

Working Paper 511

**Peace-Building and
Economic Development
through Decentralization:
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and Kashmir Experience**

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Published and Printed by: Institute for Social and Economic Change
Dr V K R V Rao Road, Nagarabhavi Post,
Bangalore - 560072, Karnataka, India.

ISEC Working Paper No. 511

March 2021

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ISBN 978-81-951228-0-6

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Working Paper Series Editor: **M Balasubramanian**

PEACE-BUILDING AND ECONOMIC DEVELOPMENT THROUGH DECENTRALIZATION: THE PRE-BIFURCATION JAMMU AND KASHMIR EXPERIENCE

Sardar Babur Hussain*

Abstract

India is known for introducing a decentralized system of reforms, and there is a considerable literature on India that has investigated the impact of decentralization on local development, reduction of poverty, and delivering of essential services such as health and education. However, within India, the frontier and conflict-affected erstwhile state of Jammu and Kashmir (J&K) has not received much scholarly attention in spite of having the unique distinction of introducing decentralized development reforms much prior to the introduction of such reforms at the national level or in other states. A central aim of this paper is to provide a historical background of decentralization in the erstwhile state of J&K and to assess the present working of decentralization as a peace-building strategy. The paper situates the working of decentralization within the protracted conflict situation and explores the outcomes related to local community participation and specifically on the devolution of funds and taxation powers. The paper argues that the panchayats in the region have failed to act as instruments of change and development as they have been mainly used to promote a discourse of peace and normalcy, and important aspects such as credibility and timely conduct of panchayat elections, devolution of funds, and their taxation powers have been sidelined and have been of secondary importance.

Key Words: Decentralization, Peace building, Conflict, Kashmir

Section 1

Introduction

Arguments in favour of decentralization claim that it can enable the efficient allocation of services, empower marginalized and weaker groups, and ensure higher economic growth. According to Rajasekhar (2012: 45): "Decentralisation is a process that transfers political, administrative and fiscal responsibilities to local elected bodies, and empowers communities to ensure that these bodies function effectively". The economic advantages of decentralization are seen in both the limited geographic extent of the benefits of public goods and the relatively high costs of decision-making if everything is centralized (Babu, 2009). India is known for introducing a decentralized system of reforms in 1993, and there is a considerable literature on decentralization in India that has investigated its impact on local development, reduction of poverty, and delivering of essential services such as health and education (Johnson, 2003; Rajasekhar *et al*, 2018 and references therein).

Within India, the frontier and conflict-affected erstwhile state of Jammu and Kashmir (J&K) has not received much scholarly attention in spite of having the unique distinction of introducing decentralized development reforms much prior to the introduction of such reforms at the national level. Studies by Chowdhary (2001), Wani (2011) and Kumar (2014) argue that Panchayati Raj Institutions

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I am especially grateful to Prof D Rajasekhar, whose guidance has played a defining role in the completion of this paper. I would also like to thank R Manjula for her suggestions in the early stages of this paper. Thanks are also due to anonymous referees for their comments.

(PRIs) in J&K have failed to produce the desired outcomes as the panchayat elections are not conducted on time, and there are loopholes in the state reform legislation and acts. However, there is a need to situate the working of PRIs within the political economy of the region so as to explain the extent to which decentralization has been successful in peace-building and local service delivery. A central aim of this paper is to provide a historical background of decentralization in the erstwhile state of J&K and to assess the present working of decentralization as a peace-building and development strategy. The paper is restricted to the period before the abrogation of Article 370, which is before the pre-state bifurcation phase and does not take into account the recent substantive political changes¹. Focusing on panchayats, the paper situates the working of decentralization within the protracted conflict situation and explores the outcomes related to local community participation and specifically the issues related to the devolution of funds and taxation powers. The paper argues that the panchayats in the erstwhile state have failed to act as instruments of change and development, as the decentralization strategy is driven largely by political motivations; and important aspects such as credibility and timely conduct of panchayat elections, and the state's real commitment to devolution of powers consisting of fund flows, and taxation and expenditure powers of PRIs have been sidelined and have been of secondary importance. The rest of the paper is organized as follows: Section 2 provides a background of geographical and political context of the erstwhile state of J&K, Section 3 discusses in detail the historical background on decentralization in J&K, Section 4 explains the working of decentralization in recent decades, and the final section concludes the paper.

Section 2

Geographical and Political Context

The erstwhile J&K is the mountainous border state - strategically located and conflict ridden - situated in the extreme north of India. It consisted of three regions: Jammu, Kashmir and the sparsely populated Ladakh region. The erstwhile state consisted of 22 districts - 10 in Kashmir, 10 in Jammu and 2 in Ladakh. The overall population of 12.5 million is split between Jammu (43%) and Kashmir (55%). Kashmir having a Muslim majority of 97 per cent is endowed with a good mineral base, significant hydropower potential, and is famous the world-over for its handicrafts, handloom products, and horticulture production. J&K is primarily an agricultural economy with around 70 per cent of its population directly or indirectly depending on agriculture (Economic Survey of J&K, 2016). Both India and Pakistan claim this region, and this contestation between the two countries has been the reason for three short wars between India and Pakistan over the territory (1947, 1965 and 1999). The erstwhile state of J&K was unique from other states of India in many ways as it is the most controversial and strategic, and it has a separate Constitution. The erstwhile state had a special relationship with the Indian Union as recognized by Article 370 which was supposed to protect the interests of the locals. The erstwhile state had the characteristics of a fragile state, and has suffered from armed conflict, ethnic tensions, rigged elections, low economic development, unemployment, widespread corruption and human rights violations (GoI, 2003; GoI, 2006; Bose, 2003 and UN Report on Kashmir, 2018). It is in this context that a discussion on decentralization is relevant to understand its role in building peace, ensuring people's participation at the local level, and in service delivery.

Section 3

Historical background of decentralization in J&K

Pre 1947 period

The former state of J&K has its own unique history of decentralization that dates back to 1935 when the first village Panchayat Regulation Act No. 1 was promulgated by the then Maharaja Hari Singh. The preamble of the Act states that, "it is expedient to establish in J&K State the village panchayats to assist in the administrative, civil and criminal justice and also to manage the sanitation and other common concerns of the village"^{vi}. The main rationale behind the introduction of this Act was to pacify the grievances of the masses against the opposition to the Maharaja rule. Agrarian discontent and paucity of employment opportunities were the motivating forces for the Muslim masses to agitate against the despotic Dogra regime (Bamzai, 1994). As the Act of 1935 was limited in its scope as it gave limited powers to panchayats, it was amended in 1941 to devolve more powers to the panchayats including taxation as well as construction and maintenance of public roads and bridges. According to Punjabi (1990), the panchayat institutions were manipulated by autocratic rulers and their collaborators for their own ends. He states that the panchayats "comprised of the lower level functionaries of the Maharaja, zaildars, numberdars, village heads, landlords and other influential people...The function of these was to settle petty disputes in the villages" (1990: 37). During this period, National Conference (NC) - which had the support and cooperation of masses - was rallying against the oppression of feudal and semi-feudal class of landlords. In 1944, NC under the leadership of Sheikh Abdullah brought out a national economic and political plan - known as New Kashmir Manifesto - which, apart from restructuring the political and economic structures, promised empowering the grassroots political institutions.

Post-1947 scenario

On October 26, 1947, Maharaja Hari Singh's request for the accession of the J&K State to the dominion of India under "Special Circumstances" subject to the condition of plebiscite was accepted (Lamb, 1992 and Bazaz, 1996). Sheikh Abdullah took over as the prime minister of the interim government on 17 March 1948. On 26 January 1950, the Constitution of India came into force with a unique provision - Article 370. Article 370 provided special status to the state of J&K which includes autonomous rule in all matters except a few such as defence, foreign affairs, communications and foreign trade. The state had reserved the right to convene a separate Constituent Assembly in 1951 to frame a separate Constitution for itself. The subject of decentralization was included in the Directive Principles of State Policy in the Constitution of J&K (1956), which state that: "The State shall take steps to 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" (Page: 6). After attaining statehood in the Indian Union, the first state government (1948) under Sheikh Mohammad Abdullah based its developmental strategy on the promises made in the New Kashmir Manifesto of 1944. In 1950, radical land reform legislations: the Abolition of Big Landed Estates Act and the Distressed Debtors Relief Act - were passed. The former confiscated all parcels of cultivable land greater than 23 acres and either distributed them to landless peasantry or converted them into state property. The latter created a board that instituted policies for

the relief of debt. All these measures created a conducive environment for the reactivation of the Panchayati Raj system in reshaping the rural economy in the State (Aslam, 1977). Realizing the need for introducing more congenial legislation, the government replaced the Panchayat Act of 1935 (as amended in 1941) with Act- V of Samvat 2008 (corresponding to year 1951). The main features of this Act were: 1) A majority of the panchayat members were to be elected on the basis of adult franchise; 2) Panchayats were to perform administrative, developmental, civic and judicial functions; 3) Concept of Halqa Panchayat comprising 5-7 villages; 4) Panchayat board at each tehsil; and 5) Identification of sources of revenue for panchayats.

The state government then established panchayats in the state. "By March 1951, 540 panchayats had been established in the State. By March 1954, this figure had risen to 751, covering 4,774 villages" (Sultan, 1995). During the 1950s, the state as well as rest of India introduced community development programmes and the National Extension Services (NES) which required people's active participation through the devolution of powers so as to achieve the desired results. Accordingly, to facilitate these programmes and based on the directional thrust of the Balwantrai Mehta Committee Report, the state government enacted the Jammu and Kashmir Panchayat Act in 1958 (repealing the earlier Acts). The new Act had envisaged a two-tier Raj – gram panchayats at the village level and block panchayat boards at the block level. The Act did not differ much from the 1951 Act so far as the major functions and sources of revenue of the panchayats were concerned. The number of gram panchayats increased from 936 in 1962 to 1483 in 1977-78ⁱⁱⁱ.

The Gajendragadkar Commission of Enquiry appointed by the government in 1967 to look into regional disparities had observed that the elections to the local bodies are long overdue and that these bodies are no longer representative in character^{iv}. The report also mentions that by denying the public their fundamental right of franchise, the government manages to have their own candidates elected in the Legislative Council from the local bodies constituencies. According to Punjabi (1990: 41): "The dismissal of Sheikh Mohammad Abdullah and his ministry and his subsequent arrest changed the whole scenario. The post-1953 era witnessed a continuous phase of undermining democracy and subverting of democratic institutions in the State. Under these circumstances, it was futile to expect democracy to function at the grassroots level, namely, the panchayats". This had much to do with New Delhi's policy of imposing governments as well as manipulations by the client governments^v. It was only in the year 1976 that the J&K state introduced a landmark legislation known as "Single Line Administration" in the field of decentralized planning. It has two basic objectives which continue to be relevant for the PRIs today, namely: 1) decentralization of authority primarily to lend speed to development programmes, and 2) the involvement of the people with the process of development. In 1990, the average population per gram panchayat increased to 3,218 as compared to 2,386 at the All India Level. The number of villages per gram panchayat was 4.7 in 1990 compared to 2.8 at the All India Level^{vi}. However, the story of panchayats continued to remain the same in the decades of 1970s and 1980s. Manipulation by various vested interests, absence of a mandatory provision for the regular elections, and the lack of financial autonomy were the major limitations to decentralization (Chowdhary, 2001 and GoI, 2003).

The Jammu and Kashmir Panchayati Raj Act, 1989

To remove some of the difficulties in the previous Act, The Jammu & Kashmir Panchayat Raj Act, 1989 was introduced in the state Assembly in April 1988 and passed in March 1989. The preamble of the 1989 Act states: "Whereas it is expedient to promote and develop Panchayati Raj in the state as an instrument of vigorous local self-government to secure effective participation of the people in the decision making process and for over-seeing implementation of development programmes"^{vii}. Unlike the previous Act which limited panchayats to village level only, the 1989 Act extended panchayats to village, block and district levels. The salient features of the Act are: 1) Reduction of voting age from 21 to 18 years; 2) Holding of elections within six months of supersession of a Panchayat; 3) Direct election of the sarpanch (Chairperson); 4) Empowering panchayats to prepare plans and implement schemes for poverty alleviation and employment generation, agriculture and allied activities, rural industrialization, health, universalization of elementary education, etc; and 5) No bar on holding elections on party lines.

Three-tier model

The Act provides for a three-tier system consisting of halqa panchayat, Block Development Council and District Planning and Development Board^{viii}. The Act provides for a **halqa panchayat** for every halqa^{ix}. The halqa panchayat shall comprise of such number of panchs not less than seven and not more than eleven including the Sarpanch as the prescribed authority may fix from time to time. The panchs shall be elected from the constituencies delimited by the prescribed authority. While the Naib-Sarpanch shall be elected by the panches of the halqa panchayat from among themselves, the Sarpanch shall be elected directly by the electorate of the halqa panchayat. The halqa panchayat shall continue to function for a period of five years from the date of its constitution. If it is dissolved for any reason before this period, elections will be held within six months. A Sarpanch or Naib-Sarpanch can be removed by a vote of no-confidence passed by a majority of not less than two-thirds of the total number of panches of the halqa panchayats. The Act provides for the constitution of **Block Development Councils** consisting of a chairperson (elected by the electoral college comprising elected Panches and Sarpanches of halqa panchayats falling within the Block); all sarpanches of halqa panchayats falling within the block, and chairpersons of marketing societies within the jurisdiction of the block. Further, the Act provides for the constitution of a **District Planning and Development Board (DPDB)** comprising chairpersons of the Block Councils of the district; Members of Parliament representing the area; members of the state legislature representing the area; chairperson of the Town Area Committee at the district; and president of the municipal council (if any). The chairman of the DPDB shall be nominated by the government from amongst the members of the DPDB and the vice-chairman shall be elected by the members of the DPDB from amongst themselves.

The Act of 1989 also provides for the constitution of **Panchayati Adalat** (Panchayat Courts) comprising five members who shall be nominated by the prescribed authority out of the panel prepared and recommended by the halqa panchayat. The person so recommended for a term of five years shall be literate, shall have attained the age of 30 years, not be a Sarpanch or a Panch and not be in the employment of the government or local body or corporation. Panchayati adalats' responsibilities consist of civil and criminal jurisdiction, and imposition of penalties.

At the national level, the 73rd Constitutional Amendment Act was passed by Parliament in April 1993 which provided a Constitutional status to the Panchayati Raj Institutions in India through the insertion of Article 243 to Part IX of Indian Constitution. The Act was not directly applicable to the state of J&K as the state enjoyed autonomy under Article 370 of Indian Constitution. Under Article 370, the central laws were not directly applicable to J&K and the state had the option of enacting a parallel law if it so wished. The state decided to continue with the Jammu & Kashmir Panchayat Raj Act, 1989, and amended it several times to incorporate some of the broader features of the 73rd Constitutional Amendment Act*. Similarly, the state government introduced Municipal Act 2000 which incorporated most of the features of 74th Amendment of the Indian Constitution to empower the municipal bodies. The matrix as shown in Table 1 summarizes the differences between the central and the state legislation (rural bodies). The aim of the matrix is to see whether differences such as low devolution of powers and funds, elections at halqa level, nomination of the Chairman of DPDB by the government, etc have had an impact on the outcomes related to peace-building and local service delivery.

Table 1: Detailed Comparison Matrix

Entry	73rd Constitutional Amendment	The J&K Panchayati Raj Act, 1989
Devolution of Powers	Larger devolution of powers	Low devolution (lack of financial autonomy)
Three-tier System	Three-tier system at village, Block and District Levels.	Three-tier system at halqa (village), Block and District Levels
PRIs Elections	1) Direct election at all levels is not uniform across the states. In some of the states, indirect election is held at GP level. 2) Panch/Sarpanch eligibility: 21 years. 3) Separate election commission.	1) Direct elections to halqa panchayats only. 2) Panch/Sarpanch eligibility: 25 years. 3) No separate election Commission.
Panchayati Adalat	No provision to constitute Panchayati Adalat.	Provision to constitute Panchayati Adalat.
Finance Commission	Provision to constitute State Finance Commission.	Provision to constitute State Finance Commission (since the 2011 amendment).
Women Empowerment	33 per cent reservation (Subsequently increased to 50 % in several states). Reservation extended to levels of sarpanch of Gram Panchayat and chairman Block Development Council and Chairman of District Planning and Development Board.	33 per cent nominations for inadequate representation. No reservation beyond panchs.
District Planning and Development Board	Chairman: Elected by panches, sarpanches of gram panchayat and chairman of Block Development Council.	No election. Nominated by the government from amongst the members of the Board.

Section 4

Peace-building and economic development through decentralization (1996-2018)

Decentralization as a peace-building and state-building strategy has been used in a number of post-conflict states such as Colombia, Sri Lanka, Sierra Leone, Northern Ireland, Rwanda, etc. Donor agencies, especially the World Bank, have increasingly come to consider that decentralization and democratic local governance should be priorities in the peace-building process. The potential advantages of decentralization as a peace-building strategy are seen in both democratic and

developmental terms, all of which mitigate the likelihood of conflict. These include: greater political participation and improving democratic accountability; promoting social exclusion, which had been a major factor in the outbreak of the conflict; and is more responsive to local service delivery (Nickson and Cutting, 2016). There is a substantial literature on the impact of decentralization in promoting peace in post-conflict as well as protracted conflict states but there has been no clear-cut answer to whether decentralization helps to build peace. Some of these studies argue that decentralization has had a significant, if varied, contribution on community cohesion, reconciliation and state legitimacy, while others conclude that it has created more conflict than before.

Wall (2016) in his study on the immediate post-conflict period in Northern Ireland, Sri Lanka, Sierra Leone and Rwanda found that decentralization strategies have contributed to peace as these countries were able to introduce inclusive institutions and through greater equity in basic local service provision. Jackson (2016), in a comprehensive paper, focuses on a critical review of the literature on local government and decentralization in post-conflict contexts. This paper argues that the success of decentralization is determined by the politics of local government and the political framework in which it operates, including the dynamics of the initial conflict itself. He also notes that local government is most successful when embedded in local contexts and the nature of the peace agreement itself. Several studies conclude that decentralization can reignite conflict in fragile environments by different groups so as to gain control of public services, influence electoral results and consolidate local territorial control (Sanchez and Chacon, 2005 and Siegle and Mahoney, 2007). They stress upon the ways through which ineffective and corrupt partisan local political institutions cause frustration, resentment and feelings of exclusion, and thus increase conflict risk. Nickson and Cutting (2016) critique the widely cited case of Sierra Leone as a positive example of the contribution that decentralization can play in rebuilding the State. Using a political economy approach, their study highlights the fact that it was driven by powerful external actors in the international donor community, who were able to lock-in institutional reforms but because of the presence of powerful actors in the political economy of Sierra Leone who are opposed to decentralization, such as national political elites and senior central government civil servants, as well as the enduring patrimonial practices and networks of clientelism that they control, led to less impressive outcomes of decentralization programmes. They mention two important reasons that have led to less impressive outcomes: low political autonomy of local bodies and highly centralized decision making. Green (2008) in the case of Uganda argues that while the decentralization programme has helped to reduce national-level conflict, it has replaced it with local level conflict. This process has taken place in two ways. First, the concentration of local power at the district level has led to struggles over district leadership positions. Second, the huge expansion in the number of new districts has led to local-level conflict by altering relations between local ethnic groups. Similarly, Vidal *et al* (2013) and Voelkel (2013) in the case of Columbia have highlighted that the decisions over peace agreements are frequently centralized and exclude local government officials.

Several studies have highlighted that decentralization is complex, multi-faceted and faces many challenges, and has variable outcomes (as quoted in Crawford and Hartmann, 2008). Critics have favoured a more context-specific approach that takes into consideration the social, anthropological and political realities. Brancati (2009) argues that the ability of decentralization to reduce intra-state conflict

depends on the shape of the political party system, and the balance it strikes between state-wide and regional parties. Others like Treisman (2007) argue that decentralization in and of itself cannot be seen as a necessary tool in conflict prevention and resolution. Indeed, the experience of decentralization in post-conflict peace-building suggests that a more nuanced understanding is necessary to understand better how and when it may reduce or exacerbate conflict.

Peace-building and electoral process

The Jammu and Kashmir Panchayati Raj Act of 1989 could not be operationalised as armed conflict started in the region and this led to a direct central rule in the erstwhile state for a period of six years. The armed insurgency has had a considerable negative impact on the economic development of J&K during the decade of 1990s. The state's economy suffered owing to long spells of closure of industrial, commercial and other establishments. The laws, regulations and rules that needed to be formulated to make the Act functional could not be drafted till 1997. In the year 1996, President's Rule was lifted after six years of violent conflict and elections were held in the state. National Conference (NC) headed by Farooq Abdullah won the state assembly elections in 1996 and formed the government in the state. Chowdhary (2016: 130) states that "...since the mainstream politics was totally de-legitimized in Kashmir, it was not an easy task for the National Conference to capture the political space. The party also faced the issue of its own credibility. It was held responsible not merely for co-opting with the Centre in manipulating the local politics but also for compromising the dignity of Kashmir".

Devolving power to local governments and their involvement in the decision making has been an important part of the larger mainstream political debate in the erstwhile state of J&K since the late 1990s as the levels of armed conflict came down, and policies of peace-building and economic development were promoted in the region. Immediately after coming to power, the National Conference (NC) promised to conduct elections to panchayats and finally in 2001, elections to PRIs was conducted in a phased manner. Since 2000, only three rounds of elections were held in the erstwhile state which covered only halqa panchayats and did not cover elections at block (block development council) and district levels (district planning and development board). In all the three rounds of elections, the local separatist leadership issued a call to the locals to boycott these elections as they believed that the state government uses the panchayat elections to dilute the Kashmir issue. While the overall voting percentages of panchayat elections has generally remained high (Table 2), it varied within the state. The voting percentage in Kashmir region was low as compared to that in Jammu and Ladakh. For instance, during the recently concluded panchayat election in J&K, the voting percentage of Kashmir valley, Jammu division and Ladakh were 41.3 per cent, 83.5 per cent and 67.8 per cent respectively^{xi}. Higher turnouts do not necessarily mean democratization, given that questions have been raised against the credibility and timings of elections^{xii}. Further, as argued by Rekha Chowdhary (2001: 1677) "Almost all political processes and all political institutions in the valley suffer from a crisis of legitimacy. Panchayati institutions are perceived as a part of the existing structure of power that has no relation to the aspirations and choices of people. Such perceptions have led to an ineffective electoral exercise in Kashmir". It is also important to mention that before and after the elections, there have been a number of attacks on Sarpanches by militant groups due to which a vast number of sarpanches resigned.

According to Mahapatra (2015), after the panchayat elections of 2011, more than 900 panchayat representatives had resigned from several districts of Kashmir valley. This is mainly due to the fact that high voting percentages are used by the government to claim that normalcy has returned in the region and Kashmir ceases to be a political problem.

Table 2: Panchayat Elections since 1996

Panchayat Election	Voting Percentage	Term of Panchayats
2001	79	2001 – 2006
2011	80	2011 – 2016
2018	74	2018 – 2024

Source: Chief Electoral Officer, J&K

Peace-building at the local (village) level is deeply influenced by what efforts are made at the sub-national and national levels. Since 2002, an important feature of the J&K state politics that has had a varied impact on decentralization has been the fragile political situation, mostly due to two factors. Firstly, the regional parties have not been able to form government, and thus the initiation of unstable coalition governments between the regional party with the national party in power at the Centre. The Jammu and Kashmir People’s Democratic Party (PDP)-Indian National Congress (INC) coalition government (2002-2008) collapsed after PDP pulled out in 2008 over the allotment of Kashmir land to the Amarnath Shrine Board and the resignation of the state government in July 2008, and as a result, the state went through a very turbulent period lasting for a number of months. Governor’s rule was imposed and as a major agitation took place around the transfer of government land to a religious trust, the legislative assembly elections were delayed. Following the previous assembly election held in December 2014, after two months of intense negotiations, a coalition government was formed between the ideologically opposite PDP and the Bharatiya Janata Party (BJP) based on a power-sharing pact. The government collapsed in June 2018, resulting in the imposition of Governor’s rule and the subsequent dissolution of the J&K Legislative Assembly in November 2018. The erstwhile state’s legislative assembly had been placed under suspension with Governor’s rule on 19 June 2018 and dissolved with the President’s rule in November 2019. New elections were expected within a period of six months but have subsequently been postponed. Thereafter, the state was under President’s rule till October 31, 2019 and it was extended to the Union Territory which is still continuing.

Secondly, since June 2008, the region has also witnessed a resurgence of massive public protests/agitations led by the separatists during the years of 2008, 2009, 2010 and 2016 triggering instability and adversely affecting governance. All these years, a discourse of normalcy was promoted in the region to create a façade of a stable political order^{xiii}. According to Farhad (2020), these protests were rooted in governance failures and indicate key turns in the conflict.

Because of the fragile political situation, not only the legislative assembly elections, but even holding elections at the panchayat level were delayed. Panchayat elections which were due in 2006 could not be held until 2011. The tenure of panchayats elected in 2011 expired in July 2016. For two years, the government could not conduct elections due to the political unrest. Finally, the same were held only in November-December 2018, five months after the fallout between the PDP and the BJP.

Decentralization of power and service delivery

Devolution of powers and funds is an important aspect for effective decentralization, as without substantial powers and funds, decentralized institutions are bound to fail (Manor, 2002). As panchayat elections in the erstwhile state have been limited to halqa panchayats and no serious efforts have been made to elect block development councils and district planning and development boards, the ministers and MLAs continued to exercise powers at those levels. The J&K Panchayat Raj Act, 1989, neglected the higher tiers of panchayat samities and zilla parishads in terms of giving them higher powers. The ministers and MLAs blocked reforms aimed at decentralization of power. According to Rekha Chowdhary: "Their presence cannot allow the district-level panchayat to be a democratic body, independent of governmental control and influence"^{xiv}. Similarly, the Report of the Group of Interlocutors for J&K (2013) states that: "...the State government apparently does not intend to bring legislation giving panchayats the same substance as the 73rd and 74th amendments of the Constitution of India, or more, because the Members of the Jammu and Kashmir Legislative Assembly (MLAs) are opposed to any dilution of their own powers" (pg 18, 19). The politicians in power have ignored the devolution of powers to the panchayats. Even the allocations were not guided by equity considerations as it is not guided by allocation formulae. As stated by a former member of the State Finance Commission (2007-10): "Unfortunately, the SFC [State Finance Commission] report was tabled in the Legislature, but not put to debate nor the allocation formulae have been used while District Development Boards approve the district plan"^{xv}.

We have tried to collect secondary data on the internal resource mobilization as well as the actual devolution out of the net tax proceeds on halqa panchayats, but unfortunately in the case of J&K, it is difficult to find out due to lack of data. The State Finance Commission Report (2010: 530) states that: "*Since the Commission does not have the district level consolidated information, in spite of the repeated requests, therefore, the Commission is unable to provide actual devolution out of net tax proceeds on halqa panchayats*". Therefore, we have depended on available information which provides some insights about the devolution of power.

Taxation powers and own resource mobilization

Section 15 of the Panchayat Raj Act of 1989 vests the halqa panchayats to levy taxes and fees. The gram panchayats in J&K have powers to levy 17 different types of taxes/fees/cess. Surprisingly, among the taxes which a halqa panchayat can levy, building tax, water tax, conservancy tax, or street lighting tax do not figure^{xvi}. The actual amount of taxes/fees/cess that is collected at the local level is very negligible and low in comparison to the hill states of Himachal Pradesh and Uttarakhand (Table 3). Commenting on the own resource mobilization of the panchayats, the first Panchayat Budget of J&K, 2018 states that panchayats have also generated their own resources to the tune of Rs. 20 crore in the past few years. This seems to be very low in comparison to other states of India.

Table 3: Own Revenue of Panchayats (All Tiers, Total in Rs. Crore and Per Capita in Rs.)

State	2005-06		2006-07		2007-08	
	Total	Per Capita	Total	Per Capita	Total	Per Capita
Himachal Pradesh	5.9	10.2	6.1	10.5	6.3	10.8
J&K	0.2	0.3	0.2	0.3	1.8	2.2
Manipur	0.3	1.9	0.3	1.9	0.3	2
Uttarakhand	9.5	14.2	10.9	16	0.3	0.4
All India	2430.7	31	2664.6	33.5	2736.4	34.1

Source: Alok (2012)

Devolutions from State Finance Commission

The State Finance Commission plays an important role to improve the financial position of the panchayats through fiscal devolution. The official discourse on panchayats in the region completely ignores this important aspect of decentralisation. Wani (2011: 290) rightly points out:

"The J&K law neither fixes a minimum amount of grant-in-aid by the state to the panchayats, nor does it provide autonomous machinery for the objective allocation of funds. It has not assured the panchayats regarding a source of income either. The law, therefore, does not ensure financial viability and autonomy of the panchayats and leaves enough financial power in the hands of the state government, which it could use it to arbitrarily influence the working of the panchayats".

The state government has not evolved an appropriate framework/mechanism for sharing of central transfers as well as the state government revenues with the PRIs. While the J&K Panchayati Raj Act, 1989, does not have any provision for State Finance Commission to review the financial position of the panchayats and municipalities, the state government has enacted, consistent with the recommendations of the 13th Central Finance Commission, the State Finance Commission for Panchayats and Municipalities Act, 2011^{xvii}. Chapter II of the Act states that:

"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 mandate of the Commission for recommending devolution of funds to PRIs includes inter-alia: 1) 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; 2) The determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by the panchayats; 3) The grants-in-aid to the panchayats from the Consolidated Fund of the State; 4) The measures needed to improve the financial position of the panchayats. However, till date, no State Finance Commission for panchayats and municipalities has been constituted and as a result, funds flow from Central as well as state governments for PRIs lack any devolutionary design or principles^{xviii}. The misleading of people by

claiming that the state government is devolving funds to panchayats seems to be never ending. For instance, on January 11, 2018, the PDP-BJP led government had made a provision in the state budget to spend Rs 1,000 crore on panchayats during the year 2018-19^{xix}. However, there existed no panchayat bodies in the state as the term of previous local rural bodies had been completed in July 2016 and as new elections were delayed, the funds remain unspent.

Devolutions from Central Finance Commission

Central FC provides grants-in-aid to duly constituted panchayats and municipalities to support and strengthen the delivery of basic civic services including water supply, sanitation, and the maintenance of community assets. The erstwhile state of J&K has lost the bulk of Finance Commission allocations for not having elected panchayats. Under the 12th Central Finance Commission (CFC) award, an amount of Rs 281 crore was earmarked for the PRIs of J&K. As per the guidelines of CFC for the release of grants, the disbursement of funds cannot be recommended for states that have not duly elected panchayats and municipalities. Due to the non-fulfillment of prescribed conditions, the state government could not secure the release of more than 80 per cent of the funds during the period between 2005-06 and 2009-10 (Table 4) and 36.27 per cent funds during the period between 2010-11 and 2014-15 (Table 5).

Table 4: 12th FC Grants to PRIs of J&K during 2005-10 (as on 6 November 2009).

Total allocation	Amount Released (Rs. in Crores)					Total Release	Funds Lapsed	% of funds lapsed
	2005-06	2006-07	2007-08	2008-09	2009-10			
281	17.6	35.24	Lapse	Lapse	Lapse	52.86	228.14	81.18

Source: 13th Finance Commission Report

Similarly, as the term of the previous local elected body had been completed in 2016 and fresh elections were only held in November – December, 2018, the state has faced financial loss (funds lapsed) both in the form of basic grant and performance grant for three consecutive financial years – 2016-17, 2017-18, and 2018-19 (Table 6). As stated by the Report of the Group of Interlocutors for J&K^{xx} (2013: 68): “The Finance Commission awards for strengthening and promoting local governance (panchayats) have not been fully utilized due largely to inordinate delay in holding panchayat elections and making them functional. Eventually, the State is a loser due to the State’s lack of responsiveness to community need”. The lapses are in a way expected since because of the non-existence of local bodies, the Gram Panchayat Development Plans (GPDP), which is a requirement for the release of Finance Commission funds, could not be prepared.

Table 5: 13th FC Grants to PRIs of J&K during 2010-15 (in Rs. Crore as on 31.3.2015).

	General Basic Grant	General Performance Grant	Total
Allocation	608.51	320.94	929.45
Release	524.03	68.23	592.26
% of funds lapsed	13.88	78.74	36.27

Source: Website of Ministry of Panchayat Raj, Government of India.

Table 6: 14th FC Grants allocated to Rural Local Bodies of J&K State during 2015-16 (Rs. Crore)

Year	General Basic Grant	General Performance Grant	Total Allocation	Amount Released
	(A)	(B)	A+B	
2015-16	373.96	-	373.96	367.72
2016-17	517.81	67.92	585.73	Lapsed (66.79*)
2017-18	598.29	76.86	675.15	Lapsed
2018-19	692.11	87.29	779.4	Lapsed
2019-20	935.19	114.3	1049.49	-
Total	3117.36	346.3	3463.73	

Source: Website of Ministry of Panchayat Raj, Government of India. * Performance grant on account of last year's activities.

Impact on local service delivery

The lapsing of the central funds, limited devolutions from the state finances and low own revenue has a negative impact on local governance as gram panchayats are not able to support and strengthen the delivery of basic civic services including water supply, sanitation, and maintenance of community assets, maintenance of roads and other services. There is hardly any evidence to claim that service delivery and socio-economic indicators in the erstwhile state of J&K have improved as a result of decentralized governance. We are considering rural development indicators such as roads, access to piped water supply and toilet facilities as they are implemented by gram panchayats. Table 7, 8 and 9 provide figures for rural development indicators – roads, water supply and toilets - for J&K and several other mountain states of India. It is clear from the tables that states such as Himachal Pradesh (HP), Arunachal Pradesh and Uttarakhand are far ahead of the erstwhile state of J&K, and this has something to do with better decentralization strategies adopted in these states as compared to J&K. According to Kumar (2014), the panchayats in J&K, during their first term from 2001 to 2006, and even after 2011, were neither funded by the state nor were allowed to raise their own resources, and remained visible in relation to a few Centrally Sponsored Schemes. The rest of the Centrally Sponsored Schemes as stated by Chakravarty (2018) are mainly controlled by middlemen and funds for panchayats are mainly utilized by the local legislator. In addition to the problem of lapse of central funds, there is the problem of low utilization of central funds due to extreme winter and agitations (curfews and hartals) during the summer season. Substantial amount of funds also remain unutilized due to delays in the formulation of Gram Panchayat Development Plans. For instance, in 2016, there were reports that funds from the central government remained unutilized^{xxi}.

Table 7: Rural Road Development Indicators as per Census 2011

States	Rural Road Density (km/100 sq km)	Surfaced Rural Road Density (km/100 sq km)	Rural Road availability (km/lakh population)	Surfaced Rural Road Availability (km/lakh population)
Arunachal Pradesh	NA	NA	1052	594
Himachal Pradesh	30	22	268	195
Jammu & Kashmir	6	4	144	88
Uttarakhand	17	12	129	87

Source: Medhi (2015)

Table 8: Rural Households with Access to Piped Water Supply as per Census 2011

States	Rural Households	Coverage with tap water
Arunachal Pradesh	195723	59.30
Himachal Pradesh	1310538	88.70
Jammu & Kashmir	1497920	55.70
Uttarakhand	1404845	63.90
All India	167826730	30.81

Source: Census of India, 2011

Table 9: Rural Households Having Toilet facilities (as on 26.7.2018)

States	No. of rural households having toilet facilities	% of rural households having toilet facilities
Arunachal Pradesh	183400	100
Himachal Pradesh	1433766	100
Jammu & Kashmir	1354919	92.67
Uttarakhand	1514563	100
All India	142406829	88.51

Source: Ministry of Drinking Water & Sanitation (data.gov.in).

Section 5

Conclusion

A central aim of this paper was to understand the role played by decentralization in peace-building and service delivery in the erstwhile state of J&K. A political economy approach used in this paper provides a nuanced understanding of the J&K experience of decentralization. There have been a few positives coming out from the case of J&K, such as high voter turnouts in decentralized elections, which shows that people are keen on change and in favour of better local governance to address their day-to-day problems. However, decentralized reforms had limited success overall in the erstwhile state and specifically in Kashmir valley in terms of peace-building and service delivery as it was primarily driven by political motivations; and important aspects such as credibility and timely conduct of panchayat elections, and the state's real commitment to devolution of powers consisting of fund flows, and taxation and expenditure powers of panchayats have been sidelined and have been of secondary importance. The panchayats lost their credibility as real devolution failed to materialize and as it was not able to produce desirable outcomes. While panchayats have become a subject of considerable debate during the last two decades, there has been little debate on the role that limited devolution of funds, taxation powers, etc play in undermining and weakening the local service delivery. Current PRIs in the region sustain and reinforce the structures of centralization as limited powers and funds have been devolved. The legal framework for establishing viable and self-sustaining rural local-self government institutions leaves a great deal to be desired.

End Notes

- ⁱ On August 5, 2019, Article 370 of the Indian Constitution, which guaranteed special rights to the Muslim-majority state and excluded it from the application of various constitutional provisions, was abrogated, while Article 35A, which limited certain residency rights to the local population and granted them certain protections, was scrapped. The Jammu and Kashmir Reorganization Act was passed by the Indian Parliament on August 6, 2019. The Act reorganizes the former state of J&K into two union territories - Jammu and Kashmir and Ladakh - w.e.f on 31 October, 2019.
- ⁱⁱ As quoted in Panchayat Budget Speech of 2018 (Pg no 1). Accessed at: [http://jakfinance.nic.in/Budget18/PanchayatBudgetspeech2018\(English\).pdf](http://jakfinance.nic.in/Budget18/PanchayatBudgetspeech2018(English).pdf)
- ⁱⁱⁱ Report of the Committee on Economic Reforms for Jammu and Kashmir, (1998, pg 31).
- ^{iv} Report of the Jammu and Kashmir Commission of Inquiry (Gajendragadkar Commission Report), Srinagar, December 1968.
- ^v See Wani (2019) for a rich account of governance in Kashmir during 1948-90.
- ^{vi} Report of the Committee on Economic Reforms for Jammu and Kashmir, (1998, pg 31).
- ^{vii} Available at: <http://ceojammukashmir.nic.in/pdf/Panchayati-Raj-Act-1989.pdf>
- ^{viii} Unlike the other states, J&K has halqa panchayats in place of Panchayat Samities and District Development Board in place of Zilla Parishads.
- ^{ix} According to J&K Panchayati Raj Act of 1989 a "Halqa" means the area comprising a village or such contiguous number of villages as may be determined by the government from time to time.
- ^x Since 1989 the J&K Act for rural local bodies has been amended four times. The latest Jammu and Kashmir Panchayati Raj (Fourth Amendment) Act, 2018 is available at: <http://jklaw.nic.in/pdf/Raj.pdf>
- ^{xi} In the panchayat elections of 2001 and 2011, the voting percentage was low in Kashmir as compared to Jammu and Ladakh. Although the region-wise figures are not available for these two elections, studies by Chowdhary (2001), Wani (2011), and Kumar (2014) confirm that voting percentages were less in Kashmir.
- ^{xii} See Telegraph, 2018 (Kashmir's high voter turnout is no indicator that democracy is healthy there). Accessed at: <https://www.telegraphindia.com/opinion/high-voter-turnout-in-kashmir-panchayat-elections-does-not-indicate-normalcy-or-healthy-democracy/cid/1675971>. See also: Scroll (2018): J&K panchayat elections saw 74% voter turnout – but that figure hides the full story. Accessed at: <https://scroll.in/article/905364/a-closer-look-voter-turnout-numbers-do-not-tell-the-whole-story-of-kashmirs-panchayat-elections>
- ^{xiii} See Staniland (2013) for a full discussion of promotion of discourse of normalcy in the region.
- ^{xiv} As quoted in "The panchayat outrage" by Richard Mahapatra (07 June, 2015). Accessed at: <https://www.downtoearth.org.in/coverage/the-panchayat-outrage-39576>
- ^{xv} Nisar Ali, GK, August 3, 2013 (State Finance Commission's Formula). Accessed at: <https://www.greaterkashmir.com/news/business/state-finance-commission-s-formula/152450.html>
- ^{xvi} Report of the Committee on Economic Reforms for J&K (1998).
- ^{xvii} Available at: <http://www.jklaw.nic.in/pdf/State%20Finance%20Commission%20for%20panchayats%20and%20Municipalities%2080%A6.pdf>
- ^{xviii} The J&K Budget of 2018 and 2019 promised the constitution of the State Finance Commission.
- ^{xix} Available at: [http://jakfinance.nic.in/Budget/Budget18/PanchayatBudgetspeech2018\(English\).pdf](http://jakfinance.nic.in/Budget/Budget18/PanchayatBudgetspeech2018(English).pdf)
- ^{xx} Report of Group of Interlocutors on J&K. Available at: <https://mha.gov.in/sites/default/files/J%26K-InterlocutorsRpt-0512.pdf>
- ^{xxi} Daily Excelsior (2016): J&K fails to utilize Rs 186 cr meant for development at Panchayat Halqa level. Accessed at: <https://www.dailyexcelsior.com/jk-fails-to-utilize-rs-186-cr-meant-for-development-at-panchayat-halqa-level/>

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