

PARTICIPATORY DEMOCRACY THROUGH HALQA MAJLIS IN JAMMU AND KASHMIR: LAW, FACTS, AND CRITIQUE

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Abstract

The “Constitution (73 Amendment) Act, 1992” of the Constitution of India envisioned Gram Sabha as the bedrock of Panchayati Raj System. In Jammu and Kashmir, the Panchayati Raj Act was passed in 1989, and at that time, there was no specific provision for Halqa Majlis included in the Act. The term Halqa Majlis is used in place of Gram Sabha in Jammu and Kashmir Panchayati Raj Act. The persistent demand led to the inclusion of Halqa Majlis provisions in 1999. The democratic decentralisation in Jammu and Kashmir was introduced to promote participatory democracy. However, its effectiveness hinges on Halqa Majlis, which plays central role in strengthening grassroots democracy. There is notable gap between the foundational objectives of the Halqa Majlis/Gram Sabha and its actual functioning in the state today. This research paper empirically assesses the functioning and effectiveness of the Gram Sabha /Halqa Majlis.

Keywords: Halqa Majlis, Halqa Panchayat, Grassroots democracy, Participatory Democracy, Rural local Self-government, Democratic Decentralisation.

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I. Introduction

IN THE landmark “*Niyamgiri case*”, the Supreme court of India was approached by Odisha Mining Corporation Limited (OMC), a state-owned corporation of Government of Odisha, for a writ of certiorari to quash the order passed by the Ministry of Environment and Forests (MoEF) on August 24, 2010, which had denied Stage-II forest clearance for the divergence of

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an extensive forest expanse for mining of bauxite ore in the Lanjigarh Bauxite Mines, located in the Rayagada and Kalahandi districts of Odisha. Bauxite is primary source of aluminium. The Government of India's Ministry of Environment and Forests accorded environment clearance to the Lanjigarh Bauxite Mining Project (BMP) in 2009, but this clearance was contingent upon obtaining the forestry clearance. The final proposal was submitted by OMC to the Forest Advisory Committee (FAC), which recommended that the final clearance under the Forest (Conservation) Act would be granted, only after ascertaining the 'Community Rights' on forest land ,and after completing the process for establishing such rights under the Forest Rights Act. Based on the recommendations of the FAC and Saxena Committee, the MOEF rejected the request for Stage-II clearance on August 24, 2010. The Ministry found that primitive tribal groups were not consulted in the project clearance process. Additionally, it identified violations of the provisions of Forest Rights Act (2006), the Forest (Conservation) Act (1980), and the Environment Protection Act (1986). This order denying Stage –II clearance was challenged in the Supreme Court of India, which decided the case in 2013, making several significant observations.

II. Highest Court's Analysis and Determination

Under Section 6 of the Forest Rights Act(FRA), Gram Sabha has been granted the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Tribes and other traditional forest dwellers within the local limits of jurisdiction. The Gram Sabha had received a large number of individual and community claims from the Rayagada district as well as the Kalahandi district, most of which were reviewed and resolved by granting alternate rights over the land. Further, the Apex Court stated that Gram Sabha is free to consider cultural and religious claims. It has a role to play in safeguarding the customary and religious rights of the Scheduled Tribes (STs) and other traditional forest dwellers (TFDs). Section 6 and Section 13 of the Forest Rights Act were read with Section 4(d) of the Panchayat (Extension to Scheduled Areas) Act (1996), which states that "every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution". The Supreme Court affirmed that the determination of whether STs and other TFDs, like the Dongaria Kondh, Kutia Kandha and others, have religious rights, including the right to worship over the Niyamgiri hills, must be decided by the Gram Sabha. The Gram Sabha is the appropriate

authority to examine whether the proposed Bauxite Mining Project (BMP) at Niyama Danger, would in any way affects the sacred abode of Niyam-Raja .The Supreme Court held that, if the BMP affects the religious rights of the specified STs and other TFDs, particularly their right to worship their deity, known as Niyam- Raja, that right has to be preserved and safeguarded. “The highest court went on to state that the Gram Sabha is free to consider all the community, individual as well as cultural and religious claims, over and above the claims which had already been received from Rayagada and Kalahandi districts”. Any new claims must be submitted to the Gram Sabha within six weeks from the date of this Judgment. The Odisha State Government and the Ministry of Tribal affairs were directed to assist the Gram Sabha in settling individual as well as community claims. The Apex Court also ordered the Odisha government to place these issues before Gram Sabha, notifying the Ministry of Tribal Affairs. The Gram Sabha must reach a decision within three months, and report its findings to the MoEF, through the State Government. Upon conclusion of the proceedings before the Gram Sabha, after the determination of the submitted claims before it, the MOEF shall take the final decision regarding Stage-II clearance in the light of the decisions of the Gram Sabha within two months¹.

III. Judicial Affirmation of Gram Sabha Authority

This norm requiring free, prior, and informed consent from the indigenous communities before commencing a project on their territories was a paradigm shift from the earlier requirement of consultation or mere participation in the decision-making. The Supreme Court ordered a referendum to be held amongst the affected Gram Sabhas to obtain their consent on the Bauxite Mining Project. This is described as India’s first environment referendum because Supreme Court allowed Gram Sabha to decide whether mining could proceed in the Niyamgiri hills². As per the order of the Supreme Court, the Odisha government identified 12 villages that would be directly affected by the open-pit mining. In the same year, the Gram Sabhas of 12 villages vetoed against the Vedanta's mining project. This was a setback for Odisha government’s plan as well as mining heavyweight Vedanta Resources. The victory of the tribal people highlighted an important aspect of democracy, in which a small Dongria Kondh tribe was able to derail a major industrial project. This was also a major triumph for

¹*Odisha Mining Corporation Ltd v. Ministry of Environment & Forest* (2013)(6) SCC 476.

² Kriti Sharma, “Niyamgiri: 10 years since India’s first environmental referendum “*Down to Earth*, April 19, 2023, available at: <https://www.downtoearth.org.in/governance/niyamgiri-10-years-since-india-s-first-environmental-referendum-88850> (last visited on April 14, 2026).

defenders of human rights in the court, as welfare of these tribes was prioritized over industrial expansion for economic gain. This judgment was undoubtedly a turning point for the direct democracy institution like Gram Sabha, and a rare manifestation of grassroots participatory democracy in action, as the Supreme Court stated that decision would lie with the local indigenous communities³.

IV. Constitutionalisation of Panchayati Raj Institutions

Mahatma Gandhi laid emphasis on the essentiality of “Village Swaraj” (independent republic or village self-rule), and this vision of ideal village had most powerful influence on subsequent debates and discussions which took place during the drafting of India’s Constitution. Finally, the provision pertaining to village Panchayats was incorporated in Article 40 under ‘Directive Principles of State Policy’, which required state governments to establish village Panchayats and enable them to function as units of self-government. The pivotal feature of a federal constitution is the division of powers and functions between the central government and the regional governments. The Article 246 of Constitution of India deals with the subject-matter of laws that can be made by the Parliament of India and state legislatures. There is a three-fold and elaborate scheme of distribution of legislative power between the Centre and the states. The Seventh Schedule of the Indian Constitution specifies the distribution of powers and responsibilities between the states and the centre i.e., it embodies three lists; namely, Union List, State list and Concurrent list. The Article 246(1) confers on the Parliament an ‘exclusive power’ to make laws with respect to any of the matters in the Union List i.e. List I is an exclusive area for the centre; the clause (3) of the Article 246 confers an exclusive power on the states to make laws with respect to the matters enumerated in the State List (List II is an exclusive area of states); and clause (2) of the Article 246 confers a concurrent power of legislation on both the centre and the states with respect to the matters enumerated in the Concurrent List (List III in the Seventh Schedule is a common or concurrent area in which both the centre and the states may operate simultaneously, subject to the overall supremacy of the centre⁴. The term local government was not used in Article 40. It is item five of the State list which talks about local government⁵.

³ Jo Woodman, “India's rejection of Vedanta's bauxite mine is a victory for tribal rights” the guardian.com, 14, 2014, available at: <https://www.theguardian.com/global-development/poverty-matters/2014/jan/14/india-rejection-vedanta-mine-victory-tribal-rights> (last visited on April 14, 2026).

⁴The Constitution of India.

⁵ V. N. Alok, “Role of Panchayat Bodies in Rural Development since 1959”, *IIPA* (2011) available at:

The Community Development Programme (CDP) was inaugurated on October 2, 1952, as a pilot initiative, about nine months after the first General Elections, which were held at the end of 1951 and the beginning of 1952. This was an important milestone in the history of the rural development. Before the inauguration of this Programme, in the first quarter of the same year, an organization known as Community Projects Administration (CPA) was set up under the Planning Commission on 31st March 1952, to administer the programmes relating to community development⁶. Initially, it was introduced as a pilot project, but by 1964, it was extended to entire country. The programme aimed at transforming the social and economic life of the villagers through increasing agricultural production, improving communication systems, promoting rural health and hygiene, and advancing village education⁷.

In the post-independence period, government had intended to take various development initiatives through Five Year Plans to address the socio-economic inequities and promote the welfare of people. Concurrently, a system for evaluating development programmes was also conceived. In 1951, when the First Five Year Plan was launched, the need to establish a systematic evaluation was also felt, leading to introduction of a proposal to set up an evaluation organization which could do continuous evaluation of the community projects⁸. These evaluation reports drew attention towards drawbacks of the whole CDP, including the unsatisfactory working of Panchayats, insufficient people's contribution in development. In response, Balvantray Mehta Study Team was appointed to review the working of the Community Development Programme (1952) and the National Extension Service (1953), and to suggest measures for their better working. The Committee recommended implementing a scheme of 'democratic decentralization', which finally came to be known as Panchayati Raj. The Study Team expressed dissatisfaction over the centralized functioning of the programme and recommended that public participation in community work should be organized through statutory representative bodies i.e. a three-tier Panchayati raj structure (Gram Panchayat at the village level, Panchayat Samiti at the block level, and Zila Parishad at the district level)⁹.

<https://www.iipa.org.in/new/upload/theme2011.pdf> (last visited on April 14, 2026).

⁶ Ministry of Rural Development, Government of India, *available at*: <https://www.rural.gov.in/> (last visited on April 14, 2026).

⁷ Garvin Karunaratne, "The Failure of Community Development Programme in India" 11(2) *Community Development Journal* 95-118(1976).

⁸ Dr. S. Chandrasekar, "Development Evaluation of India" *available at*: <http://yोजना.gov.in/Development%20Evaluation%20in%20India.pdf> (last visited on April 14, 2026).

⁹ Dr Mamta Pathania, "Indian Polity and Governance – Panchayati Raj, Public Policy, Rights Issues etc. *IIPA* 2022, *available at*: https://www.iipa.org.in/upload/IPG_panchayti%20raj.pdf (last visited on April 14, 2026).

In order to strengthen Panchayati Raj Institutions, the Government of India enacted Constitution (Seventy-third Amendment) Act, 1992, which gave constitutional status to the Panchayati Raj Institutions¹⁰. This Act provides 3-tier structure of Panchayati Raj Institutions such as Gram Panchayat at village level, Panchayat Samiti at block level, and Zilla Parishad at district level. Some states which have two-tier Panchayat system - one at the village level and another at the Zilla or District level. In the Indian federal system, Panchayat is closest to the notion of direct democracy, distinct from the representative democracy of the Union and states, due to its proximity to the community it serves. The rural local government in India is called Panchayati Raj. This term Panchayat comes from Panch, meaning ‘five,’ although the governing body so called is not limited to this number¹¹. Article 243A provides constitutional status to Gram Sabha of every village. It is a village assembly comprising all registered voters within a Panchayat area¹². Evidence indicates that the term Gram Sabha, or village assembly was known to Indians for centuries, but it received official recognition following the enactment of Constitution (Seventy-third Amendment) Act in 1992. This 73rd Constitutional Amendment Act defined the Gram Sabha “as a body consisting of all the persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level”. Prior to that, Section 3(9) of the Bombay Village Panchayats Act, 1958 defined Gram Sabha “as a body consisting of persons registered in the electoral rolls relating to village comprised within the area of the Panchayat”, and this definition was retained by 73rd Amendment Act in 1992¹³. As mentioned above, local government is a state subject, the state governments were asked to amend their Panchayat Acts in the light of 73rd Amendment Act, 1992. Most of the state governments retained the same definition.¹⁴ Under the Indian Constitution, there can be only three- tiers of the Panchayat Raj system. The Gram Sabha is not one of the three tiers of the Panchayati Raj system. However, it is the foundation of entire system, and is the only permanent unit. It does not perform executive functions and operates as a deliberative, decision -approving, and recommending body¹⁵. Nevertheless, this institution

¹⁰ Mahi Pal, “Panchayati Raj and Rural Governance: Experiences of a Decade” 39 *Economic and Political Weekly* 137(2004).

¹¹ *Supra* note, 5.

¹² Shibaram Karmakar, “Empowering Rural India through Panchayat Raj Institutions: A Pathway to Inclusive Development in Post-Independence India” 8 *International Journal of Political Science and Governance* 28(2026), available at: <https://www.journalofpoliticalscience.com/uploads/archives/8-4-9-101.pdf> (last visited on April 14, 2026).

¹³ Milind Bokil and Satish Gogulwar, “Gram Sabha as a Body Corporate” 58 *Economic and Political Weekly* (2023).

¹⁴ *Ibid.*

¹⁵ S.A. Ashraf Hasan and G.S. Ganesh Prasad (eds.) *Proceedings of the National Seminar on Gram Sabha* (Abdul Nazir Sab state Institute of Rural Development, Karnataka), available at:

has assumed great significance as a basic unit of rural local self-governance in India. Conventionally, Panchayat Acts of the states have established Gram Panchayats as body corporates, having perpetual succession, meaning representatives may change over time, but the Panchayat itself continues to exist. These bodies have a common seal, authority to acquire, hold and dispose of property, as well as to enter into contracts. They can legally sue or be sued in their own name. According to Article 243 of the Constitution of India and various State Panchayati Raj Acts, the Gram Sabha does not have the status of body corporate and is simply an assembly of people. Article 243(A) of the Constitution of India has enabled the State Legislatures to empower Gram Sabha to exercise such powers and perform such functions at the village level, as determined by law. It is a platform for people's participation, monitors various development activities implemented in the village(s), raises issues related to the village(s) concerned, and promotes transparency and accountability in the functioning of Panchayat Raj Institutions and line departments at the grassroots level. Also, it is the most effective institution at the village level for conducting social audit of activities undertaken by Government Departments/Organisations, and Panchayat Raj Institutions. Social Audit is a process by which the people, who are the real beneficiaries of any scheme, programme, policy or law, are empowered to assess these initiatives. This is a continuous process that engages potential beneficiaries and other stakeholders of an activity or project in all stages, from planning to monitoring and evaluating the activity or project¹⁶.

V. Jammu and Kashmir Panchayati Raj Act, 1989

The experiment with rural local self-government in Jammu and Kashmir state dates back to the 1930s when the Maharaja Hari Singh promulgated the Jammu and Kashmir Panchayat Regulation No. I in 1935. The preamble of the Regulation makes it clear that village Panchayats were established to assist in the administration of civil and criminal justice, and also to manage the sanitation and other common concerns of villages. The objective behind the promulgation was not to promote rural local self-government. This Panchayat Regulation No. I of 1935 was amended in 1941 to bring some improvements. The Land reforms introduced in 1950 provided a sound base for the Panchayati Raj system to play an effective role in reshaping the rural economy. With this in view, Jammu and Kashmir Panchayat

<https://sirdmysuru.karnataka.gov.in/storage/pdf-files/publication/GramaSabheWorkshop.pdf> (last visited on April 15, 2026).

¹⁶ Ministry of Rural Development, Empowering Gram Sabha 61 Kurukshetra 16 (2013), available at: https://www.publicationsdivision.nic.in/journals/Journalarchives/Kurukshetra/Kurukshetra-English/2013/May/Kurukshetra_May_2013_pdf.pdf (last visited on April 15, 2026).

Regulation No. I of 1935 (as amended in 1941) was replaced by Jammu and Kashmir Village Panchayat Act of 1951. Before the Panchayati Raj could be introduced in the whole country in 1959, Jammu and Kashmir state took the lead and passed the Jammu and Kashmir Village Panchayat Act, 1958 which repealed the earlier Acts¹⁷.

The preamble of the 1958, Act indicates that it was enacted to make better provisions for the administration of village Panchayats. However, despite this Act and some administrative measures such as Single Line Administration, the Panchayats could not be re-invigorated and remained dormant.¹⁸ There were demands for alternative legislation to revitalize the Panchayati Raj system, and as a sequel to the efforts to revive the democratic process at the grassroots level, the Jammu and Kashmir Panchayati Raj Act, 1989 was passed, replacing the Jammu and Kashmir Village Panchayat Act, 1958¹⁹. The preamble of the Act stated 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 programmes²⁰. Therefore, the objective was to secure effective participation of people in decision-making. However, it is a Halqa Majlis which provides a platform to people to participate in decision-making, but initially the 1989 Act, neglected to include Halqa Majlis/Gram Sabha as a mandatory, foundational unit. This lack of provision meant that the members of the Halqa Panchayat (Gram Panchayat) were not accountable to their constituents after being elected.

Moreover, a significant shortcoming in all the Village Panchayat Acts of the state passed before 1989 has been the lack of provision for Halqa Majlis or Halqa Sabha, and this flaw was not corrected in the 1989, Act as well. Although, the Jammu and Kashmir state government framed the Jammu and Kashmir Panchayat Rules in 1996, based on its 1989 Act, to overcome the deficiencies and bring the state law in line with the Constitution (Seventy – third Amendment) Act, 1992, the new rules still failed to include provision for this foundational unit²¹. The Jammu and Kashmir Panchayati Raj Act, 1989 was passed three years

¹⁷ Mohammad Aslam, “Panchayati Raj in Jammu and Kashmir-Retrospect & Prospects” in Joya Roy (ed.), *Restoration of Panchayats in Jammu and Kashmir* 16 (Institute of Social Sciences, 1999).

¹⁸ Riyaz Punjabi, “Panchayati Raj in Kashmir: Yesterday, Today and Tomorrow” in George Mathew (ed.), *Panchayati Raj in Jammu and Kashmir* 42 (Concept Publishing Company, New Delhi, 1990).

¹⁹ Mohammad Sultan, “Status of Panchayati Raj in the States and Union Territories of India” in George Mathew (ed.), *Panchayati Raj in Jammu and Kashmir* 262 (Concept Publishing Company, 2013).

²⁰ The Jammu and Kashmir Panchayati Raj Act, 1989.

²¹ Gull Wani and Effat Yasmin, “Democratic Decentralisation in J&K: Gender and Political Change” 54 *Mainstream* (2015) available at: <http://www.mainstreamweekly.net/article6160.html> (last visited on April 15, 2026).

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 detailed provisions for Gram Sabha; it only provided a sketch or outline. As it was made mandatory for all states to constitute Gram Sabha, all States have consequently provided for its institution in their respective Panchayat Acts and conferred upon it powers and functions²². Once the 73rd Amendment accorded constitutional importance to this institution and made its meetings compulsory, the Gram Sabha suddenly acquired importance²³. 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.²⁴ Realizing the importance of the Gram Sabha, the state government incorporated the provision for Halqa Majlis (which corresponds to Gram Sabha) in the 1989 Act. The Act could not be implemented immediately on account of armed militancy. The year 1989 marked the beginning of deteriorating political situation, 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, and the provision for Halqa Majlis was added in 1999 to achieve the objective mentioned in the preamble of the Act.

VI. Halqa Majlis under J&K Panchayati Raj Act, 1989

Gram Sabha is a Hindi term and its Urdu translation is Halqa Majlis. Since Urdu is one of the official languages of Jammu and Kashmir, therefore, the term Halqa Majlis is mentioned in Act of 1989. Furthermore, the Section 4(2a) of the Act stated that ‘every Halqa Panchayat shall have the Halqa Majlis comprising all the persons whose names are included in the electoral roll for such Halqa Panchayat and every Sarpanch shall convene at least two meetings of the Halqa Majlis during a financial year²⁵. One of the positive aspects of the 1989 Act after its amendment was that it made it mandatory for the Halqa Panchayats (Halqa Panchayats corresponds to Gram Panchayat) to ‘lay for sanction’ its budget or annual report before Halqa Majlis. However, powers and functions of Halqa Majlis were not clearly defined. Also, the Act did not specify whether the recommendations given by the Halqa

²² Amal Mandal, “Gram Sabha-A conceptual Exploration” 57*IJPA* 213(2011).

²³ Girish Kumar, *Local Democracy in India 206* (Sage Publications India Pvt. Ltd, 2006).

²⁴ Neha Tyagi, “Strategies for Capacity Building of Women Representatives In Panchayats” in Surat Singh (ed.) *Decentralized Governance in India, Myth and Reality* 194 (2004).

²⁵ The Jammu and Kashmir Panchayati Raj Act, 1989, Section 21.

Majlis were legally binding and could not be altered²⁶. The Halqa Majlis is the basic unit of rural local governance and democracy. It is a forum which ensures ‘direct democracy’ aimed at making democracy vibrant and participatory²⁷.

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, thus ensuring transparency and accountability in the functioning of village Panchayat²⁸. Unfortunately, this institution has remained weak since its inception as the working of Halqa Majlis has never been effective. In 2019, the Jammu and Kashmir Reorganization Act was enacted, resulting in the reorganization of the existing state of Jammu and Kashmir i.e. existing state was divided into two Union Territories; Jammu and Kashmir and Ladakh. This Act has been divided into 14 parts, consisting of 103 sections and 05 schedules. The Fifth Schedule contains the list of Central Laws made applicable to the Union territory of J&K and the Union Territory of Ladakh. It also lists state laws applicable to the UTs with amendments, state laws including (Governor’s Acts) repealed in UTs and state Acts including (Governor’s Acts) that remain in force in Jammu and Kashmir and Ladakh.

Additionally, the Jammu and Kashmir Panchayati Raj Act, 1989 continues to remain in force, but it has been amended by The Schedule [The Union Territory of Jammu and Kashmir Reorganisation (Adaptation of State Laws) Fourth Order, 2020], S.O.3654(E) of 2020. The amendment of the Act has introduced many changes. For example, Chapter I-A has been added, which includes detailed provisions relating to Ward Majlis (Ward Sabha) and Halqa Majlis. Prior to the Reorganization Act, 2019, the functions of the Halqa Majlis were not explicitly mentioned. However, following the amendment of the 1989 Act by the aforementioned Order of 2020, the provisions outlining the functions of Ward Majlis and Halqa Majlis were added. According to Section 3A, for every ward of Halqa Panchayat, there shall be a Ward Majlis, and all adult persons of the ward whose names are included in the electoral rolls relating to Halqa Panchayat shall be deemed to be constituted as Ward Majlis of such Halqa Panchayat. This Ward Majlis shall meet at least once in three months. The

²⁶ *Supra* note 6.

²⁷ George Mathew, “Strategies for strengthening Panchayati Raj Institutions” in Surat Singh (ed.) *Decentralized Governance in India, Myth and Reality* 209 (2004).

²⁸ Available at: [http://yojana.gov.in/cms/\(S\(ywrwttrsl2azkr5iwou0j55\)\)/pdf/Kurukshetra%5CEnglish%5C2013/Kurukshetra%20May%202013.pdf](http://yojana.gov.in/cms/(S(ywrwttrsl2azkr5iwou0j55))/pdf/Kurukshetra%5CEnglish%5C2013/Kurukshetra%20May%202013.pdf) (last visited on April 15, 2026).

meeting of the Ward Majlis shall be presided over by the Panch or in his absence by some other member of the Ward Majlis to be elected for the purpose by the majority of the members present in the meeting. The quorum of the meeting of the Ward Majlis shall not be less than one-tenth of the total members, out of which members belonging to SCs and the STs, and women shall be in proportion to their population. All resolutions in respect of any subject shall be passed by majority, and there is a provision of special meeting also.

As mentioned earlier, the Ward Majlis has been assigned functions, which include the following: to assist Halqa Panchayat in collection and compilation of details required for formulation of development plans, generate proposals and fix priority of development schemes and programmes to be implemented, identify beneficiaries in order of priority, to undertake social audit of all works implemented in the area and award completion certificate for such works, etc. Section 3C deals with composition of Halqa Majlis/Gram Sabha, conduct of meetings, quorum required for meetings etc. It states that there shall be a Halqa Majlis for each Halqa Panchayat consisting of such persons whose names have been included in the electoral rolls relating to the village or the group of villages comprised within the area of the Halqa Panchayat. The meetings of the Halqa Majlis shall be convened by the Sarpanch of the Panchayat or, in his absence by the Naib-Sarpanch of such Panchayat. There shall be at least four meetings of the Halqa Majlis every year, one in every quarter of the financial year. However, in case of urgency, the special meeting of the Halqa Majlis may be convened. The Secretary of the Halqa Panchayat shall record the minutes of the meeting of Halqa Majlis. The quorum of the meeting of the Halqa Majlis shall be not less than one-tenth of the total members. Any resolution relating to the matters entrusted to the Halqa Majlis under this section, shall have to be passed by a majority of votes of the members present and voting in the meeting of the Halqa Majlis.

The Section 3D of Chapter I-A of the 1989 Act, deals with functions of the Halqa Majlis. The Halqa Majlis is required to assist its Halqa Panchayat, and there are other functions also which are as follows:

- i. “to approve the plans, programmes and projects for social and economic development in order of priority, out of the plans, programmes and projects approved by the Ward Majlis before such plans, programmes and projects are taken up for implementation by the Panchayat;
- ii. to identify or select persons as beneficiaries under poverty alleviation and other programmes, in order of priority out of the persons identified by the various Ward Majlis coming under its jurisdiction;

- iii. to conduct social audit as per prescribed procedure in respect of funds utilized under different schemes in wards.
- iv. To mobilize voluntary labour and contribution in kind or cash or both for the community welfare programmes;
- v. to promote literacy, education, health and nutrition;
- vi. to promote unity and harmony among all sections of the society in such area;
- vii. to seek clarifications from the Sarpanch and members of the Panchayat about any particular activity, scheme, income and expenditure;
- viii. to identify and approve development works in order of priority from out of the works recommended by the Ward Majlis;
- ix. to plan and manage minor water bodies;
- x. to manage minor forest produce;
- xi. to exercise control over institutions and functionaries in all social sectors;
- xii. to exercise control over local plans and resources for such plans including tribal sub- plan;
- xiii. to consider and approve the recommendations made by each Ward Majlis in the area of such Panchayat Halqa; and
- xiv. such other functions as may be prescribed."

In addition to this, Section 12 of the 1989 Act, sets down the powers and functions of the Halqa Panchayat (Gram Panchayat). It is mandatory for Halqa Panchayat to prepare the plans for the development of the Halqa(village) in consultation with Halqa Majlis, and their timely submission to Block Development Council²⁹.

The General Panchayat elections were announced on 16th September, 2018, and the total turnout for elections, which were held in November-December, 2018, was 74%. The electoral exercise took place seven years after the last Panchayat polls in J&K in 2011. Following the 2018 elections, approximately 61% of Panch and Sarpanch seats in 10 districts of Kashmir remained unfilled, while in Jammu and Ladakh, 103 and 24 positions, respectively, remained vacant³⁰. A total of 22214 Panches and 3459 Sarpanches got elected out of 33592 Panch and 4290 Sarpanch constituencies. Further vacancies arose on account of death, resignation of the

²⁹ S.O. 3654(E) dated 16-10-2020 of the Ministry of Home Affairs, Government of India.

³⁰ Mudasir Ahmed, "After successful Panchayat Polls in Kashmir last year, 61% of seats lie empty" *the Wire*, available at: <https://thewire.in/government/kashmir-panchayat-elections-participation>, September 19, 2019 (last visited on November 13, 2023).

elected Sarpanches and Panches³¹. In exercise of the powers conferred by Section 27 of the Jammu and Kashmir Panchayati Raj Act, 1989, read with rule 105-A of the Jammu and Kashmir Panchayati Raj Rules, 1996, Block Development Council elections were held, and on 2nd December, 2019, the names of the Chairpersons and members of the BDCs were notified³². Around 307 Panches and Sarpanches seats fell vacant because these officials were elected to the higher BDC post. The Block Development Council (BDC) consists of Chairperson and all Sarpanches of the Halqa Panchayat falling within the Block. As per Section 28 of the 1989 Act, every BDC shall have a Chairperson who shall be Sarpanch or a Panch in any Halqa Panchayat of that Block. On election of a Sarpanch or a Panch as the Chairperson, he shall, after having been so elected, vacate his office as Sarpanch or Panch. By-elections to fill these vacancies were announced through notification S.O.304 dated 01.10.2020 under rule 07 of the Jammu and Kashmir Panchayati Raj Rules of 1996. The candidates duly elected during these by-elections were to hold office for the remainder of a five-year term, commencing from the date of formation of Halqa Panchayat³³.

This empirical study was conducted with following objectives:

- a. To find out the awareness among members of Halqa Majlis.
- b. To discern actual position regarding the conduct of the Halqa Majlis meetings.

In the light of objectives of this study, a systematic research design was drawn. The stratified, purposive and random sampling methods were used for the selection of the districts, the Blocks, and Halqa Majlis' of Halqa Panchayats. The respondents were also selected by using the above sampling methods. The study was conducted in four districts of Jammu and Kashmir i.e. Samba, Poonch, Shopian and Kupwara. The researcher selected two blocks out of each district. From each block, Halqa Majlis' of five Halqa Panchayats were selected. Thus, the total number of respondents were 320 from 40 Halqa Panchayats spread over 8 Blocks of the above mentioned four districts. The respondents from each Halqa Majlis were selected through stratified random sampling method in such a manner that sample includes,

- (i) Two General Caste males,
- (ii) Two General Caste females,
- (iii) Two Scheduled Caste or Scheduled Tribe (SC/ST) males,

³¹ Available at: https://ceojk.nic.in/pdf/panchayat_ddc_2020/pressnote_ddc2020.pdf (last visited on April 15, 2026).

³² Available at: https://ceojk.nic.in/pdf/BDC_2019/Notification2-12-2019.pdf (last visited on April 15, 2026).

³³ Ravi Krishan Khajuria, "7 Months after Art 370 move, Local Polls to be held in J&K" *Hindustan Times*, Feb.2,2020.

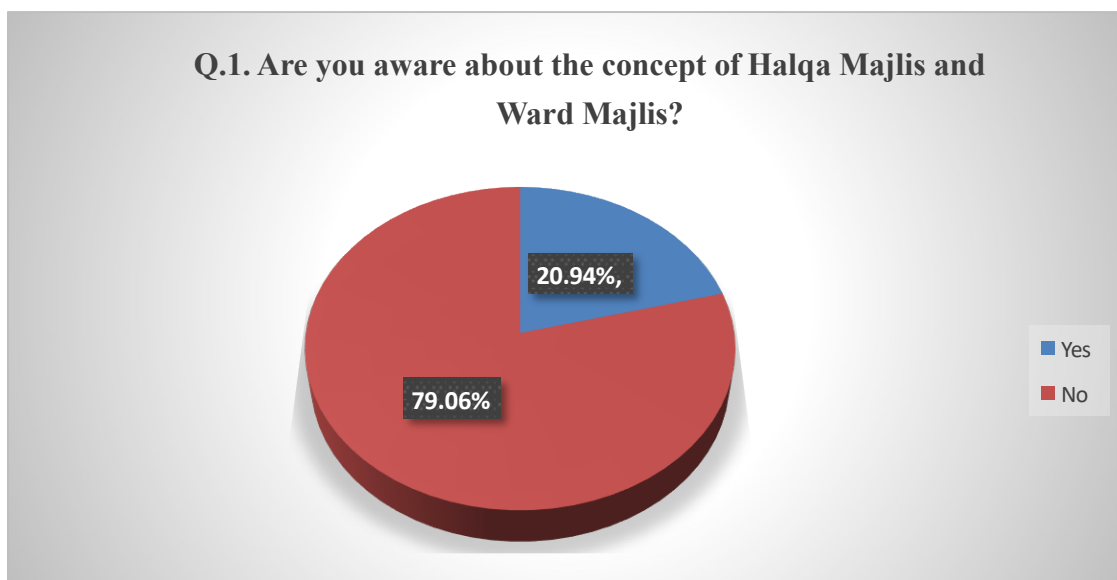
(iv) Two Scheduled Caste or Scheduled Tribe (SC/ST) females.

Thus, from every Halqa, eight Halqa Majlis members were chosen. An effort was made to make the sample as representative as possible. Out of total 320 respondents, 50 percent are males of General as well as SC/ST category, and 50 percent are females of General and SC/ST category. The study is based on both primary and secondary data. Secondary data were collected from relevant articles, reports, Journals, books, websites, etc. For collection of primary data, structured and pre-tested interview schedule containing closed-ended questions was prepared. The primary data were collected from four districts between June and August 2023. The interviews were directly conducted by door-to-door visits to the dwelling units of the respondents. In many cases, data were collected from the respondents at their work places or at their Panchayat Ghars (Panchayat offices), where they had gathered. The empirical study was limited to four districts –Samba and Poonch from Jammu division, and Shopian and Kupwara from Kashmir division.

The respondents were asked the following questions to assess their awareness of Halqa Majlis and Ward Majlis, as well as the frequency and conduct of Halqa Majlis meetings, in order to evaluate the overall effectiveness of Halqa Majlis’.

Responses of Halqa Majlis members

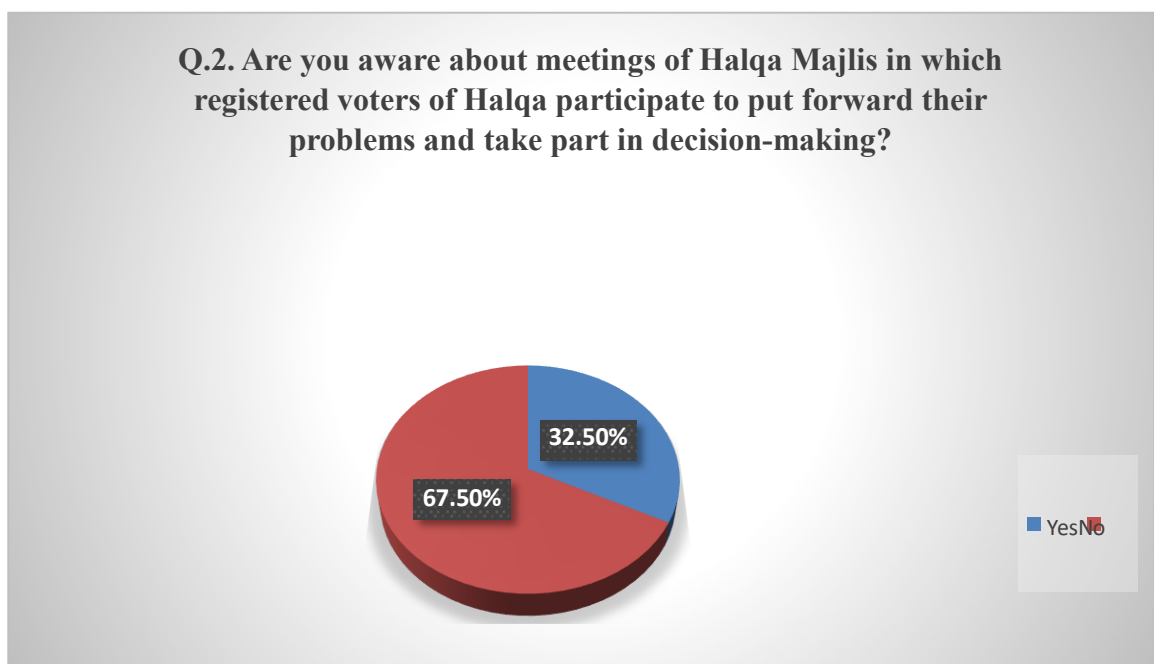
Chart: 1



To begin with, the researcher attempted to assess the general awareness of the members of Halqa Majlis of four districts about concept of Halqa Majlis and Ward Majlis. The analysis of

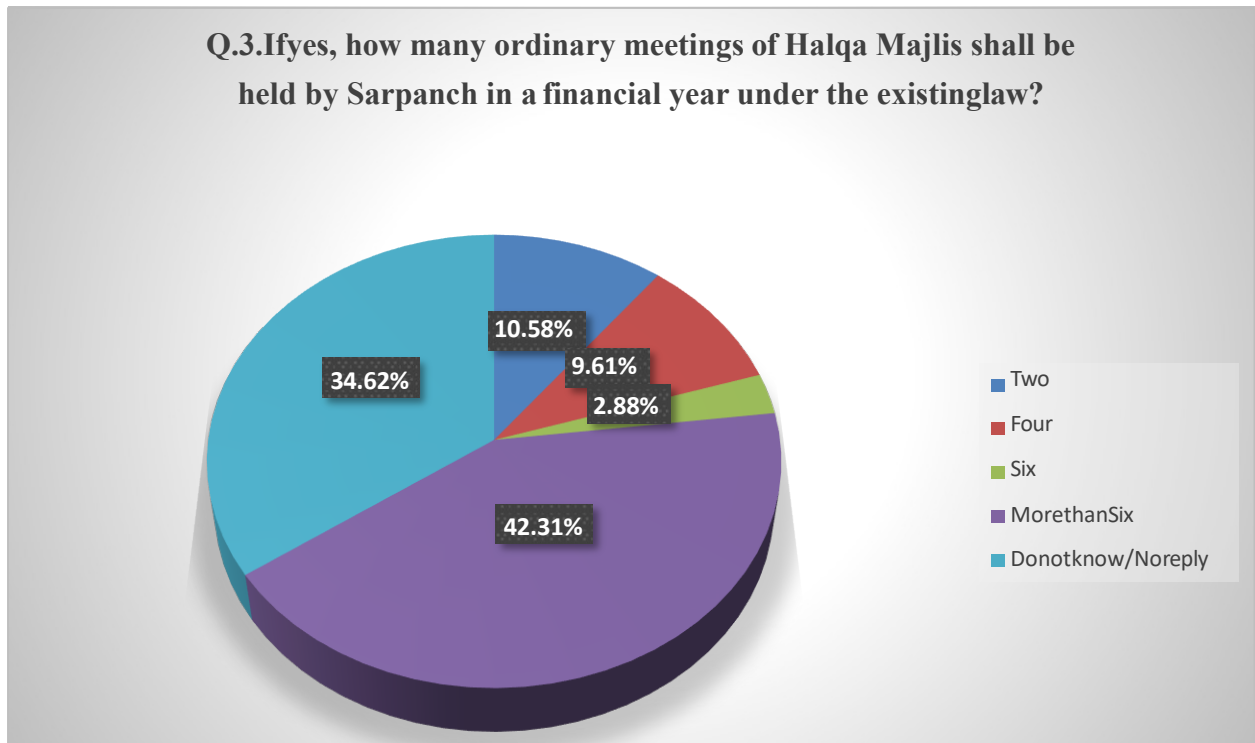
the data in the chart- 1 reveals that out of 320, only 20.94 percent respondents knew about concept of Halqa Majlis and Ward Majlis, while 79.06 percent replied in the negative. During the interviews conducted with the members of Halqa Majlis, it was observed that respondents in the Samba districts used the term Gram Sabha, while those in Poonch, Shopian and Kupwara used the term Deh Majlis and Halqa Majlis. The people in Samba district are more familiar with Hindi compared to Urdu, the opposite is true for Poonch, Shopian and Kupwara. However, the 1989, Act uses the term Halqa Majlis.

Chart: 2



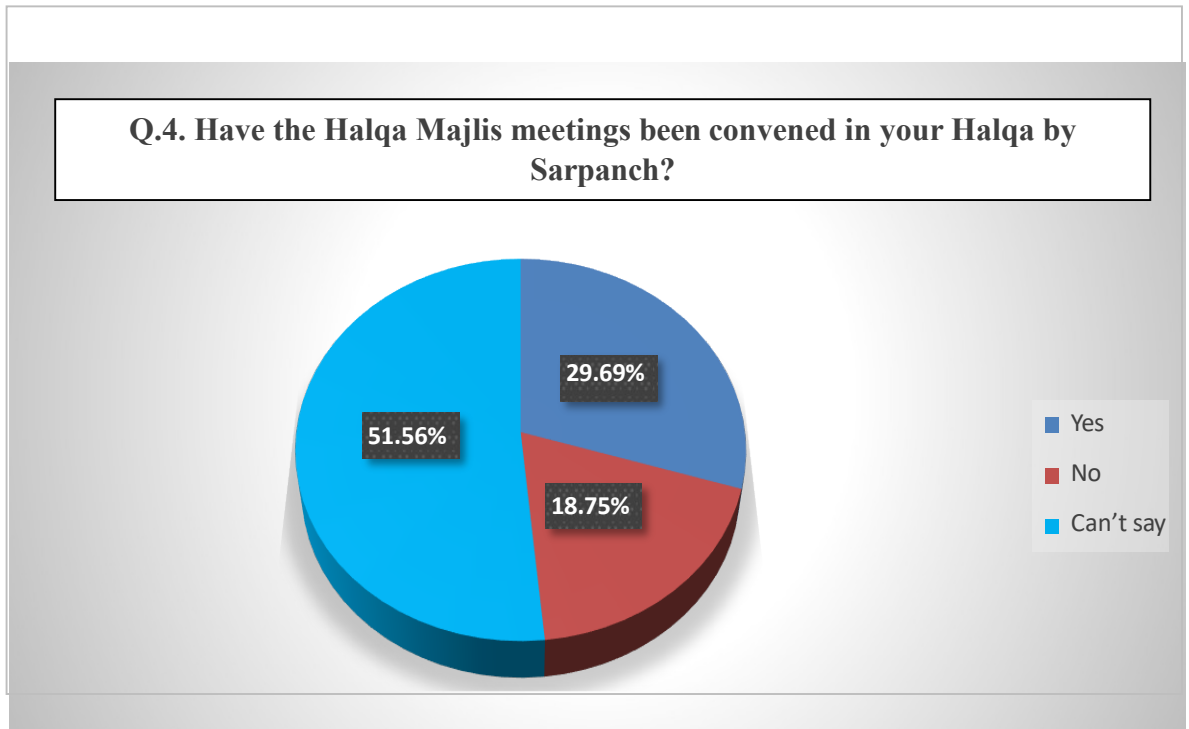
The Halqa Majlis has no relevance without Halqa Majlis meetings as meetings enable each and every voter of the village to participate in decision making at the village level. In meetings, people discuss their common problems. The provision regarding the number of Halqa Majlis/ Gram Sabha meetings vary from state to state. The Jammu and Kashmir Panchayati Raj Act, 1989 makes it mandatory for the Sarpanch to convene four meetings of Halqa Majlis during a financial year. It is evident from the Chart- 2 that only 32.50 percent replied in affirmative, while majority i.e. 67.50 percent replied in the negative.

Chart: 3



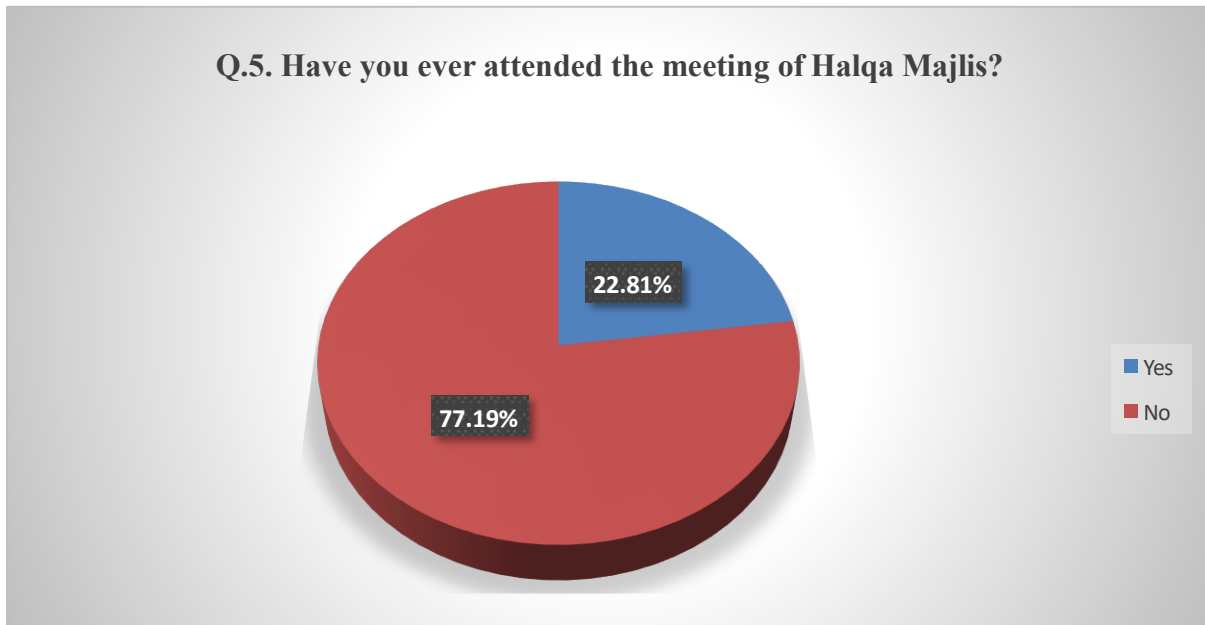
This question was put to those respondents whose reply was positive in the preceding question i.e., question two. This question was follow-up question and in chart-3 responses of those members are tabulated whose reply was ‘yes’ in preceding question. Thus, the data presented in the chart: 3 reveals that 10.58 percent said that two Halqa Majlis meetings per year, while 9.61 percent replied that four meetings per year which is correct reply, and 2.88 percent expressed that six Halqa Majlis meetings per year. The majority of the respondents i.e., 42.32 percent stated that more than six Halqa Majlis meetings per year. The remaining 34.62 percent answered they ‘do not know’.

Chart:4



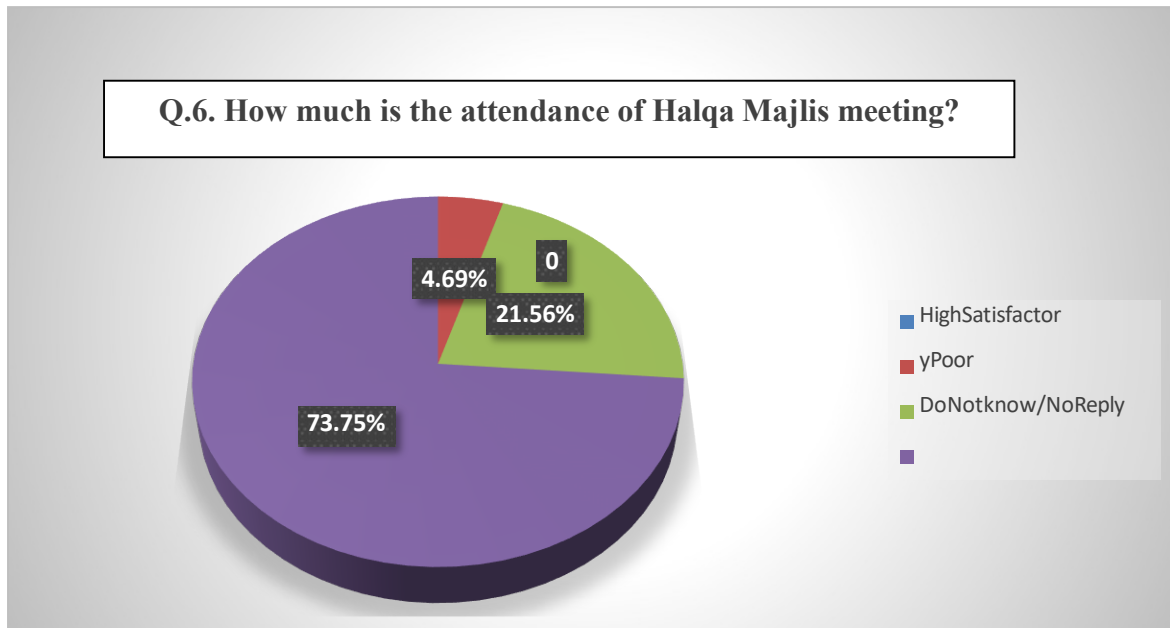
As mentioned earlier, in Jammu and Kashmir it is mandatory for the Sarpanch to convene four meetings of Halqa Majlis during a financial year. But the data is quite contrary to what is mentioned in the Act. As per Chart-4 only 29.69 percent have said that the Halqa Majlis meetings were held whereas 18.75 percent said that meetings were never convened and 51.56 percent replied ‘can’t say’. Therefore, it can be concluded that meetings were convened infrequently at some places once, but not in every Halqa. The reply from the majority that they do not know suggests that meetings were not conducted and there is lack of awareness as well.

Chart:5



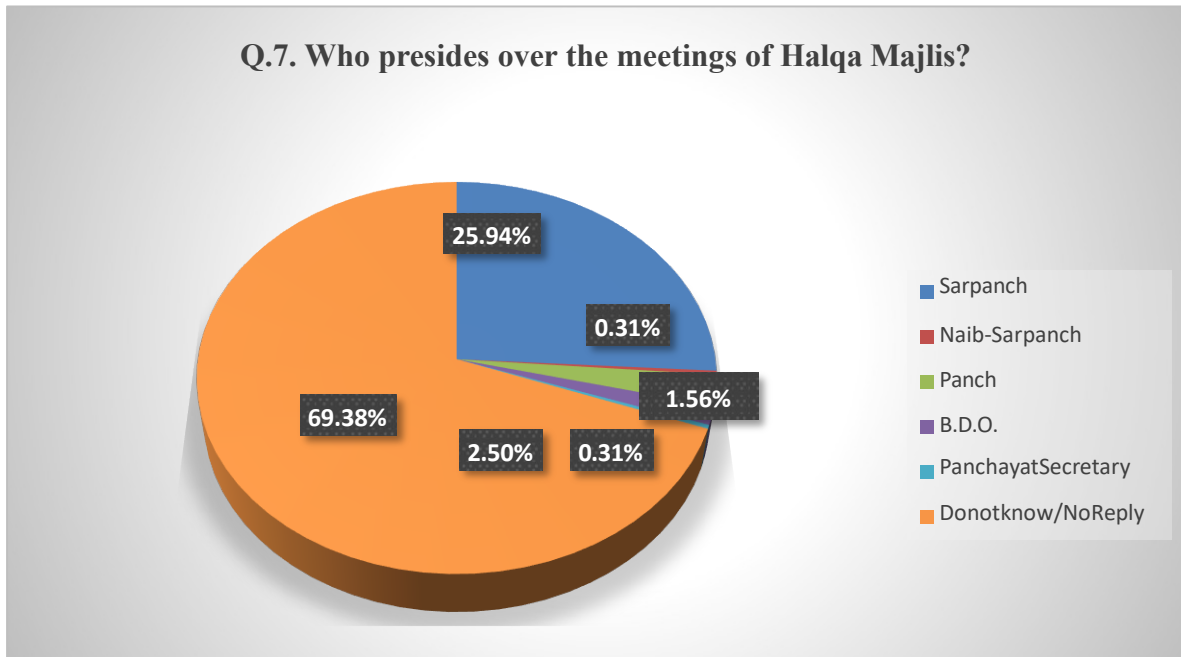
This question was posed to respondents to determine their participation in Halqa Majlis meetings. The chart-5 indicates that only 22.81 percent attended the Halqa Majlis meetings, while 77.19 percent never attended Halqa Majlis meetings. The participation of people was poor and there were multiple reasons for poor attendance like lack of awareness, household chores. The less participation frustrates the very objective of Gram Sabha meetings. The respondents said that their suggestions and recommendations were not given due consideration in Gram Sabha meetings, which led them to feel that attending these meetings was no longer necessary. In other states e.g. in Uttar Pradesh, it is mandatory for the Gram Panchayat to give due consideration to recommendations and suggestions of Gram Sabha.

Chart:6



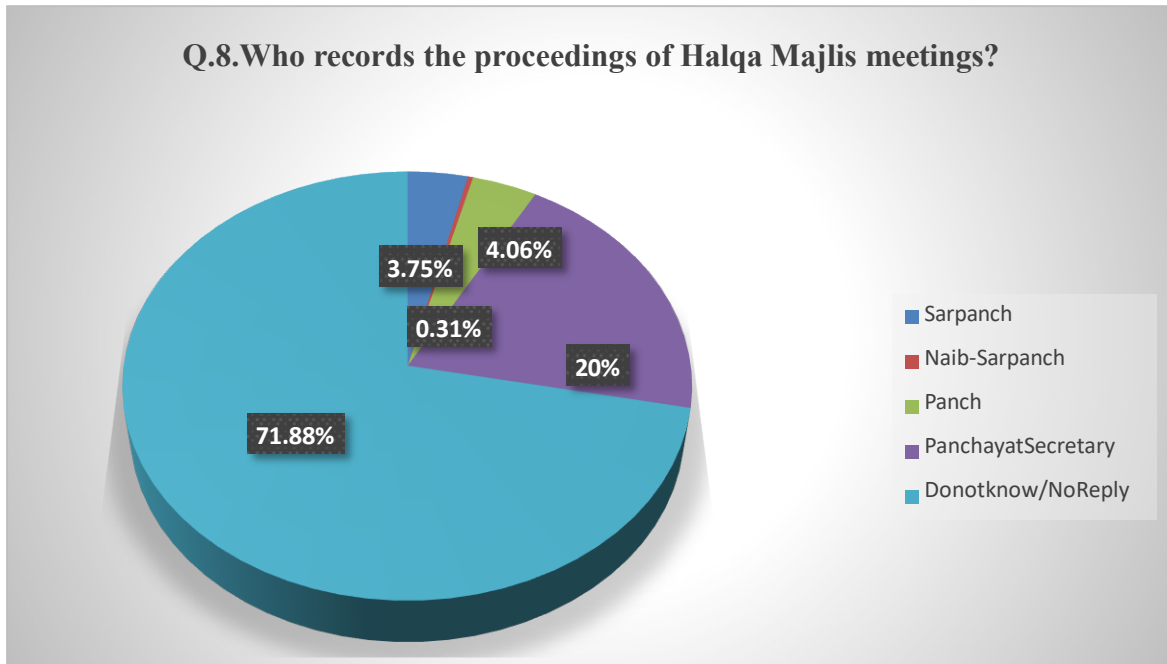
Wider participation of the members of Gram Sabha/Halqa Majlis is required irrespective of caste, colour, creed, income, landholding, sex etc. Gram Sabha meetings provide this opportunity, and participation of people in these meetings is essential for the effectiveness of democratic governance. From the chart:6,it is quite evident that majority of the respondents about 73.75 percent out of 320 stated that attendance in Halqa Majlis is poor, and 21.56 percent replied that attendance was satisfactory. Only 4.69 percent answered that attendance was high, defining high attendance around one hundred Halqa Majlis members at one general meeting, which is nothing if the total membership of Halqa Majlis /Gram Sabha exceeds two thousand.

Chart: 7



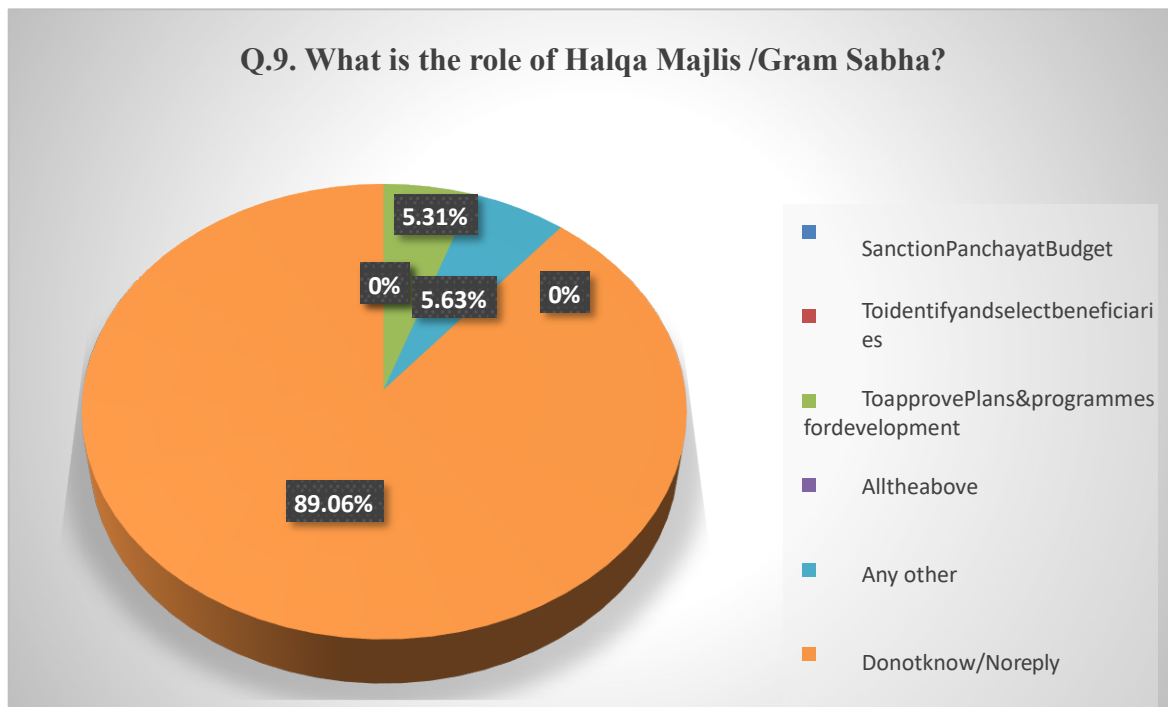
The Gram Sabha/Halqa Majlis meeting is presided by Sarpanch. The above chart-7 reveals that poor awareness regarding proceedings of the Halqa Majlis meetings. According to the data in the chart-7, only 25.94 percent gave a correct reply that meeting is presided by Sarpanch. Only 0.31 percent said ‘Naib- Sarpanch’, 2.50 percent were of the view that it is ‘Panch’, and 1.56 percent answered ‘BDO’. Moreover 0.31 percent answered Panchayat secretary and over whelming majority i.e. 69.38 percent replied ‘Do not know’.

Chart:8



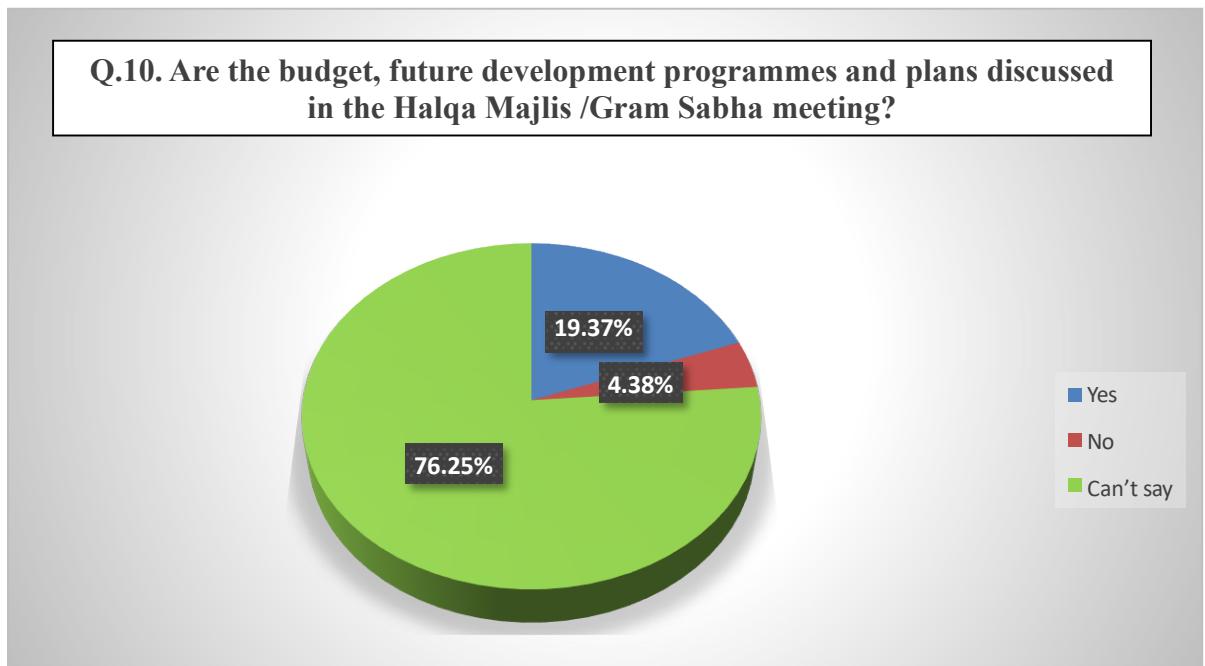
The Village Level Worker or Multipurpose Worker or Gram Sevika shall be Secretary of the Halqa Panchayat as per the 1989 Act. The Panchayat secretary records the proceedings of every meeting .The record note of the previous meeting is read by the Secretary .The Secretary with the approval of Sarpanch or in his absence the Naib-Sarpanch prepares the agenda of the meeting. It is evident from the chart-8 that only 20 percent replied correctly that Panchayat Secretary records the meetings of the proceeding .It is noted from the data in the table that out of 320 ,only 3.75 percent mentioned Sarpanch, who records the proceedings ,and 0.31 percent expressed the view that Naib-Sarpanch records the proceedings of the meetings. There were 4.06 respondents whose view was that Panch records the proceedings of the meeting. The remaining 71.88 percent were those respondents in the chart who did not know as to who records the proceedings of the meetings.

Chart:9



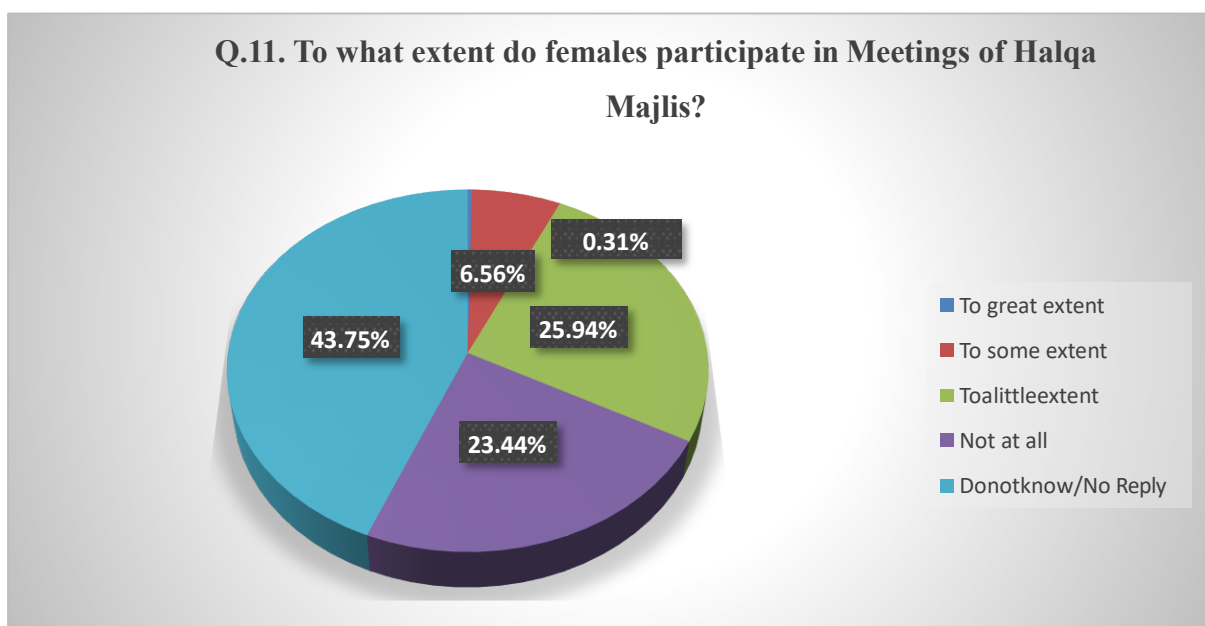
Surprisingly, what function Halqa Majlis has to perform is now mentioned clearly in the Jammu and Kashmir Panchayati Raj Act, 1989. The chart-9 makes it clear that 5.31 percent answered that the role of Gram Sabha/Halqa Majlis was to approve development programmes and plans, while replies of 5.63 percent selected ‘Any other’ referring to the expression of their problems raising of issues, for documentation by the Sarpanch for inclusion in the annual plan. A significant portion, 89.06 percent answered that they are unaware about the functions of Gram Sabha/Halqa Majlis. The members of the Halqa Majlis must be educated about their functions, power, and responsibilities in promoting participatory governance at the grassroots level. Unless the Halqa Majlis becomes active, the Halqa Panchayats will remain without accountability and transparency before the members of Halqa Majlis. As a result, Panchayati raj will remain ineffective.

Chart:10



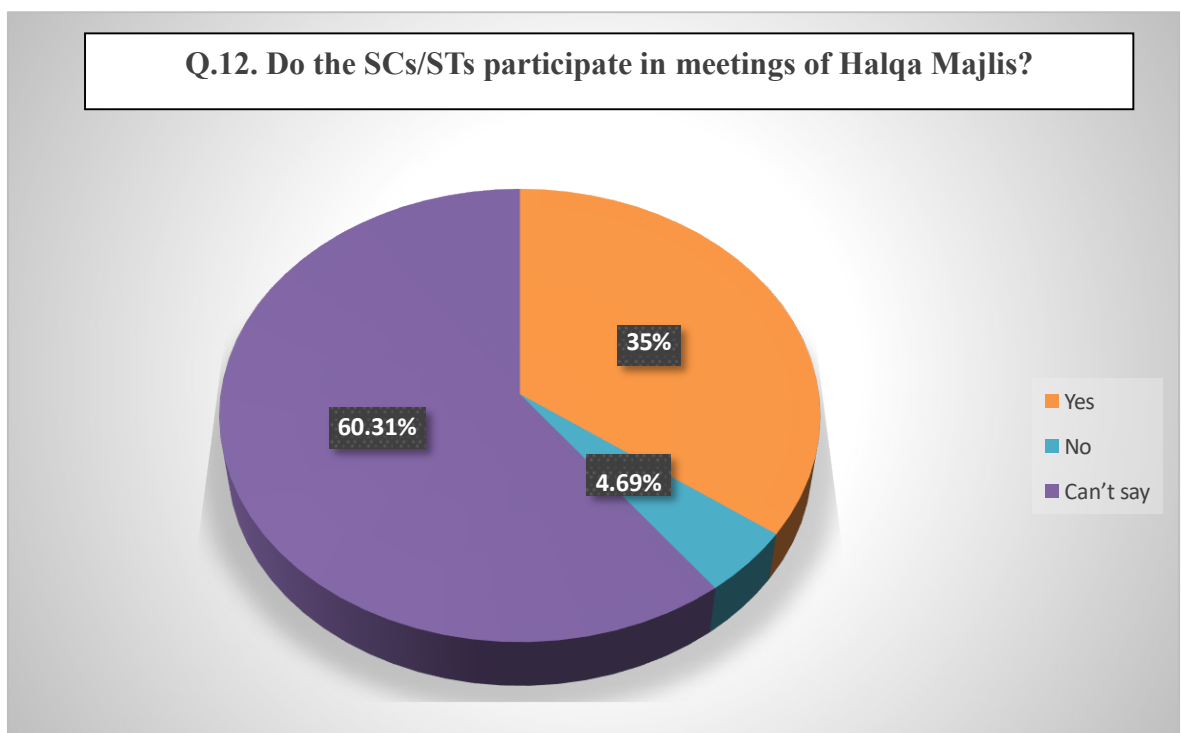
When the budget is prepared, the Sarpanch and Panches are under duty to call a Halqa Majlis for discussing the budget, programme of works proposed for the next financial year. The Sarpanch or in his absence Naib-Sarpanch are obligated to invite suggestions of the voters present regarding the budget and work programme. The data in the chart-10 shows that only 19.37 percent out of 320 replied that budget and future development programmes are discussed in Halqa Majlis meetings, while 4.38 percent replied in the negative. The overwhelming majority could not say anything.

Chart:11



In Jammu and Kashmir, Halqa Majlis meetings rarely take place, and when they do, they hardly meet the minimal required participation of women. Without the participation of women, their concerns remain neglected, resulting in faulty Panchayat decisions. To assess women's participation, this question was put to respondents. The responses in the chart-11 show that 0.31 percent replied that women participate to great extent, 6.56 percent answered that they participate to some extent, and 25.94 percent mentioned that they participate to a little extent. Moreover, 23.44 percent replied emphatically that women don't participate at all. They said that if any male member of the family participates in Halqa Majlis meeting, they don't feel the need to participate as he represents the entire family. The remaining 43.75 percent respondents replied that they 'do not know'. Therefore, women in rural areas are still unaware that women's issues are different from development issues. They can use this platform to voice their concerns through participation and can question their Halqa Panchayats about the initiatives taken for the welfare of women.

Chart:12



It is the responsibility of Halqa Panchayat to ensure the better participation of members of Halqa Majlis belonging to Scheduled Castes, Scheduled Tribes and backward classes. It is the duty of Halqa Panchayat to provide opportunities to them to freely express their needs and grievances. While preparing village development plans, their concerns should be incorporated

in the plan and initiatives should be taken for their upliftment. Their grievances should be redressed to encourage their participation in Halqa Majlis meetings. The data in the chart-12 makes it very clear that only 35 percent respondents stated that SCs and STs participate, while 4.69 percent expressed that they don't attend. The majority of the respondents, 60.31 percent, indicate they were unsure about their participation because they did not attend meetings of Halqa Majlis and therefore could not provide any information.

VII. Critical Evaluation

Although the functions of Halqa Majlis and Ward Majlis have been incorporated in the 1989 Act, the Jammu and Kashmir is still lagging behind as regards the conduct of meetings and strengthening of Halqa Majlis and Ward Majlis. The data from this empirical study indicates a lack of commitment on the part of government to make Halqa Majlis functional. Mere listing of functions in an Act does not absolve the government from its responsibility to implement the law in letter and spirit. The last Panchayat elections were held in November and December 2018. The term of those Halqa Panchayats, constituted in early 2019, ended in January 2024, and fresh elections are yet to be held. The third tier of the Panchayats (District Development Council) has become meaningless in the absence of Halqa Panchayats and Block Development Councils. It is the responsibility of Panch to conduct Ward Majlis meetings, and Sarpanch is under obligation to convene Halqa Majlis meetings. The absence of grassroots elected representatives at the village level (Halqa Panchayat) has made the Halqa Majlis and Ward Majlis non-functional. The Government appointed Block Development Officers (BDOs) as Administrator(s) in January, 2024, for running the affairs of the Panchayat Halqas. Since then, they have been carrying out the work of Halqa Panchayats, but the legal framework does not allow them to perform the role of Halqa Panchayats for years. This contradicts the idea of grassroots democracy. It violates 73rd Constitutional Amendment Act, J& K Panchayati Raj Act of 1989, and also contravenes the principles of democratic decentralisation. The Halqa Majlis/Gram Sabha and Ward Majlis are fundamentally linked to Halqa Panchayat and ensure its accountability through auditing and budget approval. The absence of elected body at village level, the mechanism of accountability and oversight of public expenditure are eliminated. Furthermore, in other states, the Sarpanch ceases to hold office if he fails to convene two consecutive general meetings within the prescribed period. Under Jammu and Kashmir Panchayati Raj Act, Sarpanch shall be removed for failure to attend the three consecutive meetings of the Halqa

Panchayat, but there is no disqualification for not convening Halqa Majlis meeting which implies that Halqa Majlis is subordinate to Halqa Panchayat.

The Halqa Majlis promotes participatory democracy, and it is important to enhance its effectiveness to ensure accountability of Halqa Panchayats. A separate Mahila Sabha for women should be established where they could express their grievances freely. The participation of women, especially abled persons, and individuals belonging to SCs and STs should be made mandatory. Although after amendment of the 1989 Act, there is now quorum for Ward Majlis and Halqa Majlis meetings, but in reality, their participation is minimal. Therefore, some measures should be taken to make these meetings more inclusive, and prescribed authority must ensure that these meetings are truly inclusive.

VIII. Conclusion

Last but not least, there must be training and awareness camps for members of Halqa Majlis and Ward Majlis, and they should be educated about their functions and responsibilities. This will ensure their meaningful participation and, consequently, promote participatory democracy. The success of Panchayati Raj in Jammu and Kashmir is inextricably linked to the effectiveness of the Halqa Majlis. The Panchayat elections were held in 2001, 2011, and in 2018 to bring democracy closer to the people by establishing strong grassroots institutions and promoting participation of people in the local decision-making. The higher turnout in 2011 and 2018, compared to 2001, indicated growing trust in local governance to address development needs and service delivery at the grassroots level. However, this grassroots democracy would be meaningless unless the rural citizens who are primary stakeholders are truly empowered and included in local development decisions. A democracy is real and participatory only when all citizens have the opportunity and right to participate in the decisions which affect their lives. The success of Niyamgiri's active Gram Sabhas where village assemblies influenced state policy through the support of strong legal framework, and a combination of judicial and administrative institutions, serves as a vital reference to revitalize and strengthen Halqa Majlis in Jammu and Kashmir.