

THE 2010 ASSERTION IN KASHMIR AND THE INDIAN DEMOCRACY

*Bilal Ahmad Ganai**

Introduction

The death toll in the 2010 unrest in Jammu and Kashmir crossed the figure of 100. The killings of the more than 100 people, a large number of whom were in their teens, talks very badly about the seriousness of the Jammu and Kashmir problem. Furthermore, the way the Indian armed forces and the state police handled it further aggravated the Jammu and Kashmir problem. My research paper will analyze the historical aspects of the problem and will try to contextualize the recent 2010 unrest in the democratic discourse of conflict resolution in India. It is pertinent to mention here that Indian political leadership has always maintained that they are ready to solve the Kashmir problem but they maintain that it has to be always within the parameters of the democracy and the Indian constitution. But as we will see even this minimum, on which this whole paper is based, has not been done not to talk of the other options.

The 2010 Mess

Unfortunately, the unrest which came to engulf the state in 2010 was still framed as a law and order problem. The genuine aspirations of the people were relegated to the back ground. The Jammu and Kashmir issue has a multifaceted character. There can be no enduring resolution of the Kashmir conflict without addressing the political demands of the Kashmiri people.

All instruments of violence (ranging from guerrilla warfare to the threat to use nuclear weapons) have failed to resolve Kashmir imbroglio.¹ The offer of Manmohan Singh which promised anything

* Research scholar, Department of Political Science, Kashmir University

within the parameters of the Indian constitution was preceded by "anything within the Ambit of Humanity" by Atal Bihari Vajpayee and "Sky is the Limit" for self-rule of Kashmiris by Narasimha Rao. All this "Parameter", "Humanity" and "Sky" came to nothing. All these phrases brought nothing to the people of the valley except the time for the Indian government to carry on hoodwinking the Indian masses as well as that of International community on the Jammu and Kashmir issue.

The Indian political leadership has been playing the game of saving and defending its stand on Jammu and Kashmir in retail at the cost of killing the civilians of the Jammu and Kashmir state in whole sale. Kashmiris be they Hindus, Muslims or Sikhs have suffered to the nth degree. The mess and the massacre of 2010 unrest in Jammu and Kashmir may best be described, what Thomas Hobbes calls poor, nasty, and brutish. The situation in the valley became very tense with both the separatist leaders of the valley and the Central government of India trapped in a chick and egg puzzle. Both the sides blamed each other for not taking the initiative to bring an end to the squalor that the common masses of the unfortunate state went through.

The visits of all – party – delegations both to and from the state of Jammu and Kashmir bore nothing. In fact, New Delhi has all the feedback on Kashmir, even as it wishes to feign ignorance and asks in bewilderment, what is it that people really want. It will be naïve to jump to a conclusion that India is unable to understand the intricacies of Kashmir problem. India government with the help of its institutional memory and state structures knows Kashmir well, more than the natives of Kashmir.

With no letup in the situation the killing spree against the common masses went on, providing fodder to the most hungry and air conditioned media houses of India. With all sorts of meta-narratives and modern technologies at their disposal, the anchors of the TV-news channels failed to keep pace with the race of killings in the state of Jammu and Kashmir that has been going on since the partition days in general and during the unfortunate months of 2010 in particular.

Certainly the political myopia of the mainstream political parties, be they at the Centre or in the State, has cost them dear. Furthermore, disowning the Kashmiri protestors as miscreants and belittling their space by the political establishment of India and the Indian media has done a great disservice to the cause of peace and normalcy in the Jammu

and Kashmir. Grievances are to be redressed not to be allowed to become catalysts for further infuriation. The way the protestors were dealt with helped in further infuriating the already infuriated people. It gave rise to the vicious circle of death and destruction. The whole valley turned into an island of death and destruction amidst the vast continent of relative peace and prosperity. The whole valley came to be frozen with all the indicators of the modern human life taking a crash landing.

The young brigade of the valley took a paradigm shift.² The bullets and pellets which penetrated the bosoms of their fellows before their eyes have given them some solid reasons to come out of the cable culture of India, which earlier used to run through their veins. They have started reciprocating and have started disowning the political culture of the Indian democracy.

The statements of the different political leaders during the unrest, both at the Union level and at the state level, just poisoned the environment with so much political distrust that it seems there was no way out. Mr. P. Chidambaram's statement, who represents the home ministry of the so-called great Indian political leadership, sounded arrogant and short-sighted. He seemed to justify the killings of the innocent souls by his false accusations of the presence of militants in the protest. Though he represents the Home Ministry of India, but Kashmiris never felt at home with the way he spoke about the unrest. There goes the son of the Shaer-e-Kashmir, Dr. Farooq Abdullah. During the dance of death in the valley he made it a point to recollect all the provocative and poisonous words for describing the situation in the valley so as to add fuel to the fire. A local Congress leader, Mrs. Vakhrou, in an interview with one of the reputed announcers of the Radio Kashmir described the stone pelting in Kashmir during those days of bloodshed as an entertainment for the youth of Kashmir. She even laughed at the same; citing lack of entertainment-facilities has led the Kashmiri youth to indulge in stone pelting. She suggested that district wise cricket tournaments should be organized to rectify the faults.³

The Historical Deficit

During this unrest and (even after that), three options were being discussed by the people both inside and outside the state with regard to the solution of the Kashmir imbroglio. These were azadi, revision of alignment and autonomy.

The Indian establishment believes that Azadi is not a viable option. They rule it out lock, stock and barrel. Alignment with Pakistan, they believe, will be most disastrous option for the whole South Asia. The third option of autonomy that is restoring the pre-1953 status is the only tenable solution as per their version of the story. Granting autonomy to J&K has always been a subject of intense debate in India. But history bears testimony to the fact that Indian leadership has always shied away to discuss its nitty-gritty with the political leadership of Jammu and Kashmir. Indian leadership has never been serious about it.

The accession of Jammu and Kashmir to the dominion of India signed by Maharaja Hari Singh was subject to two main conditions.⁴ First, Kashmir will be given "the right of self determination" after the restoration of normalcy. Second, the Government of India will exercise limited control over the state confined only to defense, communication and foreign affairs. This limited control over the State was extended by article 306A of the Indian constitution. The Delhi Agreement of 1952 ratified Kashmir's autonomy and enshrined Article 306A as 370 of the Indian constitution. The radical right-wing elements launched a massive campaign against this 'Special Status' under the banner of Praja Parishad. They demanded that the State of Jammu and Kashmir should be assimilated (as against accommodated) to the Union of India or Jammu should be detached from the rest of the State and granted a Union Territory status. Their politics of communalism gave rise to a vicious circle of political squalor.⁵

This agitation provoked Sheikh Mohammad Abdullah to challenge the validity of the accession. This resulted in his dismissal and arrest. Sheikh Abdullah's dismissal is the biggest blot on the democratic escutcheon of the Indian state. Indian political leadership, who swears in name of democracy and the tolerant ethos of its culture, displayed its fascist innards on August 9 in 1953 when Sheikh Abdullah as the duly elected Prime Minister of the State was deposed through a coup managed by New Delhi and arrested through a local police officer. By removing Abdullah from the Premiership, the Indian Government both abused the terms of the Delhi Agreement and undermined the democratic process in Jammu and Kashmir. Regardless of the fairness or otherwise of the 1951 election results (which at the time New Delhi had been keen to accept), Abdullah was the democratically elected Prime Minister of the state. As such, he could only be removed by popular elections or, failing that, a vote of no-confidence in the State Assembly. The Indian Government

had no legal authority to plot and execute this removal. New Delhi's actions set a precedent for future Indian administrations. The future Indian administrations, later, felt little hesitation in interfering with the democratic process in Jammu and Kashmir. That day symbolizes, for the common people of J&K, New Delhi's perfidy, plain and simple. What happened after that is well known. New Delhi imposed on the state one puppet regime after another through rigged elections.

Bakhshi Ghulam Mohammad more or less served as a political stooge to the central leadership of India to forward the latter's inexpedient and undemocratic designs on J&K. It was during Bakhshi's regime, that the Presidential Order of 1954 empowered the Indian Government to act on all matters in the Union List and not just defense, foreign affairs and communication. This was the beginning of the end of autonomy for the State. After the 1953 episode, the first point Bakshi Ghulam Mohammad attempted to establish was that Abdullah's goal of Independence was to have been achieved with the assistance of a foreign power. Such conditions, he concocted, might result in Kashmir being turned into another Korea. It amounted to little more than a confession that India had delivered the goods and, in the practical interests of Kashmir, should continue to be allowed to do so. But the 2010 mess and massacre shows that this has not worked. And that is why we are here to discuss it and that is why we have organized this lecture and in fact all the lectures and all the seminars that come to discuss Kashmir from Bangalore to Boston, from New Delhi to New York.

Similarly, the constitutional amendment of 1958 brought the state under the control of the Central administration, including extension of Articles 356 and 357 of the Indian Constitution in 1964-65 during G.M.Sadiq's tenure. Article 249 was also made applicable to the state. The designations of Head of the State (Sadr-i-Riyasat) and Prime Minister were also changed to Governor and Chief Minister like in any Indian State. Furthermore, the Governor is to be appointed by the Centre rather than be a nominee of the elected Kashmir legislature. Thus, the inherent right of autonomy was snatched away from the state in a systematic but in an undemocratic way, by the mid-1960s and even the Indira-Abdullah Accord of 1975 could not restore it.

It is pertinent to mention here that the Indira-Abdullah Accord of 1975 had the following as one of its provisions:

With a view to assuring freedom to the State of Jammu and Kashmir to have its own legislation 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 laws to be made by Parliament in future under the Proviso to clause 2 of the 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.

The above-mentioned provision had encapsulated the recognition of the fact that political wrongs had been done and the same need to be rectified in the best possible way. But again showing its inability to come up to the mark of sincerity, the Delhi government and the remote-controlled state political leadership fizzled out to implement the same. Again an opportunity was lost to nip the evil of political uncertainty, of death and of destruction in the bud. The evil of distrust and of political uncertainty was nurtured and the same came to overwhelm the valley in 2008 i.e., the Amarnath land row and the same continues up to now in the form of the indiscriminate killings of the civilians.

Again in 1984, the unwarranted and extra-constitutional dismissal of Farooq Abdullah became another nail in the coffin of the Indian democratic claims in the state of Jammu and Kashmir. Indira Gandhi, the then PM of India faced an important impediment in her efforts to remove Farooq Abdullah from office through dubious means. The then governor who also happened to be her cousin Mr. Braj Kumar Nehru firmly rebuffed the dismissing of the CM Farooq Abdullah on rather tenuous grounds. Realizing that the governor Braj Kumar Nehru would not be any more tractable in the future, Indira Gandhi removed him from the governorship of Jammu and Kashmir. In his place, on April 26, 1984, she appointed Jagmohan Malhotra as governor.

With the connivance of G.M.Shah and a faction of National Conference Members of the Legislative Assembly who were loyal to him, Jogmohan arranged for the dismissal of Farooq Abdullah's regime.⁶ After the legislators loyal to Shah professed that they no longer support

Farooq Abdullah, the National Conference lacked a majority in the state assembly. Within hours, on July 2, 1984, Jagmohan swore in G.M.Shah as the new Chief Minister.

The eruption of the militancy in the state of Jammu and Kashmir is an offshoot of the undemocratic and the inexpedient policies of the Indian political leadership towards the state. Both the principles of democracy as well as that of political expediency were relegated to the background. Groups like the Jamaat-e-Islami even decided (in the early 1970s) to contest elections so that, as elected representatives, they could forcefully articulate their demands.⁷ Syed Ali Shah Geelani, the hard-line separatist leader, himself was elected to the state assembly as a candidate from the Muttahida Muslim Mahaz ("The Muslim United Front"), most recently in 1987. That election proved to be a turning point in the history of the Kashmiri struggle for self-determination. The Muslim United Front (MUF) was poised to win the elections by a considerable majority but this election was sabotaged by the Government of India, which feared that it Muslim United Front would refuse to toe its line if it came to power. A point made by numerous observers – that the widespread rigging of this election in Jammu and Kashmir (as well as all previous ones) and the indiscriminate arrests and brutal treatment of Muslim United Front workers and candidates clearly suggested to the Kashmiris that peaceful methods of democracy to articulate their grievances would never work due to Indian intransigence.⁸ Once again India's slogans of democracy were exposed as a complete farce. It was now clear to the people of Kashmir that India would never allow a truly democratically-elected government to come to power in the state, for, such a government, reflecting the genuine aspirations of the majority of the people of Jammu and Kashmir, would advocate the state's separate identity from India. It was then and faced with no other option, that, in 1989, some Kashmiri youth decided that the time had come to take to the militant path to seek to force India to agree to live up to its promise of allowing the people of Jammu and Kashmir to determine their own political future. This resulted in the birth of *Fidayeen Squads*, who understood only one language of killing or being killed.

The insurgency in J & K, which has extracted an enormous price from the people of the state, was fuelled and reinforced by the systemic erosion of democratic and human rights. Thus the militancy in the state of Jammu and Kashmir can be explicated to this background of historical

distrust that has bedeviled the relationship between the state of Jammu and Kashmir and that of India.

After the eruption of militancy in 1989, the Indian Government promised autonomy once again. The objective behind this offer was to check the secessionist trend in Kashmir and create a favorable situation for the pro-accession parties and hold the elections. Though the situation was not favorable, yet dates for the parliamentary elections were fixed in 1996. The major regional and pro-accession party of the state, the Jammu and Kashmir National Conference, threatened to boycott these elections as its president Farooq Abdullah insisted that the quantum of autonomy should be decided before the polls. However the Central government remained adamant that the question of autonomy would be decided with the elected representatives of the State.⁹

Farooq Abdullah, after winning the assembly elections, in 1996 concentrated on his first priority of defining, deciding and negotiating a package of autonomy for the state and, within this package of autonomy, the quantum of regional autonomy for the three regions of the state. It was with this intention that the government of J & K passed the Autonomy Resolution in 2001; but this resolution was turned down by the Bharatiya Janata Party led NDA government at the Centre. This again showed to us the futility of the promises and accords reached between the Indian Central government and the Jammu and Kashmir state government. The necessity of a third party to enforce the agreements between these two unequal partners has been felt by many conscientious people in the valley. Certainly, the judicial system, as shown by the historical facts, has fizzled out in keeping the faith of the people of the state as the defender of the rule of law.

This negative and the undemocratic attitude of the Central government towards the restoration of autonomy to the state strengthened the belief of Kashmiris that any sort of political solution is a distant dream especially by entering into agreements or dialogues with the Indian government. It also made the National Conference, which had been an ally in the NDA government at the Centre to pay a high price in the 2002 Assembly elections. In these elections the electorate of the state voted the National Conference out of power, and a Congress-PDP coalition government was formed in the state.

Now if the Government of India goes back on its promise of autonomy, whom the people of the state are going to trust? The

relationship has to be based on trust. Even these half-baked constitutional reforms did not find it safe under the aegis of the Indian central government. It is pertinent to mention here that it was on August 9 in 1942 when the Indian National Congress after experimenting half-baked constitutional reforms launched the historic "Quit India" movement asking the British Empire to quit lock, stock and barrel leaving the people of India free to decide their own future.

The buck doesn't stop here. Prime Minister Manmohan Singh in May 2006 announced the setting up of five working groups to resolve the issues confronting Jammu and Kashmir. The groups were supposed to deal with improving the Centre's relations with the State, furthering the relations across the Line of Control (LoC), giving a boost to the State's economic development, rehabilitating the destitute families of militants and reviewing the cases of detainees and ensuring good governance. Though it was a good beginning by the UPA-I government. But all this came to nothing as the recommendations of these working groups were consigned to dustbins. And Indian government's dustbins with regard to Kashmir are very big. It all turned out to be a big joke played by the central government on the common people of the state. This again shows us the inefficacy of the democratic structure of the Indian government in Jammu and Kashmir. Indian government has turned schizophrenic in its policies towards the Kashmir imbroglio. The sincere implementation of the recommendations of these working groups would have started a new political era in the state.

A paralyzing atmosphere of fear and paranoia; a suffering populace whose voice is stifled by the excessive militarization and weaponisation is what the state of Jammu and Kashmir stands for. The militarized culture has sapped the state of all its resources-natural as well as human resources. The forests of the valley have suffered in many ways, both direct and indirect, because of the excessive ammunition that these forests are fed with, the Siachen Glacier is reported to have been polluted and poisoned, and a vast area of land has come to be under army bunkers with so many disadvantages of the externalities of their existence. The people of J&K have been mourning the loss of lives, erosion of democratic institutions and aspirations, deliberate marginalization of their political space, all of which have occurred over the past two decades with an unparalleled intensity. The destruction of the socio-cultural fabric of the valley is eminent. Kashmiri language which had earlier gained a respectable place in the educational institutions of the

state later came to be relegated to the background. It was removed from the educational scene and the status quo is yet to be reestablished. The world-renowned political psychologist Ashis Nandy correctly observes, "Everyone [in Kashmir] is bereaved and everyone is a mourner. The casualties include not merely the official and unofficial dead and the incapacitated, but also those who have disappeared without a trace...There is in Kashmir a miasma of depression that touches everyone except the ubiquitous tourist determined to consume Kashmir's unearthly beauty."¹⁰ Torture machines have certainly accomplished the task of creating indelible scars, fears, panic, which will not fade with the passage of time. This conscious policy of the Indian State to erode autonomy, populist measures, and democratic institutions in Indian administered J & K has further alienated the people of the State from the Indian Union. The systemic erosion of political opposition in J & K has delegitimized the voice of dissent and radicalized antagonism toward state-sponsored institutions and organizations. During the ongoing insurgency, the Indian military has been granted a carte blanche without an iota of accountability in the form of Armed Forces Special Powers Act. The act (AFSPA) has bred all sorts of insecurities in the state. In Kashmir, unlike in Punjab, whole homes have been blown up by the security forces in crowded areas merely to nab a militant or two. Section 4(2) gives a carte blanche, based on a subjective opinion, to "destroy" any "shelter" from which inter alia armed attacks are "likely to be made" or "any structure" used as a hideout by "absconders wanted for any offence".

Thus, we can say that the political device of autonomy within the parameters of the Indian constitution has been undermined and thereby made redundant in solving the Kashmir issue. This constitutional device has tested faulty because of the intransigence of the Indian inexpedient political apparatus. My paper has proved the inefficacy of this constitutional device that Indian government has been banking on since 1947 to do away with the Kashmir conflict.

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