

Governance and Conflict Dynamics in Jammu and Kashmir: From Accession to the Onset of Insurgency

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Abstract: *The study examines the causes contributing to the governance gap in Jammu and Kashmir and the extent to which the Kashmir war has impacted democratic governance in the region.*

This paper endeavors to address the subject of how insurgency has influenced governance in the state. The article examines the significance of constitutional arrangements between the Central Government and the State Government, with particular emphasis on Article 370 of the Indian Constitution, which grants enhanced autonomy and special status to this specific state. Furthermore, an effort has been undertaken to identify the democratic and governance deficiencies in the state of Jammu and Kashmir resulting from the amendment of Article 370 of the Indian Constitution since 1952.

Keywords: *Constitution, Governance, Democracy, Conflict, Kashmir.*

INTRODUCTION

Jammu and Kashmir is one of the longest-standing and most devastating conflicts in the modern world, originating from the significant events after the 1947 partition of the Indian subcontinent. The struggle for independence from the British resulted in the division of two sovereign nations, India and Pakistan. The political dynamics of the subcontinent significantly influenced the princely realms, and Kashmir was no exception. The region of Jammu and Kashmir was governed by Dogra monarchs from 1846 until 1947. The repressive political environment in the state led to the formation of a revolutionary party in 1932, known as the All Jammu and Kashmir Muslim Conference. (Bazaz, p. 183) The party's only purpose was to attain responsible governance. Nonetheless, the party was designated as a communal organization by other religious entities, and ultimately, under the leadership of the late Sheikh Mohammad Abdullah, it was rebranded as the All Jammu and Kashmir National Conference in 1939, so becoming accessible to non-Muslims. (Abdullah, p. 176) This party's ideology was closely associated with the Indian National Congress. (Lamb, p. 13) The party's primary

purpose was secular, influencing subsequent political discourse in the state. During the authoritarian governance of Maharaja Hari Singh, the state had a popular movement aimed at establishing a responsible government. Maharaja Hari Singh implemented numerous constitutional measures throughout his reign to address and alleviate the problems of the populace.

The conflict with Maharaja Hari Singh and the political dynamics of the Indian Subcontinent significantly impacted the state both internally and outside. Sheikh Abdullah and his party, the National Conference, established a tight alliance with the Indian National Congress, leading to the formation of another organization and the revival of the old Muslim Conference in 1941. Abdullah, p. 175 The state's politics represents a direct clash between the two parties, namely the NC and MC. Individuals affiliated with the MC were intimately connected to the philosophy of the Muslim League and its leaders, particularly Jinnah, but the NC under Abdullah was significantly inspired by figures such as Gandhi and Nehru.

The political dynamics of protests and anti-Maharaja feeling prompted significant engagement from both the Indian National Congress and the Muslim League in the state, resulting in a polarization of public opinion, with both parties asserting their role as the benefactors of the populace. (Khan Ishaq, pages. 103-104) When the British departed from India in 1947, numerous unsolved issues remained, including the demarcation of boundaries between the two nations, which led to the emergence of the Kashmir dispute. The state under the Maharaja acceded to India conditionally on specific matters including as defense, foreign affairs, and communication. The state's integration with the rest of India was confronted from the outset by both Kashmir and Pakistan. The prominent leader, Abdullah, similarly experienced a decline in his credibility due to criticism from factions

advocating for either independence or admission to Pakistan.

Jammu and Kashmir, as asserted by numerous authors, is the sole State inside the Indian Union that negotiated the terms of its accession. From the moment of its accession, the state became embroiled in a politics of protest. Nevertheless, concurrently, the leadership of Sheikh Mohammad Abdullah during the initial years following his appointment as Prime Minister in 1948 endeavored to enhance governance inside the state. However, since the partition, the Jammu and Kashmir State has infrequently had effective governance. The primary elements contributing to this issue include political instability, both overt and covert destabilization of political institutions by central governments, and the lack of consistency among local political leadership. All prominent political figures in the state, from Sheikh to the present, have remained subservient to their superiors in Delhi, prioritizing their interests to maintain or acquire power. Nevertheless, the relationship of the state with India upon the signing of the Instrument of Accession was governed by certain sections of the Constitution of India, such as Article 370, which conferred greater autonomy to the state within the framework of the Indian Constitution.

DELHI AGREEMENT OF 1952 BETWEEN NEHRU AND SHEIKH ABDULLAH

The initial decline of state sovereignty commenced with the prominent statesman Sheikh Mohammad Abdullah, who signed the Nehru-Abdullah Agreement in July 1952, referred to as "the Delhi Agreement." Agreement. The agreement affirmed that "the residuary powers of legislation" (pertaining to issues not specified in the State List or the Concurrent List), as granted by Article 248 and Entry 97 (Union List), shall not be applicable to Kashmir. The union flag was prioritized, fundamental rights were applied to Jammu and Kashmir, and the authority of the Supreme Court was expanded to the state. Noorani, p. 10 Discontent within the state was escalating as the locus of authority transitioned from the Jammu-based ruler to the Kashmiri leadership. The National Conference under Abdullah evolved into a unified party characterized by a tripartite agenda: a singular leader (Abdullah), a sole party (National Conference), and a singular program (New Kashmir). Abdullah, possessing great power and charisma, emerged as the supreme leader of the valley as the distinctions between party and administration got blurred.

On November 23, 1952, the Praja Parishad initiated a vigorous protest and campaign in Jammu Province, demanding the full admission of the State of Jammu and Kashmir to the Indian Union, opposing the special status conferred to the State. By the Central government under the motto "EK Pradhan, EK Vidhan, EK Nishaan (one President, one Constitution, one Flag) (Ram, p.172). Nonetheless, the Delhi Agreement undoubtedly facilitated other Orders—all with the "concurrence of the State Government," each won in a manipulated election. Ninety-four of the 97 entries in the Union List and 26 of the 47 entries in the Concurrent List were applied to Kashmir, along with 260 of the 395 articles of the Constitution.

On 14 May 1954, the Constitution (Application to Jammu and Kashmir) Order 1954 was promulgated by the President of India with the agreement of the Government of Jammu and Kashmir. This Order enacts the Delhi Agreement passed by the Constituent Assembly and substitutes the Order of 1950. (Basu, p. 5) The State Constitution was superseded by the directives of the Centre. The fundamental structure was modified. The head of State, chosen by the State assembly, was supplanted by a Governor appointed by the Central government. Article 356 (imposition of President's Rule) was implemented notwithstanding a provision in the State's Constitution for Governor's Rule (Section 92). This occurred on November 21, 1964. On November 24, 1966, the Governor supplanted the Sadar-i-Riyasat, and the state's Prime Minister was succeeded by the Chief Minister following the amendment of the State's Constitution on April 10, 1965, by the 6th Amendment. The second question to be examined is whether Article 370 has maintained its original status. The response to this inquiry is a definitive no, as 47 orders were enacted in the state of Jammu & Kashmir between 1956 to 1994. Out of the 97 union topics, 94 have been rendered applicable to the state of Jammu and Kashmir. Noorani, p. This unequivocally demonstrates that Article 370 has been progressively undermined, rendering it a vacuous provision. Consequently, the autonomy delineated by Article 370 has been significantly diminished.

In August 1953, the state experienced a significant crisis when the Abdullah cabinet was ousted, and Sheikh Abdullah was sent under indefinite custody. The imprisonment of Abdullah subsequently altered the trajectory of state politics, since he was succeeded by the ineffectual administrator Ghulam Mohammad

Bakshi. Under their leadership, the state forfeited its democratic ethos. The culture that existed under Abdullah's rule. (Teng, p. 203). Article 370 of the Indian Constitution conferred unique status upon the State of Jammu and Kashmir; nevertheless, the Central Government's activities since 1953 have significantly damaged it. independence. Nehru stated: "I express with utmost respect for our Constitution that its provisions are irrelevant; if the people of Kashmir reject it, it will not be implemented there." What is the alternative? The alternative is compulsion and coercion. We have valiantly contested the issue of Kashmir on the battlefield, in numerous diplomatic arenas globally, and within the United Nations; however, most importantly, we have waged this struggle in the hearts and minds of the people of Jammu and Kashmir." Jawaharlal Nehru stated in the Lok Sabha on June 26 and August 7, 1952, "Ultimately, I express this with utmost respect for this Parliament, the decision will reside in the hearts and minds of the people of Kashmir; not in this Parliament, nor in the United Nations, nor by any other entity." Nehru, pages 295-296 Governance continues to be a significant concern in Jammu & Kashmir. Because the state became entangled in strife early on, insufficient attention was devoted to the governing system. The apprehension of Sheikh Abdullah and his ensuing call for a plebiscite, coupled with central interference in state politics and the enforcement of an unpopular leadership backed by the Central government, precipitated a legitimacy crisis for both the national and local administrations. This created a political climate where governance was not the primary concern of those in authority. During the 1950s and 1960s, the government was unresponsive to the populace's ambitions and lacked responsibility. B.K. Nehru accurately noted that "From 1953 to 1975, the Chief Ministers of that State were appointees of Delhi." Their elevation to that position was sanctioned by the conduct of absurd and entirely manipulated elections, in which the Congress party, led by Delhi's appointee, was elected by substantial majorities. (Nehru, BK, pp. 614-615) The central government's approach to appoint weak administrators further exacerbated the democratic deficit and governance issues within the state.

Indira-Abdullah Accord 1975: The return of Abdullah from a separatist tendency to mainstream politics in 1975 by signing the infamous Kashmir Accord with the late prime minister of India Indira Gandhi was yet another setback to Kashmir autonomy. The sheikh

who claimed to be the tallest leader surrendered the plebiscite front for which he was in jail. The message was clear from the centre that the clock cannot be turned back. The central government from time to time made interference in the affairs of the state. The manipulation of internal affairs became worse when the Congress and Indira Gandhi returned to office after the brief interlude of Janata rule in 1977-79. (Puri, pp.188-9). The return of Abdullah could not provide good government during this second spell of his term as Chief Minister, because of some mysterious compulsions and the centre's machinations. Sheikh Abdullah died in 1982 and Farooq Abdullah, his son, had assumed the party's leadership. What followed was shameful. Insurgency and Governance: The death of Sheikh created a leadership vacuum both within the ranks of NC as well as in the state. The Central government now finds it easy to replace one administrator with another weak and incompetent leader. The Farooq led government was not able to deliver after 1982 which led to the change of guards and he was dismissed. In the run-up to the 1984 elections, Indira Gandhi openly appealed to Hindu sentiments to mobilise pro-Congress votes in Jammu; the NC leader, Farooq Abdullah, resorted to similar tactics to mobilise Kashmiri Muslims. In June 1984, the Congress, now allied with the NC in a coalition government in the state, engineered a split and replaced Farooq with G.M. Shah. The Shah government lasted for just under two years and was dismissed in March 1986. These were the years of rapid concentration of power in the hands of central governments and growing intolerance toward all opposition. Rajiv-Farooq accord and the worst rigged 1987 election which further led to the collapse of administrative institutions, the emergence of militancy and the direct central rule of the state under the most communal governor, Shri Jagmohan.

The ruling Congress coerced the NC to form an electoral alliance, so negating whatever claims the NC had of being an autonomous organization in Kashmir. The election was fraudulent and deceitful. The acts of New Delhi provoked a wave of public indignation, and the Azadi movement was revived by violent means, exacerbated by poor administration, widespread corruption, and a lack of economic opportunities. The fraudulent elections acted as a trigger that incited militancy in Kashmir. The situation rapidly worsened from 1987 to 2002, resulting in the total collapse of the democratic process.

Kashmir witnessed a genuine popular insurrection against Indian governance. Schofield, pages 233-235 Abdul Ghani Lone, a Kashmiri opposition leader, elucidated the roots of pervasive dissatisfaction with "democracy" in Kashmir: "It was this [subversion of democracy] that provoked the youth to proclaim 'to hell with the democratic process and all that it entails' and to engage in armed struggle." Widmalm, page 80 In the militant turmoil of the early 1990s, the National Conference faced a highly intricate situation when establishing the government in 1996. Alongside combating violence, it was imperative to restore the government's political authority, which had waned following the rise of militancy, and to broaden the public sphere for democratic engagement. Throughout this period, government offices have evolved into hubs of rumor. This endorsed indifference leads to the cultivation of widespread discontent. The incompetent administrations have imposed unwarranted misery on the population. As a result, protests, obstructions, and stone-throwing have become prevalent. Employees often engage in strikes for service perks, daily wage workers protest for employment regularization, and jobless adolescent's campaign for job opportunities. The state is economically underdeveloped; recurrent protests and shutdowns aggravate economic decline, impede children's education, and intensify the populace's misery. The period of Farooq Abdullah's leadership from 1996 to 2002, under the National Conference's rule, was largely nominal; the deterioration of governance and institutions in the state was a critical concern intensified by armed conflict, while the administration largely overlooked widespread corruption and inefficiency. Kashmir has been administered via various legislative statutes since 1990.

Three relevant statutes concerning this subject are the Jammu and Kashmir Armed Forces Special Powers Act (AFSPA), the Disturbed Areas Act (DSA), and the Public Safety Act (PSA). The three legislative measures stem from the emphasis of executive and military authority above legal and judicial processes in Kashmir; their selective enforcement underscores the considerable gap in law and legal procedures between Kashmir and India. The implementation of repressive laws presents substantial issues about the legal basis of legislation. Administration in Kashmir. The PSA and AFSPA significantly fail to adhere to the notion of legality, which is predicated on clearly stated laws and legal procedures. Both legislative measures infringe

against the intrinsic right to life. Individuals were mercilessly exterminated by the state machinery.

Institutions that incite public unrest and agitation in the valley. The egregious human rights violations and disappearances fostered alienation and a schism between the populace and official institutions. Only after 2002 did the problem of governance attain significant relevance. With the expansion of democratic space, a major differentiation emerged in Kashmir between separatist politics associated with the backdrop of conflict and its "ultimate resolution," and mainstream politics.

This political framework, commonly termed the "politics of governance," was anticipated to tackle a range of daily challenges encountered by the populace. The fundamental difficulties faced by the populace at that time pertained to militarization and the infringement of human rights. Consequently, in the post-2002 era, 'governance' was evaluated based on the condition of human rights and the extent of assistance rendered to the populace affected by the deployment of security forces since 1989. Upon its emergence as the principal coalition partner in 2002, the PDP aimed to address these concerns by emphasizing its tagline of "healing touch."

(Choudary, p. 456) The performance of state governments has consistently been lamentable. Each change in government has resulted in frequent administrative reshuffles, often influenced by the preferences of coalition partners. This official apathy demoralizes diligent and capable people, fostering inefficiency. The diversion of funds due to political factors, delays in the disbursement of funds by the central government, and subsequent postponements in the execution of development projects lead to the forfeiture of cash and increased costs. The state persisted in its inadequate human rights conditions; the conflict has precipitated several governance-related difficulties. In contrast to numerous other Indian states that have prioritized accountability, openness, and decentralized structures and processes, the state of J&K has significantly fallen behind. The political elite has leveraged both the environment of conflict and the state's unique constitutional standing to impede the institutionalization of certain structures and processes. The state significantly lags behind others in institutionalizing the Panchayati Raj, advancing an effective movement for the Right to Information, and

establishing the Accountability/Ombudsman Commission. The narrative of RTI, which possesses

Avery's late admission into the state has yet to be adequately institutionalized. The State Accountability Commission has been entangled in numerous disputes, rendering it nearly ineffective. The circumstances of other autonomous entities are largely analogous. The State Commission for Women lacked leadership during the whole six-year tenure of the Congress-PDP administration. The Government the Commission on Human Rights is an ineffective entity.

CONCLUSION

The politics of conflict has significantly impacted state governance; thus, without actions to restore the system by strengthening and consolidating democratic institutions, the state will remain entrenched in the quagmire of misgovernance. The governance of the state is intricately connected to the character of the state dispute from the onset of admission.

The disintegration of institutions by both central and state governments throughout time has resulted in a governance gap inside the state. The 1953 arrest of Abdullah fostered a sense of estrangement among the populace, and subsequent manipulations by the central government regarding the state's democratic institutions have engendered a credibility deficit for these institutions in the valley. Additionally, the degradation of Article 370 due to the Indian government's efforts to strengthen unitarian nationalism in Jammu and Kashmir has diminished the potential for liberal politics in the region. In the mid-1990s, the state entered a new phase during which all its institutions were obliterated by a surge of insurgency, resulting in the collapse of all democratic processes within the state.

REFERENCES

- [1] Ishaq Khan Mohammad. The social background of peoples movement in the Jammu and Kashmir state, 1846-1931, in Y. Vaikunthan (ed), Peoples movements in the Princely states, Monohar publishers, 2004, p.103-104
- [2] Bazaz P. N. Inside Kashmir, Gulshan Publishers Srinagar first edition 2002, pp.183
- [3] Lamb Alastair. Birth of tragedy Kashmir 1947, Roxford books Hertingfordbury 1994, pp.13
- [4] Abdullah Sheikh Mohammad, Blazing chinar, pp.175-6
- [5] Ram Hari. Special Status in Indian Federalism Jammu and Kashmir, 1983, p. 172
- [6] Nehru. B.K, who was Governor of Kashmir from 1981 to 1984, in his memoirs published in 1997 (Nice Guys Finish Second; pp. 614-5).
- [7] Noorani. A.G. Article 370: A constitutional history of Jammu and Kashmir.
- [8] Basu. D.D. Commentary on the Constitution of India - Vol. P - Seventh Edition - Page 5
- [9] Teng Mohan Krishan, Ram Krishan Kaul and Conference from Santosh Kaul, Kashmir Constitutional history and documents, 1977, p.203
- [10] Nehru, Jawaharlal. Selected works of Vol. 18, p. 418 and vol. 19, pp. 295-6, respectively.
- [11] Puri, Balraj, „The Era of Sheikh Mohammad Abdullah“, Economic and Political Weekly, vol. 18, no. 6, 5 February 1983, pp. 188-189
- [12] Schofield Victoria, Kashmir in the Crossfire, 1996, pp. 233-5.
- [13] Widmalm Stern, Kashmir in Comparative Perspective: Democracy and Violent Separatism in India. London: Routledge Curzon, 2002, p. 80.
- [14] Choudary Rekha. State Politics in Jammu and Kashmir: An Exercise in Asymmetrical Federalism. Chapter in Himanshu Roy and M P Singh (Eds) State Politics in India, p.456- 59