

# Role of National Conference Government (J&K) and Centre-State Relation

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## Abstract:

*The dominance of one party system in Jammu and Kashmir started with the dominance of National Conference since it came into power in 1947. The present paper attempts to analyse the outlook of regional party namely JKNC on Centre-State relation. The differences with the Central government with regard to sharing or division of power have been the main plank of their electoral strategy and victory. Immediately after the accession of the state to the Indian Union, on October 26, 1947 its relations with the Centre were influenced mainly by its two pole of power the ruler and the popular leader and their mutual relations. Maharaja Hari Singh had acceded his state to India with respect to foreign affairs, defence and communication only. The state thus engaged to itself an unqualified autonomy in all other matters. From this emanated its special status within the Indian Union and it enjoined this status under Article 370 of Indian Constitution.*

**Keywords:** National Conference, Centre-State, Autonomy, Article 370, Jammu and Kashmir.

## INTRODUCTION

The Constitution describes in India ‘a Union of States’. Dr. Ambedkar while introducing the draft of the Constitution in the Constituent Assembly described it as ‘federal’. He explained “the draft Constitution is federal as much as it establishes what may be called a dual polity”. It consists of “the Union at the Centre and the states at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution the Union proposed in the draft Constitutions is not a league of states nor are the state administrative units or agencies of the Union government”.

K. C. Wheare, expose the reality behind the facade of the federal claim by describing the Centre-State relations as “quasi-federal” and (K.Santhanam) describing the Indian polity as a “paramount federation” Some scholars have described Indian federalism as “co-operative” federalism and even “bargaining federalism” (Morris Jones) or “normative federalism” with the Union government laying down the norms of socio-economic programmes, or as “competitive” federalism.<sup>1</sup> Since 1960s, the subject slowly transferred as Centre-State relations indicating that the subject for study or debate is not the nature of the polity, or the Constitutional structure and arrangement but the existing and developing nature of relationship between two sets of authorities existing under the Constitution the Union government and the state governments. A number of problems relating to Centre-State relationships arise from the way the Constitution is worked. A number of problems also arise not from the Constitution in theory or in practice or from the actions of the governments at either side but from the actions of various groups and interests, which interpret facts and situations in terms of Centre-State relations. Dabbled as regional or sub- national loyalties, they demand more powers for the states with varying stress<sup>2</sup>.

## OBJECTIVES OF THE RESEARCH WORK

- ❖ To examine the collaboration between the Centre-State in solving various disturbance in Jammu and Kashmir.
- ❖ To evaluate the various principles or objectives of National Conference political party which co-operates them with the Centre.
- ❖ To analyse the changes in the strategies of National Conference towards regional development.

## ARTICLE 370

The Constitutional and legal relationship between Indian Union and the Jammu and Kashmir as the white paper on Indian states puts it. "The form of the instrument of accession executed by the ruler of the state is the same as that of the instrument executed by the rulers of other acceding state is the same as that of the other acceding states. The government of India, no doubt, stand committed to the position that the accession of this state is subject to the confirmation by the people of the state. This, however, does not detract from the legal fact of accession. The state has, therefore, been included in part B states".<sup>3</sup> However fathers of Indian Constitution did not know any sub national boundaries, which divided India, into the denomination of the federal structure. The provinces and the states were linguistic religious and cultural, pluralities, and their political boundaries did not co-ordinate with any precise sub National ramp. The Jammu and Kashmir state was recognized as an autonomous character. It was one of the chief principles adopted by the framers of the Indian Constitution.

Only Article 1 and Article 370 of the Indian Constitution were made applicable to the state of Jammu and Kashmir.<sup>4</sup> Article 1 of the Indian Constitution says: "**India that is Bharat shall be a Union of States.**" The state of Jammu and Kashmir was thus included in the schedule listing the territorial jurisdiction of the Union. Though the state was an integral part of the India Union by asset of Article 1 and the first schedule of the Indian Constitution, thus Article 370 is main subject which deals with relationship between the state of Jammu and Kashmir and Union Government.

The state Jammu and Kashmir a unique status as the only state which is governed by a Constitution of its own, it was May 1949, when the leadership of the Central government and National Conference determined that the requirements of the Indian Constitutions concerning the powers of the Central government vis-a-vis the state governments would not apply to Jammu and Kashmir, and that the state would have a Constitution of its own framed by a Constituent Assembly. The accession of the state to the Indian Union formalized vide the Indian Constitution, but the Constituent Assembly honouring the 1949 settlement with the leadership of the NC incorporated Article 370 which laid down special provisions for the state. Accordingly, the powers of the Indian Parliament to make laws for the state were limited to defence, external affairs, and communication.<sup>5</sup> On January 26, 1950 Article 370 of the Indian Constitution come into effect. This has particular provision not only from a practical point of view but also regarding its content. It entrenched the right of J&K to draft its own Constitution. This power was proposed to find its limits excessively in the only two provisions of the Indian Constitution which were confirmed applicable to Jammu and Kashmir Article 1 itself as well as Article 370. Which combination with the first Schedule defines J&K as a state of India and its territory? Sheikh Mohammad Abdullah aptly clarified the reality that article forms the basis of Centre-State relations by stating:

*"While the state's accession to India in 1947 removed the apprehensions of the Non-Muslim minority in Jammu and Kashmir, the incorporation of this article was meant to allay the fears of the Muslim majority by the provision of internal autonomy for the state."*<sup>6</sup>

## DELHI AGREEMENT 1952

In July 1952 Abdullah succeeded in reaching a consensus with the government in New Delhi on a number of issues which come to be known as the Delhi Agreement<sup>7</sup>. The Members of the Foreign Affairs Committee of the cabinet were present. Bakshi Ghulam Mohammad, Mirza Afzal Beg, Shri Girdharilal Dogra and Shri D. P. Dhar were also present. The National Conference led by Sheikh Mohammad Abdullah was pledged programme covering a wide range of subjects such as land reforms. It included termination of hereditary ruler ship in the state. Nehru further outlined the broad basis of the Constitutional relations between the state and the Union of India and proposed the inclusion of Jammu and Kashmir in the Constitutional organization of India with such modification as would suit the specific historical and political background of the state. In this regard he gave the importance of fundamental rights, federal judiciary and Union List of the Indian Constitution. While his party leaders accepted the proposals that the Constituent Assembly of the State would determine the future of the Dogra rule and draw up the Constitution of the state, they did not endorse the proposals for the temporary removal of the Maharaja, and the appointment of a regent from the ruling family. They insisted upon the abdication of the Maharaja and emphasized that the temporary removal of the Maharaja would not allay the fears of the Muslims in the state, who identified the Dogra rule with their subjection.<sup>8</sup>

Both leaders provided the background and highlighted the significance of the agreement. Pt. Nehru told the Lok Sabha on July 24, 1952. The position since the Constitution was framed is thus contained in the Article 370 and in the President's Order following it. Article 370 was obviously of a transitional nature and it allowed the President to make any additions to it, any variations to it, later on, the object being that if any change or addition was required, we need not have to go through the cumbrous process of amending our Constitution, but the President was given the authority to amend it in the sense of adding a subject, part of a subject, whatever, it was to the other subjects, in regard to Kashmir. But in Article 370 the old principle was repeated and emphasized that all these changes or any change, required the approval of the Constituent Assembly of the Jammu and Kashmir state.<sup>9</sup> On August 14, 1952 Sheikh Abdullah wanted the Assembly to consider the agreement. During the debate, emphasis in the speeches varied, although no dissident opinion was expressed. Delhi Agreement did come under heavy criticism. Balraj Madhok expressed his view that "Nehru-Abdullah" Agreement of July 1952, which gave Shiekh Abdullah all that he wanted end of Dogra ruling dynastic and its substitute by an elected Sadar-i-Riyasat, literary meaning President of the state, a separate Constitution, and separate Flag was a surrender to Abdullah's independent thing.<sup>10</sup>

The government of India held the view that the fact that J&K state was the Constituent unit of the Union of India led inevitable to certain consequences in regard to certain matters, namely: (a) Residuary powers, (b) Citizenship (c) Fundament Rights, (d) Supreme Court, (e) National Flag, (f) The President of India, (g) The Headship of the State, (h) Financial Integration, (i) Emergency provisions, and (j) Conduct of Election to Houses of Parliament."<sup>11</sup> Sheikh Mohammad Abdullah informed the state Constituent Assembly on August 11, 1952 about the Agreement.

Expressing the fears that Delhi Agreement, if implemented will perpetuate the dominance of Kashmiris over Jammu, Praja Parishad (PP) threatened to perform Satyagraha. P.N Dogra and S.P. Mukherjee met at Jullunder on the event of Punjab Jana Sangh session and prepared and planned about the Satyagraha. The increased involvement of these leaders on anti-Kashmir activities caused their arrest on 21 November, 1952, which ultimately made their programme easier to launch the agitation.<sup>12</sup> Thousands of people courted arrest, many laid their lives in police firing. The slogan was:-

*Ek Desh Mein Do Vidhan* (In one Country two Constitutions),

*Ek Desh Mein Do Nishan* (In one Country two Flags)

*Ek Desh Mein Do Pradhan* (In one Country two Presidents)

*Nahin Challengey-Nahin Challengey* (Will not do)<sup>13</sup>

A unique feature of the Delhi Agreement was the understanding reached in respect of the procedure of settlement to be followed to resolve any dispute that might arise between the Union Government and the state government. The leaders of Jammu and Kashmir agreed to the extension of the (original) jurisdiction of the Supreme Court and to make the Supreme Court the final Court of appeal in civil and criminal matters as laid down in the Constitution of India.<sup>14</sup> The problem arising in the Delhi Agreement which left the complete economic isolations of the state Jammu and Kashmir because of its unwillingness to participate in the financial structure of the Union government. None the less the state continued to receive loans till the time of its financial integration, which took place in the year 1954.

### **THE KASHMIR ACCORD 1975**

The Kashmir Accord (Shiekh-Indira Accord) of 1975 was the realization of the process of settlement between Central government of India and Jammu and Kashmir National Conference government. This begins when Sheikh Mohammad Abdullah was release from prison on January 2, 1968. Nehru initiated talks with Sheikh Mohammad Abdullah. Nehru wants to changes in Article 370 which had been brought about after 1953. But Sheikh Mohammad Abdullah refused and rejects the offer.

Although as early as October 1948, the NC had unanimously passed the resolution affirming the state's accession to India as final, yet in emerging circumstances, the NC, under Sheikh Mohammad Abdullah equated India and Pakistan in "honourable possible solution" wherein there was no reference to accession to India or special status. The alternative solutions were:

- Overall Plebiscite;
- Independence of the whole of the state;
- Independence for state with join control by India and Pakistan of external affairs; and
- Dixon plan with independence for the Plebiscite, area.<sup>15</sup>

According, on June 5, 1972, Shiekh Abdullah was allowed to return home and negotiations were at once initiated. On March 10, 1972, Sheikh Abdullah had told peter Hezelhurst of the London times; *"There is no quarrel with the government of India about accession. It is over the structure of internal autonomy. One must not forget that it is 'he' who brought the Kashmir to India"*.

In the meantime, after G.M.Sadiq died, Mir Qasim became the Chief Minister, he was convinced that the political uncertainty in the state could be ended and a path paved for true emotional integration if Sheikh Abdullah were to be restored to his original status within, of course, the framework of the Indian Constitution with the guarantee of the special status for the state.<sup>16</sup>

Balraj Madhok, former leader of Jan Sangh, in his letter to the editor of Indian Express on September 30, 1974, said that, the people of Jammu had given up the demand for the separation of Jammu province from Kashmir only on the assurance that the process of the integration of the state would be completed gradually. If this was not done and if Abdullah's demand for the restoration of 1953-position was accept then, "the demand of the people of Jammu for a separate state will have also to be conceded."<sup>17</sup> There were highly publicised Sheikh Abdullah-Swaran Singh meeting in June 1974, for example, Sheikh Abdullah indicate that he would resume office only if the clock were turned back to 1953 and if all the subsequent increases in Indian power in the state of Jammu and Kashmir were abandoned.<sup>18</sup> Since now it was evident to Abdullah and his comrades that any compromise made with New Delhi, would not be unopposed in the state, they quiet unmistakingly, created

such slogans through which people could be prepared to accept the outcome of the negotiations, which Sheikh Abdullah was aware, would not be according to the promises he had made with them. One such slogan which was shouted quiet frequently in the public gatherings arranged by the Plebiscite Front was:<sup>19</sup>

***Raj Kari Taj Kari Bab Kari Low Low,  
Aal Kari Wangan Kari Bab Kari Low Low***

The Elections were held on 1975 and Sheikh Abdullah becomes Chief Minister of state supported by Congress. Sheikh also entered into an accord with Indira Gandhi. After long negotiations between G. Parthasarthi, the Central government representative, and Mirza Bag on behalf of Sheikh Abdullah's representative these reached following conclusions:

1. The state of Jammu and Kashmir, which is a Constituent unit of the Union of India, shall, in its relations with the Union continue to be governed by Article 370 of the Constitution of India.
2. 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 the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and the Constitution of India.
3. Where any provision of the Constitution of India had been applied to the state of Jammu and 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 being considered on its merits. But provisions of the Constitution of India already applied to the state of Jammu and Kashmir without adaptation or modification are unalterable.
4. With a view to assuring freedom to the state of Jammu and Kashmir 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 Parliament or extended to the state after 1953 on any matter relatable 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 Parliament in future under the proviso to clause 2 of that Article; the state government shall be consulted regarding the application of any such law to the state and the views of the state government shall receive the fullest consideration.
5. As an arrangement 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 legislature of the state of Jammu and Kashmir relating to any of the under mentioned matters shall take effect unless the bill, having been 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 elections, namely, the superintendence, direction and control of elections by the Election Commission of India (ECI), eligibility for inclusion in the electoral rolls without discrimination, adult suffrage, and composition of the Legislative Council, being matters specified in sections 138, 139, 140 and 50 of the Constitution of the state of Jammu and Kashmir.

6. No agreement was possible on the question of nomenclature of the Governor and Chief Minister and the matter is therefore remitted to the principals.<sup>20</sup>

Finally, the Accord noted that Mirza Afzal Beg and G. Parthasarathi had failed to agree “on the question of nomenclature of the Governor and Chief Minister”. In other words, Mirza Afzal Beg had been unable to obtain confirmation of those two cherished symbols of the state of Jammu and Kashmir’s special status, the title of the Governor as *Sadar-I-Riyasat*, and the right to refer to the head of the state’s government as Prime Minister rather than Chief Minister, the term used in all the other states in Indian Union.<sup>21</sup>

The Accord 1975 gave a new direction to the State-Centre relationship reviving the spirit of the Accession days of 1947 while ensuring not only political integration but, what was more important, emotional integration. It proved that the Kashmiris considered themselves politically, economically, culturally and religiously safe within the democratic, secular and socialistic framework of the Indian Constitution.<sup>22</sup>

## AUTONOMY AND NATIONAL CONFERENCE

Autonomy derived from ancient Greek word ‘autonomia’ which means “atonomos”. It consists of two words ‘*auto*’ means ‘self’ and “*nomos*”, means ‘law’, hence when combined understood to mean “one who gives oneself one’s own law” is a concept found in moral, political, and bioethical philosophy. Within these contexts, it is the capacity of a rational individual to make an informed, un-coerced decision.

State autonomy does not mean the Independence or Sovereignty of the states. It indicates non-interference of the Centre in the prescribed domain of the state. The right of the states to work independently in the prescribed area is called autonomy. In other words, autonomy has assumed the character of states’ rights, which has been the bane of federal systems. The growing self-consciousness and self-assertiveness of the regional governments, strengthened by the reorganization of the states on a un-lingual basis, act in India as an important decentralizing force. Autonomy, understood as political power with regard to domestic or inter-governmental functions, while leaving external political and economic relations, and defence to the existing Central authorities can be regarded as an important way for the survival of socially heterogeneous states.<sup>23</sup>

Within this Indian federation which has over time undergone such significant changes. Autonomy is conferred on a territorial basis to different levels of government; among them the state of Jammu and Kashmir the territory of this state as a point of reference for autonomy is simultaneously defined and protected on the Constitution of India. According to First Schedule, J&K comprises the entire area of the princely state, which Acceded to India in 1947, i.e. also the area that are presently not under Indian control. The demarcation of the state territory in Section 3 of Jammu and Kashmir Constitution is in line with this definition. Moreover, the territory of Jammu and Kashmir enjoys extraordinary protection under the India Constitution. As outlined above, Article 3 of the fundamental law endows the Union Parliament with the power or form a new state or to alter the boundaries of an existing state through ordinary law. This general rule of unilateral territorial changes does not apply to Jammu and Kashmir. In this specific case, the consent of the state legislature is indispensable for such a change to come into effect.<sup>24</sup>

The politicians in the state who are not bothered by these considerations, might perhaps still be entitled to cast their stones on the idea of regional autonomy if they had not cast their stones on the first converts to the idea was the Jana Sangh founder the late Dr. Shyama Prasad Mukerjee who proposed it to the then Prime Minister Mr. Nehru, in his letter of 17 February, 1953, as a condition for the withdrawal of the Praja Parishad (PP) agitation in Jammu. Mr. Nehru formally accepted the demand in his statement of 2 July, 1953, and the

Parishad agitation was thereafter called off. The state Congress (then National Conference) leaders also committed themselves to this solution of the Jammu problem. Interestingly the present principal crusaders against regional autonomy Mr. Qasim and D.P.Dhar were members of a sub-committee which prepared a draft for the state constituent Assembly recommending substantial measured of autonomy to each region of the state.<sup>25</sup>

As for as Indian is consider the state of Jammu and Kashmir as the most decades ruling National Conference Party think that greater autonomy is the only resolution to the problem of militancy in the state. At a convention of the NC's Legislature party the demand for a return to the pre-1953 position was reiterated. The NC's autonomy plank hinges on accepting Indian sovereignty over defence, external affairs and communications. The Reports of Regional Autonomy Committee and State Autonomy Committee, set up by the state government, were presented on April 13, 1990. These Committees were set up by the state government in order to give autonomy to different regions of the state and also to restore the maximum autonomy for the state.<sup>26</sup>

Some important recommendations given by Regional Autonomy Committee (RAC) are as under:

- (I) To examine and recommend measures for the restoration of autonomy to the state of Jammu and Kashmir consistent with the Instrument of Accession, the Constitution Application order, 1950 and the Delhi Agreement of 1952.
- (II) To examine and recommend safeguards that is regarded necessary for incorporation in the Union/ State Constitution to ensure that the Constitutional arrangement that is finally evolved in pursuance of the recommendations of this committee is inviolable.
- (III) To also examine and recommend measures to ensure a harmonious relationship for the future between the state and the Union.<sup>27</sup>

On June 26, 2000, in a historic move, the Jammu and Kashmir Legislative Assembly today adopted by voice a resolution accepting the report of the State Autonomy Committee (SAC), recommending greater autonomy to the state. The entire opposition staged a walkout. The Chief Minister Dr. Farooq Abdullah, expressing confidence that it would be implemented stressed on a nationwide debate on the issue.<sup>28</sup> Exclamation in the autonomy motion's favour, Dr Abdullah said: "It was our promise to the people Jammu and Kashmir at the time of Elections that we would reinstate their decorum and respect."

The autonomy report demands that the state be given control over all subjects of governance except foreign, communications and defence. It also seeks restarting of the titles of "Sadar-e-Riyasat" for head of the state and "Wazir-e-Azam" or Prime Minister for head of the state government.<sup>29</sup>

On July 4, 2000, the Union cabinet rejected the notorious Jammu and Kashmir Assembly resolution seeking restoration of the pre 1953 status on the ground that it sought to reverse application of Constitutional provisions to the harm of the country's integrity and interests of the people of the state. The cabinet also disfavoured presentation of the report in parliament. The government is of the firm conviction that National integration and devolution of powers to states must go together.<sup>30</sup>

## CONCLUSION

Federalism in the sense of bargain power sharing between the Centre and the State has strengthened the Nation rather than weakened it as there has merged conformity on democratic norms of governance and its necessary institutions. Federalism is currently redefined in dynamic terms. It is analysis as a method and not as a meagre Constitutional division of powers. The change in the Indian party system from one party system to multi-party system after the 4<sup>th</sup> General Election had a significant bearing on the working of Centre-State relation in India. The All Jammu and Kashmir Muslim Conference founded in 1931 and after seven years it was converted into National Conference (NC) in 1939 so as to permit Non-Muslim also to become its members. The chief reason was that to end Muslim character of the party and mission it as a party of both the Hindus and Muslims. The National Conference was opposite to the communal ideology of the Muslim League that is why the League could not set up a grip in Kashmir.

This was the essence of its superb Annual Session held at Sopore (Kashmir), in which great leaders like Khan Abdul Gaffar Khan, Jawahar Lal Nehru and, to an extent, Maulana Abul Kalam Azad, participated. 'Naya Kashmir', which is the Bible of the National Conference, is nothing but an embodiment of democratic, socialistic and secular principles. Hence National Conference government than took important step on the behalf eminent leader Sher-i-Kashmir Sheikh Mohammad Abdullah removal of Dogra Raj and passing of Agrarian Reforms Act, and as well it secular and Nationalistic ideology unsuccessful in determining the Centre-State relations.

The National Conference has given its views on Centre-State relations. "The democratic demand of the Jammu and Kashmir Constitution is that Country must be worked for Nation not for a party. The demand is that the Centre-State relations should be patterned to strengthen the states for a strong Union of the states at Centre. The demand is that Jammu and Kashmir among the special category of states should not be discriminated. The state should not be restricted. The state should receive their due share from the divisible pool. The divisible pool should be extended and should not restrict. The Jammu and Kashmir border state is backward and hilly and deserves special consideration". Its well-known slogan remains a myth.

***Sher-i-Kashmir Ka Kya Irshad? Hindu, Muslim, Sikh Itihad.*** (What is the teaching of Sher-i-Kashmir? Unity among Hindus, Muslims and Sikhs).

The autonomy has significant petition to stop isolation in Kashmir. Autonomy is necessary for strong Centre-State relationship and the only potential option to complete the objective of citizens and only instrument to determine the twist. The Central government should move about towards restoring Kashmir's compromised autonomy. Generally the injustice of Kashmiri people have emanated since they have not been treated correctly by the state authorities. However autonomy is not a permanent solution to Jammu and Kashmir, but if autonomy is given to the Jammu and Kashmir, condition will get better to great level. It is essential for both the Union and state governments to give up their inflexible stand towards valley which makes the problem very complicated.

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