

MARXIST

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CC RESOLUTION (2010) ¹

On the Jammu & Kashmir Issue

INTRODUCTION

The problem of Jammu & Kashmir has been with us ever since the accession of the state to the Indian Union in October 1947. Throughout the chequered history of the past six decades, Kashmir has been not just a territorial dispute for India but a test of the secular, democratic and federal nature of the Indian Republic.

Since June 11, 2010, the Kashmir valley has been in turmoil with continuous mass protests. The feature of these protests was the participation of youth who were protesting by throwing stones at security forces. One hundred and eleven people died due to police firings and other police actions and many more suffered injuries. Most of them were below 25 years of age. The protests were sparked off after reports of a false encounter in which three villagers were killed after being taken to the Line of Control and shown to be militants crossing the border. The protests intensified with each death due to police firing, drawing in women and children too. The main force driving these protests were the youth. These mass protests graphically illustrated the deep sense of alienation of the people from the Indian State. At no time has the gulf between India and the Kashmiri people been so wide. This serious situation calls for an examination of the entire Kashmir problem and the Party has to spell out its approach to the issue.

¹ Adopted at the Central Committee Meeting, November 19-21, 2010.

BACKGROUND

The princely state of Jammu & Kashmir consisted of the present state of Jammu & Kashmir which is part of India and the Pakistan administered part of Kashmir. Within J&K there are three distinct regions, the Kashmir valley, which has a population of 54.77 lakhs, Jammu, which has a population of 44.3 lakhs and Ladakh which has a population of 2.36 lakhs. On the Pakistan side there are the Muzaffarabad region and the northern areas which consist of Baltistan-Gilgit and Hunza.

The Maharaja, Hari Singh, was not willing to accede to India. He favoured keeping Jammu & Kashmir as an independent state. Hence, by August 15, 1947, no decision was taken. The National Conference under the leadership of Sheikh Abdullah was fighting against the feudal rule. This movement was part of the anti-feudal, anti-imperialist movement of the time. Sheikh Abdullah was elected the president of the All India States Peoples' Conference while in jail for leading the quit Kashmir struggle.

It was only when the raiders from Pakistan consisting mainly of Pathans from the North West Frontier Province attacked and reached the outskirts of Srinagar that the Maharaja agreed to sign the Instrument of Accession. The people of Kashmir valley who were with the National Conference fought against the invading forces. The Indian Army was airlifted to Srinagar and the armed raiders driven back.

It was in these circumstances that the Constituent Assembly which was drafting the Constitution incorporated Article 370 in it. This article provided a special status to J&K different from the other states of the Indian Union. J&K was to have its own Constituent Assembly to draft its constitution. The new J&K Constitution provided for a Sadr-e-Riyasat (President), a Wazir-e-Azam (Prime Minister) and its own flag. J&K was provided wider autonomy and the subjects on which the Union government could

legislate and decide on J&K were restricted to defence, foreign affairs and communication. Residuary powers were to be vested with the J&K legislature.

The Delhi Agreement signed in 1952 between the representatives of the Union government and the Kashmir government defined certain other features of this special status. On the power to proclaim 'emergency' under Article 352 which was being insisted upon by the Union government and opposed by the state it was decided that Article 352 would be modified in its application to Kashmir by stating that it could be proclaimed in the state with the request or with the concurrence of the state government. Further, it was agreed that Article 356 and 360 need not be applicable to the state.

Though the Jammu & Kashmir Constituent Assembly adopted a motion approving that agreement and the parliament of India also accepted it, the implementation of the agreement did not take place.

The rift between Sheikh Abdullah who was the prime minister of J&K and the Centre increased from then onwards. The Sheikh was arrested in August 1953 on the grounds that he was aiming for the independence of Kashmir. He was released from detention only in 1964 and subsequently rearrested again in 1965. The prolonged detention of the Sheikh and his colleagues resulted in widespread discontent among the people.

The Sheikh Abdullah government implemented land reforms. This was a historic first in the country and it consolidated the mass base of the National Conference. However, other problems arose. In Jammu, the Praja Parishad, the precursor to the Jana Sangh, began an agitation against Article 370 and the Delhi Agreement and demanded full integration with India. The seeds for a communal divide were being sown.

DISPUTE WITH PAKISTAN

With the military operations to clear the Valley of the Pakistani raiders, the Pakistani army had also entered into the existing PoK. India approached the United Nations Security Council for a resolution of the dispute. A ceasefire was declared, which, with minor adjustments, today is the Line of Control. The security council set up the United Nations Commission for India and Pakistan. The Indian government had told the security council that once peace and normalcy are restored and the area demilitarized, a plebiscite should be held to ascertain the wishes of the people. This was in line with the stand taken by the Indian National Congress that the people of the princely states should decide their future and not their rulers. Lord Mountbatten, the Governor General in reply to the request of the Maharaja for acceding to India had stated that “It is my government’s wish that, as soon as law and order have been restored in Kashmir and its soil cleared of the invader, the question of the state’s accession should be settled by a reference to the people”.

During the subsequent developments when the conflict between India and Pakistan over Kashmir increased, the question of a plebiscite was rejected by India citing the continuing military presence of Pakistan in the Pakistan administered Kashmir.

In the international situation prevailing then, the onset of the Cold War led to the United States and UK supporting the Pakistani stand for a plebiscite as per the security council resolution of 1948 and the Soviet Union supporting the Indian stand of opposing it. In the security council, on different occasions the Soviet Union vetoed resolutions calling for the implementation of the security council resolution. The United States was particularly active to see if Kashmir could become an independent State, which would serve its geopolitical interests.

The subsequent history of Kashmir is a history of the denial of democracy. It is a history of broken promises and commitments and the inability of the Indian ruling classes to recognize that J&K has a special status in the Indian Union given its history at the time of Independence and Partition.

When Partition occurred and the communal conflagration engulfed the whole of north western part of the united India, with the epicentre of the communal violence being the united Punjab province, the Kashmir valley was free from any such violence. By October 1947, Jammu saw widespread communal violence but the Valley remained immune. This is mainly due to the unique cultural and social outlook of the Kashmiris which is known as Kashmiriyat. Though predominantly Muslim, the Kashmiri people practise a religion which is tolerant and influenced by Sufism. The small Kashmiri Pandit population in the Valley coexisted peacefully with the majority community. The movement led by the National Conference against the Maharaja was secular in nature. The assault by the raiders from Pakistan was seen as a threat to the identity of the Kashmiri people and they rose against the raiders to defend their Kashmiriyat. India earned the goodwill of the people by going to their help. But the urge of the Kashmiri people to preserve their own identity and way of life in the face of continuous violations of the commitments made has been the root cause for the sentiment of “azadi”.

The Indian State which initially recognized this special status for J&K refused to maintain this position. After 1953, steadily the process of centralizing and denying autonomy for the state began and advanced throughout the sixties, seventies and eighties. Article 370 was subverted and misused to eliminate most aspects of the autonomy accorded to the state. The Constitution Application to J&K Order of 1954 took subjects in the Union list out of the purview of the state legislature and not just those mentioned

in the Instrument of Accession. Following this, there were 42 Constitution (Application to J&K) orders extending the scope of the Central intervention and laws which were not envisaged either at the time of the adoption of Article 370 or the Delhi Agreement of 1952. Only a few of the amendments can be justified – based on the democratic and federal principle; bringing the elections in J&K under the purview of the Election Commission of India and the judicial system under the purview of the Supreme Court are two such instances.

The extent of the misuse of Article 370 to encroach on the state's powers can be seen from one of the measures taken. In July 1986, the President made an order under Article 370 extending to the state Article 249 of the Constitution in order to empower parliament to legislate on a matter in the state list on the strength of a Rajya Sabha resolution. "Concurrence" to this was given by the Centre's own appointee, Governor Jagmohan. This sort of overriding the states list cannot be done with regard to other states.

Thus, from a special status, Jammu & Kashmir was eventually deprived of even those rights and powers which are given to other states.

Successive Congress governments were responsible for this denial of autonomy and scuttling of the spirit of Article 370. In order to accomplish their drive for centralizing power and to establish their narrow political interests the Congress party had once subverted the National Conference itself and forced it to convert into the pradesh Congress committee.

Even after Sheikh Abdullah compromised and came to an agreement with the Congress party which was incorporated in the Sheikh Abdullah-Indira Gandhi Accord of November 1974, the limited assurance given in that agreement was not fulfilled. There was a reference in the 1974 agreement to "sympathetically considering amendments or repeal of some category of central laws extended to the state after 1953 as the state legislature decides". Even this was not done.

DENIAL OF DEMOCRACY

Accompanying the erosion of autonomy has been the denial of democracy and the suppression of democratic rights in the state. From the period of the prime ministership of Bakshi Gulam Mohammed, falsification of elections became the norm. Rejection of nominations of opposition candidates was widespread. The elected government of Farooq Abdullah was toppled in 1984 by encouraging defections and a puppet government was set up with G.M. Shah as the chief minister. That period saw mass unrest resulting in curfew for weeks and many people getting killed in police firings.

Once Farooq Abdullah compromised and decided to join hands with the Congress, the 1987 election was rigged blatantly. At that time, the main opposition was being posed by the Muslim United Front. Many of those who contested and were part of the Muslim United Front later on joined the separatists and some of them took to armed struggle.

The tenure of Jagmohan as Governor twice between 1984 and 1989 was marked by the blatant rigging of the 1987 election and the brutal police firings on the funeral procession of the religious leader Mirwaiz who was killed by the extremists. Forty-five people were shot dead. Jagmohan later joined the BJP. He was totally against Kashmiri identity.

RISE OF INSURGENCY

The growing signs of alienation and the anger against the Indian State was fully utilized by the Pakistan-backed forces. One strand in the militancy was led by the JKLF which resorted to armed struggle with the slogan of “azadi” (independence). The Islamic militants’ strand was represented by the Hizbul Mujahideen which was the armed wing of the Jamaat-e-Islami. Over a period of time, the JKLF was eliminated and the Hizbul Mujahideen

became dominant. The international situation at that time and the developments in the region also had an impact. With the withdrawal of the Soviet armed forces from Afghanistan in 1991, thousands of militants were deployed to Kashmir. Infiltration of these hardcore militants and Kashmiri boys who had crossed over, provided the main strike force for militancy in the Valley. This was a period when Jammu & Kashmir was convulsed by terrorist violence by militants and counter-insurgency operations by the armed forces. Thousands were killed in this violence in the 1990s.

Gradually the rise in operations of the hardcore pro-Pakistan extremist groups like the Harkat ul-Ansar, the Lashkar-e-Toiba, etc., and the declining role of the indigenous militants saw the people of the state being fed up with the gun culture and violence.

POSSIBILITIES FOR DIALOGUE

Separatist forces formed a political platform known as the All Parties Hurriyat Conference in 1993. Later they split into two, with Syed Shah Geelani heading a rival faction. With the moderate sections stating that they favour a negotiated settlement, the opportunity for the political process of negotiations and dialogue opened up. Various efforts were made for opening the line of negotiations with the separatists.

During the Vajpayee government, the Indo-Pakistan dialogue began. Under the UPA government the composite dialogue proceeded. During these years various talks were held with the separatist leaders but no progress could be made as the government of India had no political agenda to offer. The last effort being the round-table talks by the UPA government which did not see the participation of the separatists.

The progress made in 2006-07 stemmed from the confidence building measures which were undertaken by India and Pakistan. The opening of the Srinagar-Muzaffarabad highway and the Poonch-Rawalkot bus service was welcomed by all sections in

J&K. But this process of dialogue received a setback after the Mumbai terror attack in November 2008 by extremists from Pakistan. Serious efforts have to be made to resume the stalled Indo-Pakistan dialogue.

REGIONAL & COMMUNAL DIVIDE

The real and perceived discrimination of the Jammu region vis-à-vis the Valley, which was not addressed properly, became a handy tool for the Hindu communal forces. The RSS exploited it and even advocated trifurcation of the state on communal lines. Though this has been there right from 1947, the recent growth of extremist violence and the rise of Islamic fundamentalism in the Valley which took a toll on Kashmiriyat, became a contributory factor for the alienation of Jammu from the Kashmiri mainstream. Within Jammu, Hindus constitute 57 per cent of the population, Muslims are 37 per cent and Sikhs constitute 6 per cent. The assertion of the Hindus in Jammu is not shared by the Muslims who mainly populate the Rajouri, Poonch and Doda areas.

In the Ladakh division, comprising Leh and Kargil districts, there are 52 per cent Buddhists and 48 per cent Muslims. Both the districts have separate autonomous hill development councils which have been delegated substantial powers and have proved a good example to follow. Leh district is, however, demanding Union Territory status, while Kargil wants to remain with Kashmir, maybe with more powers to its autonomous council. Here also a communal division has been created between the Buddhists and Muslims which was deliberately heightened during the period of BJP rule at the Centre.

Migration of the Kashmiri Pandits from the Valley in 1990 was a big setback to the Kashmiri ethos, and their settling in Jammu as refugees was used by the Hindu outfits to whip up communal feelings. After so many years the Pandits have still not been able to return.

The Amarnath shrine land controversy which erupted in 2008, in which the BJP appointed Governor, Lieutenant General Sinha, played a provocative role, has hardened the communal division between Jammu and the Valley. The agitation and the counter agitation disrupted the ties between the peoples of the two regions.

Just as communal feelings have been aroused in Jammu there is the disturbing growth of Islamic fundamentalism in the Valley. Many organizations are working to spread fundamentalist views which are socially conservative and that also has a political dimension. This trend is eroding the Kashmiri identity which was so integral to the outlook of the Kashmiri people.

Tackling the problem of Jammu & Kashmir also includes the dimension of how to redress the balance between the three regions and different groups within these regions and to provide for a democratic and secular framework, which can keep the unity of the state.

Various proposals were floated all through the post-1948 period to solve the J&K problem by bringing about a partition on communal lines. The first proposal was by Owen Dixon, the UN mediator. The Dixon plan proposed to detach the Kashmir valley and allocate it through a plebiscite. The rest of the state of Jammu & Kashmir was to be divided between India and Pakistan on communal lines. Later a proposal came from some source in Pakistan for a division of the state using the Chenab river as the boundary. The Chenab plan would have also meant division of the state on communal lines. Some of the earlier plans proposed by US think tanks were also on the lines of a communal division of the state.

PROPOSALS FOR POLITICAL SOLUTION

The National Conference government had earlier appointed a state autonomy committee. Its report was endorsed by the state legislative assembly and legislative council in June 2000 by a resolution which

was forwarded to the Central government for action. The Vajpayee government summarily rejected the resolution. This report and its recommendations could have been made the basis for negotiations on the question of restoring autonomy and expanding it for the state.

The PDP set out a self-rule proposal for the state in 2008. To contrast their stand from the National Conference, they say autonomy is a limited concept. The plan proposes self-rule for the different regions of the state of Jammu & Kashmir and also for the different regions in the PoK and making the border soft for mutual relations.

The isolation of the armed insurgency opened up the possibilities for looking for a political solution. This got a fillip in 2006 during President Musharraf's tenure when back-channel talks were being held between emissaries of the Pakistani and Indian sides. Prime Minister Manmohan Singh made the statement that borders cannot be changed but they can be made irrelevant. Musharraf responded by agreeing that it will not be possible to change territorial boundaries. He suggested a four-point formula. The various units in the Jammu & Kashmir state would become self-governing units. There can be a joint mechanism of India and Pakistan to oversee common subjects and areas.

The reality is that though at various times promises were made by leaders of the Central government, not much progress has been made towards a political settlement. Narasimha Rao had promised that the "sky is the limit" as far as autonomy is concerned. He could settle for anything less than independence. Deve Gowda had also promised, during the UF government, maximum autonomy. The Congress party has been intrinsically hostile to the idea of granting more autonomy to Jammu & Kashmir. All its actions when in government at the Centre have been to deny and erode autonomy. This has been one of the major causes for the deterioration in the situation and the alienation of the people. The BJP with its Hindutva ideology cannot even accept that J&K has

a special status. It has been demanding the abrogation of Article 370 itself.

OUR PARTY'S APPROACH

Our Party has held the position from the 1970s that the erosion of autonomy within the purview of Article 370 has been harmful. We have seen the question of Jammu & Kashmir as a test case for Indian secularism and democracy. We have sought to situate the J&K problem in the framework of the Indian Union which can accommodate a special status for J&K which embodies the aspirations of the people.

In successive Party Congresses, particularly from the 14th Congress in 1992, the Party has called for the provision of maximum autonomy to the state of Jammu & Kashmir so as to assure the people of Kashmir that their identity will be protected. We had also advocated that regional autonomy be provided to the regions of Jammu & Kashmir within the framework of this overall autonomy. As the 17th Congress Political Resolution pointed out, "Kashmir is not just a territorial dispute as far as the Indian Union is concerned. It is a test of the secular nature of the Republic and whether the commitment made to the Kashmiri people, who rebuffed the Pakistani raiders in 1947 and acceded to India will be fulfilled."

In the 18th Congress of the Party we had also said in the Political Resolution that "Efforts to restore people to people relations between the two parts divided by the LoC must be encouraged. The steps taken by the India-Pakistan dialogue of a ceasefire on the LoC and reduction of military forces should be accompanied by suitable political measures". Along with these political steps, we have been demanding that the Centre help to assist in the revitalizing of the economy with special emphasis on creating employment for the youth.

Taking note of the more recent developments, the 19th Congress

Political Resolution appreciated the steps taken of opening transport and trade links across the LoC. It also noted as positive, the announcement by President Musharraf that a plebiscite or redrawing of boundaries cannot be attempted. He proposed “self-governance” of the various units on both sides of the LoC. We also took into account the various proposals for a political settlement which would involve India, the people of Jammu & Kashmir and Pakistan.

The 19th Congress Political Resolution stated, “The political settlement should build on the various proposals including autonomous units of the various regions on both sides of the LoC. It is imperative that the major political forces acknowledge that the concept of autonomy lies at the heart of the solution.” (Para 2.39)

WHAT SHOULD BE THE PRESENT APPROACH?

The consistent stand our Party has taken is that Jammu & Kashmir has a special status which was reflected in the adoption of Article 370 of the Indian Constitution. At the heart of the matter lies how in letter and spirit its autonomy and special status can be restored. Our concept of maximum autonomy is built around the necessity for a political agreement, which should be acceptable to the people, whereby the state of Jammu & Kashmir would remain as part of the Indian Union but by fulfilling the commitment made to the state and the people in 1948.

The entire geopolitical situation has changed in the last two decades. A solution to the Kashmir problem has also the dimension of India and Pakistan coming together to settle long standing disputes.

Immediate steps have to be taken to restore peace and a semblance of normalcy for the political process of dialogue to begin.

This can be done by first changing the nature of the security regime and structures in the state. Insurgency and militancy have

receded. Infiltration has gone down. At present there are seven lakh troops and paramilitary forces stationed in J&K. There has to be a reduction in the military forces and redeployment of the armed forces to concentrate on the LoC and the border areas where infiltration can take place. The people in the Valley want to be free from the oppressive security structures and controls. The Disturbed Areas Act and the Armed Forces Special Powers Act need not be there in many parts of the state where the army is not operational.

The excesses and violations of human rights by the security forces have to be investigated and the guilty brought to book. Without this, confidence cannot be restored among the people. The recent mass protests led by the youth has been tackled from purely a law and order angle resulting in the unacceptable loss of many young lives. The Central and the state governments have to make amends for this. The “policing” of the people as if they are tackling armed insurgency should stop.

Urgent steps need to be taken for revival of economic activities and for generating employment particularly for the youth.

Given the divide between Jammu and the Valley, the genuine grievances of the people of Jammu should be addressed. The dignified return of the Kashmiri Pandits to the Valley should be taken up as part of the restoration of peace and normalcy.

BASIS OF POLITICAL SOLUTION

Our Party would like the internal dialogue with Jammu & Kashmir to proceed on the basis that maximum autonomy should be given. The three regions of the state, Jammu, the Valley and Ladakh, should have autonomous structures. This will entail changes in the constitutional and legal scheme which can begin by revising the orders and laws, based on Article 370. Ultimately, a fresh political framework should emerge.

The second dimension is the India-Pakistan factor. The

dialogue in 2006-07 had created a favourable climate for dialogue within Jammu & Kashmir. The ceasefire decision taken in 2007, the opening of the road and transport links made a good beginning. The resumption of the Indo-Pakistan dialogue will eventually have to deal with the question of Kashmir too. Here, what was discussed and the stage reached in the talks during the presidency of Musharraf, should be taken forward. The special status of Jammu & Kashmir on the Indian side can be replicated across the LoC and the realization that without changing the borders a settlement is possible, should be taken to fructification.

As and when the Indo-Pakistan dialogue advances, more confidence building measures can be taken to further encourage people to people movement and contacts across the LoC. This will include further liberalization of movement on the Srinagar-Muzaffarabad highway, opening new road routes across the LoC, and stimulating trade and other relations.

At present the gulf between the people of Kashmir valley and the people of India is vast. The people in the rest of the country are being fed various stereotypes about the Kashmiri people. The BJP and the communal forces have been depicting the Kashmiris as secessionists, terrorists and pro-Pakistan as they are Muslims.

It is necessary to campaign amongst the people about the real nature of the problem in Jammu & Kashmir. We have to highlight the fact that the people of the Valley had fought against the raiders from Pakistan and opted to join the Indian Union. These people have been alienated by the history of broken pledges and commitments. It is necessary to have a political solution to the problem of Kashmir by addressing the causes for the alienation that the people of Kashmir feel. The solution has to be within a democratic, secular and federal framework. Providing a special status to J&K and provision of maximum autonomy will be the way forward.