

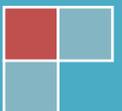
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KASHMIR ACCORD 1975 IN RETROSPECT*Research paper in History***Dr Altaf Hussain Para**

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Introduction

Accords are the outcomes of successful negotiations between nations, groups or individuals. The basis of such accords is the negotiated settlement of the dispute between the parties. The Kashmir Accord (Indra-Abdullah) of 1975 concluded between prime minister Indra Gandhi and Sheikh Mohammad Abdullah, was the culmination of the process of reconciliation between the two which had begun at around 1968 after the Sheikh's release from around ten years imprisonment from different Indian jails, but it was only after Bangladesh War of 1971 that the process was converted into a serious dialogue for a permanent settlement. This accord also marked an end to two decade long political battle of Sheikh Abdullah to achieve the right to self determination for the people and the permanent autonomous status for Jammu & Kashmir state to maintain its separate personality.

Background

At the time of Partition in 1947, a Muslim dominated state of Jammu and Kashmir opted to accede to Indian Union instead of Muslim Pakistan. The crucial backing to otherwise an

unpopular Hindu Maharaja Hari Singh's [than ruler of the state] decision was given by the most popular leader of the state, Shaikh Abdullah. Sheikh Abdullah was the leader of a secular democratic nationalist movement under the banner of the Jammu and Kashmir National Conference, an organization carved out in 1939 from the Muslim Conference which had been established earlier in 1932. In 1947 Sheikh reposed his trust in Indian National Congress's secular and socialist agenda and fully backed the accession of the state to Indian Union for he had been given assurances by India's first Prime Minister and his close friend, Jawahirlal Nehru for Kashmir's fully autonomous status till its people ratify its accession to India, in an internationally organized referendum. Thus, a special Article [370] was incorporated in Indian Constitution which allowed Indian Union to legislate only on the areas which had been surrendered by the Maharaja to the Union, i. e, defense, foreign affairs and communication and currency, and for rest, unlike other states, the state was allowed to have its own Constitution. It was by dint of these enormous legislative and executive powers, that Sheikh Abdullah, after taking charge of the state as Prime Minister [term used till 1965 for the state's executive head], was able to introduce a revolutionary land reform, unknown to any non-communist states of the world, in the state as per his socialist document, New Kashmir Manifesto issued in 1944-45 by the National Conference.

However, soon there emerged a reactionary and communal movement in the Jammu province under Praja Parishad, an organization fully backed by deposed Maharaja, which demanded the abrogation of Article 370 and state's complete merger with the Indian Union. The mobilization at the behest of the Praja Parishad had an adverse effect on the popularity of Sheikh in the Valley. Thus, Sheikh in order to regain his popularity voiced his anguish that Kashmir had not yet fully acceded to India and the accession is subjected to the free and fair Plebiscite under the supervision of the United Nations. His fiery speeches, in and outside the state, soured his friendly relationship with Pundit Nehru, and he in frustration got the Sheikh unconstitutionally and unethically sacked on 9th August, 1953, by the Yuraj Karen Singh and got him replaced by his own deputy, Bakshi Gulam Mohammed.

The dismissal of Sheikh Abdullah left a scar on the psyche of Kashmiris which refuse to heal. There were wide spread protests and violence in the valley which lasted for months and caused hundreds of deaths. In order to give the public anger a proper shape, Sheikh Abdullah's

close associate and advisor, Mirza Afzal Beig, established in 1954 an organization known as the Plebiscite Front, which demanded the immediate release of Sheikh Abdullah, immediate restoration of him to his previous position and more importantly, the right to self determination to the people of Jammu and Kashmir. Although, Sheikh was never a member of the Party, however, it is not an unknown fact that the movement has his blessings and enjoyed his patronage. For around two decades, the Plebiscite movement caused unprecedented political mobilization in the state and created a deep seated psyche which its creator, Sheikh failed to eradicate in the end when he jumped in to a compromise with Indra Gandhi in 1975.

Causes for Accord

It was after spending long years in Indian jails and intense diplomatic activity, that Sheikh Abdullah finally realized to come in terms with New Delhi. Firstly, from the very dismissal of Abdullah, and the subsequent political developments in the state [like, rigged elections and erosion to the state's autonomy] Indian state was under tremendous criticism, both within and outside, and many observers had even challenged the very basis and legitimacy of the state's accession with India. Secondly, by the entry of new elements, like Jammāt Islami, in the state's political space and its grass root structured political activity, Sheikh felt threatened for he might lose his hold on the people he claimed to represent. Thirdly, there was factionalism within the plebiscite movement with groups divided sharply on some fundamental issues e.g., whether to accede with India or Pakistan. Fourthly, the fatigue caused in the movement due to long periods of unsuccessful struggle with mighty Indian State. And finally the immediate cause for compelling sheikh for a compromise was the 1971 Indo-Pak war which resulted in a convincing Indian victory and the division of Pakistan. It made accession to Pakistan lesser appealing and Sheikh lost his bargaining ploy.

As early as 1972, Abdullah and his deputy and Plebiscite chief Mirza Afzal Beigh, through their press statements and private discourses started showing signs of flexibility in their stand and the willingness to reach to an understanding with central authorities. There was a change in Abdullah's position and he openly criticized Butto for interfering in Kashmir politics and showed great interest in negotiations with Government of India. One of the reasons put for this change was the humiliating defeat of Pakistan in 1971 war and the Shmila agreement

between Zulifikar Ali Butto and Mrs Indira Gandhi that, subsequently, led to diminishing his bargaining power. It also meant that no further political or diplomatic power could be expected from Pakistan. Ganai(1991) argues that the politics of plebiscite had given plebiscite no dividends and it failed in UN and at domestic level. Pakistan had also failed in its stand on account of its own contradictions at domestic and at international level. With Kashmir, his political rivals have now a long stint in power and they had transferred it into an electoral strength. The formation of congress in that direction was a potent signal in that direction. The other reasons put forth by the critics of Abdullah was his self interest to regain premiership, and possibly after tolerating long term imprisonment and remaining out of power for more that 20 years he was looking for a chance that would led him back in political arena that come in the form of Kashmir accord.

In post war Shimla Treaty (1972) a demoralized, dismembered Pakistan had finally conceded that Kashmir was a 'Bilateral' (as opposed to an 'international') dispute. It was in this backdrop that the aged and weary sheikh Abdullah finally renounced the self determination platform and in an interview with London Times on March 8, 1972 he pleaded for a solution of the problem with the framework of constitution of India.

The Prime Minister Indra Gandhi reciprocated when she told parliament on March 24 that she "welcomed the change in the thinking of the plebiscite leaders because they have expressed their willingness to accept the finality of the Kashmir accession" (Bhattacharyea, 1994). This was followed by a meeting of sheikh Abdullah with Indira Gandhi in New Dehli in June 1972, and another with Swaran Singh, Union Defense Minister.

Negotiators of accord

Both Sheikh Abdullah and Mrs. Indira Gandhi had chosen their representative to negotiate the terms of accord. Sheikh Abdullah declared in clear terms on 23 june, 1972, at Hazratbal Srinagar, that he had given Mirza Afzal Beigh " Full authority to discuss with any representative of Mrs. Indira Gandhi a greater autonomy formula for the state". He told his followers "not to look towards Pakistan or any other power" to help them in "their struggle to attain a respectable place in the world". The Mrs. Indira Gandhi chose as her negotiator was the clean, soft spoken men of few words, G. Parthasarathi. (Akhbar,1994). However in the final

settlement key roles were played for India by D.P.Dhar and P.N.Haksar, both kashimiri pandits, who were very close to Indira Gandhi. (Wasim, 2010).

Thus a formal protracted dialogue between the two representatives began to jointly explore the areas with all sincerity for reestablishment of relations, which lasted for a period of about three years and finally come to the conclusion with the signing of an agreement on 13 November 1974 which has become famous as Kashmir accord.

What Shiekh Abdullah and his associates wish and what they get

It seems apparent that if pre 1953 constitutional position of the state was restored and article 370 of Indian constitution made permanent as a guarantee to protect the internal autonomy of the sate from any future erosion, sheikh Abdullah was willing to resume office and stop pressing for plebiscite in the state. He further demanded that since the extension of union laws to Jammu and Kashmir during the last 19 years had been made through unrepresentative channels in violation of the spirit of the Article 370 of the constitution, these enactments should be declared void. The other demands which Shiekh Abdullah and his representative Afzal Beigh pushed for acceptance as it appears from the correspondence between the concerning parties and the statement made by Indira Gandhi in the parliament on 24 February 1975 includes,(i) Transfer of provisions relating to fundamental rights to the state constitution.(ii) Removal of supervision and control of Election Commission of India over election to the State legislature.(iii) Modification of Article 356, to require State Government's concurrence before imposing President's rule in the State.(iv) The Jurisdiction of the Supreme Court in relation to the State should be curtailed. (v) The State Governer and the Chief Minister be designated as pre-1964 nomenclatures of *sadr-i-Riyasat* and *Wazir-i-Azam*, respectively, to uphold residuary sovereignty of the state.

Shiekh Abdullah was conscious of his weak position at the negotiations table with the Center, hence, he did not found himself in a position to press the above mentioned demands as a pre condition to many settlements. And when Indira Gandhi made it clear that the *clock can not be turned back*-her favourit phrase- Abdullah was too weak to resist it(Bhattacharyea,). His demands were unacceptable to centre for a variety of reasons; most of these were justified to protect the national interest than any submission to reality. Thus, conceding these demands

would mean a tacit admission that the administration of the state since 1953 was not legal, and that the elections held in the state were not fair, and the assembly therefore, was not the true representative body of the people. Consequently, every action of the assembly after 1953, including the ratification of the Accession in 1956, was invalid. (Butt, 1988). Another apprehension was that "To concede that all the post-1953 developments in Kashmir were without the sanction of the people of Kashmir and that all the elections in the State in the U.N position over Kashmir."¹

While on one hand sheikh Abdullah was disappointed by center's inability to concede his demand of guaranteed internal autonomy for J&K State, on the other hand he came under severe criticism in the State for drifting way from his stand of self determination through plebiscite. Throughout the period when talks were on with New Delhi, there were those in the state who were not happy about what seemed to be in prospect. (Lamb, 1993). Mirwaiz Muhammad Farooq was particularly distressed by what seemed to be an impending settlement of the future of the State of Jammu & Kashmir by his rival Shiekh Abdullah such as to preclude forever the prospect of anything like a free plebiscite. He ridiculed Shiekh for changing his stand and for declaring Kashmir's accession with India as final. (Lamb, 1993).

The Sheikh Abdullah on the other hand was sensing the mood of the people in the State, visited different areas from time to time and through a series of speeches tried to neutralize the influence of those who were not happy with his policy of rapprochement with New Delhi. In an emotional speech in March 1947, at Hazratbal Srinagar, on a Friday congregation he said "during last two and a half months various rumors and speeches against me are being circulated here, but people should not believe these stories. I assure you, here at this holy place that i have never bargained your interests and not left you and I shall remain firm on my determination in the future too. I shall stand by the promise; I have given to you, till i am alive. My 42 years political life is before you. In normalizing the relations between India and Pakistan and in some settlement lies our interest. New Delhi has suggested me to change the name of Plebiscite Front but I made it clear to them that it is not possible to change the name because the plebiscite was my its aim". (Butt, 1988)

One thing was clear to sheikh Abdullah and his comrades that any compromise made with New Delhi, would not be unopposed in the State, they quit unmistakably, created such slogans through which people could be prepared to accept the outcome of the negotiations, which sheikh was aware, would not be according to the promises he had made with them. One such slogan was shouted quiet frequently in the public gatherings arranged by the plebiscite was:

Raj Kari Taj Kari Bab Kari Lo Low,

Aal Kari wangan kari Bab kari Lo LO

[Let our father (sheikh) do whatever he wishes to]

Thus after a long period of ups and downs the negotiations but Mirza Afzal Beigh and G. Parthasarathi concluded on 13 November 1974.² Its contents however formally accepted by Abdullah on 12 Feb 1975³ and were presented before the Indian Parliament by Mrs. Indira Gandhi 24 Feb 1975, as the "Kashmir Accord".⁴

The negotiated terms to accord are, i) The State of Jammu and Kashmir which is the constituent Unit of the union of India, shall, in its relation with the union, continued to be governed by article 370 of the constitution of India. ii) the residuary powers of legislation shall remain with the State, however parliament will continue to have power to make laws relating to the prevention of activities directed towards disclaiming, questioning or disrupting the Sovereignty and territorial integrity of India or bringing about secession of a part of territory of India from the union or causing insult to the Indian National Flag, the Indian National Anthem and the Constitution. (iii) Where any provision of the Constitution of India had been applied to the State of Jammu & Kashmir with adaptations and modifications, such adaptations and modifications can be altered or replaced by an order of the president under Article 370, each individual proposed in this behalf, considered on its merits, but provisions of the Constitution of India already applied to the state of Jammu and Kashmir with adaptations or modifications are unalterable. (iv) With a view of assuring freedom to the state of Jammu and Kashmir have to have its own legislature on matters like welfare measures, cultural matters, social security, personal law and procedural laws, in a manner suited to the special conditions in the State, it is agreed that the state government can review the laws made by the parliament or extend to the

State after 1953 on any matter reliable to the Concurrent list and may decide which of them, in its opinion, needs amendment or repeal. Thereafter, appropriate steps may be taken under article 254 of the Constitution of India. The grant of President's assent to such legislation would be sympathetically considered. The same approach would be adopted in regard to the laws to be made by the parliament in future under the provision to clause 2 of that Article; the State Government shall be consulted regarding the application of such law to the state and the views of the State Government shall receive the fullest considerations.(v) As an agreement reciprocal to what has been provided under Article 368, a suitable modification of that Article as applied to the State should be made by Presidential Order to the effect that no law made by the legislation of the State of Jammu and Kashmir relating to any of the under mentioned matters shall take effect unless the bill, having being reserved for the consideration of the President, receives his assent, the matters are;

a). The appointment powers functions duties, privileges and immunities of the Government; and

b). The following matters relating to Election, namely, the superintendence, direction and control of election by the Election Commissioner of India, eligibility for inclusion in the electoral rolls without discrimination, adult suffrage, and composition of the legislature council, being matters specified in Sections 138, 139, 140 and 50 of the Constitution of Jammu and Kashmir .

(vii) No agreement was possible on the question of nomenclature of the Governor and Chief Minister and the matter is therefore remitted to Principals.(Najar, 1988).

On 25 February, 1975, Mrs. Indira Gandhi in her Statement told to the Lok sabha that during the course of negotiations "Mirza Afzal Beigh pressed for the provisions relating to Fundamental Rights to the State Constitution, the removal of the supervision and control of the Election Commissioner of India over elections to the State legislature, and the modification of the Article 356 to require the state governments concurrence before imposing presidents rule to the state. It was found not possible to agree any of these proposal". (Bazaz,). She appreciated Sheikh Abdullah that despite his strong views on these issues he accepted the agreed conclusions of the Accord.

The conclusions of the accord between Afzal Beigh and G.Parthasarathi reaffirmed, virtually without modifications, the terms of Kashmir's incorporation in the Indian Republic since 1953. Although Kashmir's special status was (as enshrined in Article 370) was retained, as the State was termed constituent unit of the Union of India(Schofield, 1996). With the legal incorporation of Kashmir as a constituent unit of India, the option or possibility of self determination virtually ended. The nomenclature's of *Wazir-i-Azam* ana *Sadar-i-Riyasat* which were potent symbols of autonomy in public perception in the valley were not brought back.(Malik, 2005). Even Article 356 were retained. However Abdulla, Mirza Afzal Beigh and their supporters in the valley claimed that the agreement was success because they had regained regional autonomy through Article 370, and Abdullah justified this accord, when he says in his autobiography-*Atish-i-Chinar*, "*we only wanted article 370 to be maintained in its original form, our readiness to come to the negotiating table did not imply a change in our objectives but a change in our strategy*".

Consequences

The accord faced a lot of opposition and criticism not only in Jammu and Kashmir, but in Pakistan and later in China also. In Pakistan the accord was denounced as "Sell out". Z.A.Butto called for a strike throughout Pakistan on February 28 1975, in protest against accord which he seemed was against the Shimla Agreement and UN resolution. The moment of disapproval and opposition later on 12 March 1975 was also joined by China. In Jammu region Jan Sang strongly opposed the accord. They were demanding the abrogation of Article 370 and complete merger of the State of Jammu and Kashmir with the Indian union like other States. They even challenged the claim of Sheikh Abdullah of being the leader of State. In the valley the most vocal opposition come from Awami Action Committee headed by Mirwaiz Farooq who accused Abdullah "as selling out to India" and "giving way" his people's right of self-determination. Jammata-i-Islamia also used the opportunity to make the people believe that Abdullah was betraying them making an accord with New Delhi.

Conclusion

The accord of 1975 brought several for reaching changes in the political setup of the State of Jammu and Kashmir. In the accord Sheikh Abdullah Could not achieve his ambition of

return to the exact position as it had been prior to his dismissal in August 1953 leadership, rather he had to make a substantial compromise on his part and his ratification to the accession of Jammu & Kashmir State to India as final along with much else which India has done for the State since 1953. With the State the signing of accord by Abdullah created a backlash of adverse public opinion as ordinary Kashmiri masses felt or were made to feel that Abdullah had bartered the rights of the State people and surrendered parts of Kashmir autonomy just to obtain crumbs of power, an impression which sheikh failed to remove till the end of his life. People started believing that the accord was made only to pay way for sheikh to return to power. While some are of the opinion that the accord had later become the main reason of breakdown of several insurgent moments in the State. The accord was as Ajit Bhattacharyea has put it" wordy and full of assurances, but in effect the clock stated were it was". To Balraj Puri, the Accord "was not on Abdullah's terms but on those of Mrs. Indira Gandhi's which his representative Afzal Beigh signed". It is important to mention here, that Kashmir in 1975 was a world apart fro the Kashmir of 1947. The two decade long plebiscite movement had created unprecedented political consciousness and a secessionist psyche in the Valley. People were more educated now. The corruption deliberately promoted my the political class during the period had created sever tension in the society which sustained the plebiscite movement and its abandonment by sheikh left a void upon which the later separatist movement build up on. The people felt cheated when the Sheikh and his associate Afzal Beigh disowned the two decade long movement by calling it *siyasi aawaragardi* [political waywardness]. Therefore it should not surprise any that once the most popular leader of Kashmir, sheikh Abdulla's grave is protected by the police to save it from the very people he proudly clamed to represent. Accord of 1975, in retrospect, was a complete failure and the root cause of separatist movement in the state beginning from 1989.

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