democratic decentralization is the basic pre-requisite for the deepening of grassroots democracy and bring good governance.

Thus, the structural and operational changes alone would not put the Panchayati Raj System of Jammu & Kashmir on a sound footing. The behavioural changes are also required in the Panchayati Raj leadership for this purpose. There is not only need for changing the behaviour of political elite and bureaucracy but also of rural elite as well as the rural masses. There is also a strong need for ensuring healthy interface between Panchayati Raj leadership and the officers and functionaries of Line departments for this purpose. Confidence would have to be built in people living in rural areas that the State Government would empower PRIs genuinely. The attitude of development bureaucracy too needs to be changed in this context. The political environment of the State also needs to be improved by finding out a political solution of the Kashmir problem by the Government of India through a meaningful dialogue with all the stakeholders. This requires political will in the ruling class at the central and state levels. They should realise that Panchayati Raj Institutions in Jammu & Kashmir will have to be strengthened not only for providing good governance at local level but also for better implementation of the rural development programmes. Above all, it is needed for countering feeling of deprivation and alienation which have been created mainly on account of the acts of omission and commission on the part of the successive ruling political dispensations at the state and Central levels. The researcher recognizes the fact that good governance through democratic decentralization shall remain an illusion and would not become a reality unless a political solution of Kashmir problem is found through an open-hearted dialogue among all the stakeholders. Yet, she earnestly feels that democratic decentralization or Panchayati Raj can certainly be helpful in providing good governance to rural masses to some extent. This can certainly reduce their agonies to some extent.

If they fail to do so, they shall be missing the last opportunity for bringing peace and prosperity to this heaven on earth which has been virtually converted into a sort of hell by them. And, history will never forgive them for their short sightedness.
Suggestions. For realizing the goal of good governance through Panchayati Rai Institutions in Jammu and Kashmir, it is essential to ensure the following steps:

1) The powers and functions of the Halqa Majlis/Gram Sabha must be clearly defined.

2) The quorum should be fixed for general meeting, adjourned meeting and special meetings of Halqa Majlis. There must also be a sub-quorum for women, SCs and STs to ensure their participation. The number of Halqa Majlis meetings should also be three or four.

3) Halqa Majlis meetings should be disabled-friendly. The dates of Halqa Majlis meetings may be fixed by the Halqa Majlis keeping in view the people’s convenience. If it is a multi-village Halqa Majlis, the meetings should be held by rotation in these villages.

4) Several states provide for constitution of one or more committees of Gram Sabha. These committees facilitate participation of large number of members of Gram Sabha. This may be adopted in Jammu and Kashmir as well.

5) It should be mentioned in the Panchayat Act that recommendations made by Halqa Majlis are mandatory for the Halqa Panchayat. It should also be specifically mentioned that budget and the Annual plan must be approved by Halqa Majlis.

6) The concept of Ward Sabha too should be considered by the government. The NGOs and Self-Help groups should be made to play an important role in mobilization of people. The association of public-spirited NGOs in Halqa Sabha meetings can certainly add value to its meetings. The Self-Help Groups too should put pressure on the Panchayats for taking notice of their grievances. Their participation in Halqa Majlis meetings should be made mandatory.

7) Besides, Mahila Sabha be set up in every Halqa Panchayat for taking up women related issues and for ensuring their presence in the meetings of Halqa Majlis.

8) The presence of functionaries of Line Departments must be made compulsory and they should be directed to come prepared for answering the queries and for taking notice of the issues raised by the members in the meetings of Halqa Majlis.

9) There must be effective capacity building through sustained training of members of Halqa Majlis. They must be educated about their role, powers and responsibilities. Special emphasis be given to capacity building of the women, SCs and STs. Gram Sabha/Halqa Majlis Awareness Campaigns may be regularly launched by using the traditional and the modern modes of communication.

10) A Sarpanch must be disqualified if he/she fails to convene the consecutive two Halqa Majlis meetings and for discriminating against SCs and STs.
11) There should be at least two Halqa Panchayat meetings per month.
12) There should be no reservation for women for the post of Sarpanch in the border areas because the situation remains disturbed there.
13) Three-tier structure of Panchayati Raj must be established as without BDC and DPDB the Panchayati Raj will remain incomplete and ineffective. There should be direct election of Sarpanch as indirect election leads to horse-trading and intimidation.
14) The Block Development Councils have supervisory and monitoring role. Their role should be reviewed and these may also be assigned some executive functions.
15) Halqa Panchayats should not be dissolved before the completion of their term as they are corporate bodies having perpetual succession. Their elections must be held before the completion of their tenure.
16) Panchayat Adalats should also be constituted at Halqa Level throughout the state and should be adequately empowered. The training of Panchayat Adalat members is also essential for the effective performance of their roles by them.
17) The Act for Dehi Adalats should specify in clear cut terms the relationship between Panchayat Adalats and Dehi Adalats.
18) Since the honorarium and sitting fee are meagre, these should be increased.
19) State Finance Commission and State Election Commission must be constituted and it should be ensured that they function as autonomous bodies.
20) The Halqa Panchayats should not depend merely on government grants but also be encouraged to generate their own resources. It would help them in becoming local self-government Institution in the true sense of the term.
21) Lastly, the success of Panchayati Raj system will depend on capabilities of the elected representatives to perform their functions. There should be capacity building of elected representatives and they should be trained to shoulder their responsibilities.
22) Minimum educational qualifications must be prescribed for becoming Sarpanch and Panch of Halqa Panchayat. Otherwise they shall not be able to discharge their duties and exercise their powers in an effective manner. Moreover, they shall remain mere tools in the hands of Panchayat secretaries and the BDOs. A writ petition was filed against Haryana Panchayati Raj (Amendment) Act, 2015 mandating that only those having minimum educational qualifications will be eligible to contest Panchayat elections in the state. The amendment seeks to fix matriculation as minimum educational qualification for elections to Panchayati
Raj institutions (PRIs). With this Haryana became second state in India after Rajasthan to fix educational and other qualifications for the candidates contesting Panchayat elections. Rajasthan became the first State in the country in 2015 to fix minimum educational qualification for those willing to contest the elections to the Panchayati Raj Institutions. The Rajasthan Panchayati Raj (Second Amendment) Act, 2015 was challenged in High court of the Rajasthan by writ petitions and it had refused to stay the Ordinance fixing minimum qualification for contesting the Panchayati Raj Institutions elections. Therefore, government of Jammu and Kashmir should give consideration to the fact that even Supreme Court has upheld the minimum educational qualification for contesting Panchayat elections.

23) The government of India and government of Jammu and Kashmir should make serious efforts to restore normalcy in the state through sustained dialogue with all the stakeholders. Besides, the EPRs be provided with adequate security for discharging their role effectively and fearlessly.

24) The activity mapping should be revisited to increase the number of departments, the number of activities, the number of functions and functionaries and devolution of funds. It should either be incorporated in the Jammu and Kashmir Panchayati Raj Act, 1989 or a Gazette notification be issued for this purpose.

25) The 73rd Constitutional amendment be incorporated in the Constitution of Jammu and Kashmir for ensuring good governance through democratic decentralization. Otherwise, the state governments will keep on taking shelter behind Article 370 for avoiding the same.

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