

Letter to Dr. Karan Singh, Chairman of J&K State Autonomy Committee

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Dr. Karan Singh, MP
Chairman
Jammu & Kashmir State Autonomy Committee
J&K House, Chanakyapuri
New Delhi 110021
INDIA

Your Excellency:

My name is Vijay Kumar Sazawal. I was born during the reign of Maharaja Hari Singh in Srinagar. My parents, Mr. and Mrs. Chuni Lal Sazawal, own our family house in Wazir Bagh, Srinagar, and lived there until 1990 when they became refugees in their own country. My father subsequently died despondent and displaced during one of the cruel heat spells in Delhi. My wife's family has fared no better and they too are displaced from their home and hearth in Karan Nagar, Srinagar.

I am currently a resident of the United States of America and national president of the Indo-American Kashmir Forum (IAK) consisting of Kashmiri Pandits who lost their close relatives, homes, pride and dignity in the armed Islamic insurgency that has ravaged our paradise. We work closely with our affiliates, the Indo-Canadian Kashmir Forum (ICKF) based in Ottawa, and the Indo-European Kashmir Forum (IEKF), based in London and Geneva. As elected coordinator of the three organizations, I am providing the following memorandum on behalf of IAKIF, ICKF, and IEKF.

We are very concerned with the creation of the Jammu and Kashmir Autonomy Committee, and question motives behind its formation as well as doubt its utility in light of the current constitutional framework that exists between the state and the rest of India. Specifically, this memorandum will address our concerns on following issues:

- (a) Significance or insignificance of the 1952 Agreement that was usurped by the signatory himself (M M. Afzal Beg) when he signed the Delhi Accord on November 13, 1974 (usually referred as the 1975 Accord).
- (b) True intentions of the 1952 Agreement which was ratified by the State Constituent Assembly on August 19, 1952 and selectively acted upon by the Assembly on August 21, 1952 and subsequently relegated into the dustbin of history.
- (c) Significance of J&K Constitution as enacted in 1957 over the prior state Constitution in effect during 1947 through 1952.
- (d) Autonomy as it exists currently in the state and its impact on development of the state in general, and on state minorities in particular; and finally,
- (e) True global designs behind the autonomy issue that is being fed by personal opportunism at the expense of India's territorial integrity and pluralistic character.

Let me address these one by one.

The significance of the 1952 Agreement must be viewed in light of the geo-political situation that exists today. No agreement is endowed with intrinsic permanency, and can be effective or serve its purpose only until it is either relevant or replaced in time by a successor agreement. In Kashmir, numerous agreements have been made between the state and the center, which in many cases replace prior agreements and establish modalities for day to day interface between federal and state institutions. The 1952 Agreement, which addressed political and constitutional relationship between the state and the Union, has been superseded by the 1975 Accord which represents the latest arrangement on political and constitutional issues agreed by the two parties. A return to the 1952 Agreement is impossible given the changes that have taken place in the subcontinent over the 23 year gap between the two agreements. The situation is not unlike the relevance of the Shimla Agreement over prior UN resolutions that were

superseded by the 1972 bilateral agreement. If India agrees arbitrarily to overlook the 1975 Accord and go back to the 1952 scenario, then it had better be prepared to similarly overlook the 1972 Shimla Agreement and go back to 1948 UN resolution. There is even a stronger reason for accepting the 1975 Accord as it was negotiated by the same leader and people who were involved in 1952. Why would they agree to a new agreement if the 1952 arrangement were still applicable? Obviously, even Sheikh Mohammad Abdullah agreed to the irrelevance of the 1952 scenario. Hence, we contend that autonomy as defined by 1975 Accord should be the basis for your committee deliberations, though as we will discuss later that too has significant negative impact on certain sections of Kashmiri people, particularly minorities.

Let us take a look at the 1952 agreement. What was its real need considering that as early as in 1949 the Indian Constituent Assembly had agreed to Article 306A (subsequently adopted as Article 370) that provided constitutional autonomy to Kashmir at the explicit request of the J&K government headed by S. M. Abdullah? And of course there was the Instrument of Accession itself. The speed with which the state Constituent Assembly adopted a portion of the agreement and chose to ignore other elements (a fact that is reinforced from letters of Prime Minister Nehru to Prime Minister Abdullah in late 1952 and early 1953) indicates clearly that it was not autonomy but abolition of the monarchy that was the true reason for seeking this agreement which obviously had to be garnished with other entries so as not to appear obvious. Thus, we see no purpose in the 1952 Agreement other than an affirmation of the reality that monarchy is dead in Kashmir. Other than that, seeking a 1952 status quo in so far as autonomy is concerned is meaningless and irrelevant.

Recognizing the narrow purpose of the 1952 Agreement, one can not however dispute the fact that while by itself it did not do much, the agreement did provide a building block in developing the state's political and constitutional framework, beginning with the Instrument of Accession and culminating in the 1975 Accord. Indeed, the continuity of that process is extremely important in understanding the importance of Article 370 and in affirming the 1957 Constitution that replaced the Maharaja's Constitution of 1939. Would resetting the clock to 1952 mean a return to the 1939 Constitution (with monarch replaced by a feudal 'elected' leader)? What about the 27 Indian enactments that were consented by and applied to J&K between 1948 and 1951 in terms of long term needs and benefits to the People of the state? Even more importantly, what happens to the vision of the 1957 state Constitution promised and which remains unfulfilled to date. The preamble states: "We the people of the state Jammu and Kashmir, having solemnly resolved, in pursuance of accession of this state which took place on the twenty-sixth of October 1947, to further define the existing relationship of the state with the Union of India as an integral part thereof, and secure to ourselves, justice, social, economic and political; liberty of thought, expression, belief, faith and worship; equality of status and of opportunity and to promote among us all, fraternity assuring the dignity of the individual and the unity of the nation; in our Constituent Assembly, this seventeenth day of November, 1956 do hereby adopt, enact and give to ourselves this constitution."

Indeed this was the hope, of the minorities and others in 1947 who joined whole heartedly in this unique political experiment on the Indian subcontinent, only to be disillusioned because some sections of the populace (primarily ruling valley Sunnis) have different agenda. If the state government wants to re negotiate the terms of autonomy then we should go back to the post accession period in 1947 and start fresh within the Indian Union to allow various ethnic and geographical entities in the state negotiate new terms that address individual aspirations of each community.

Today Kashmir has substantial autonomy in comparison with other states in the Indian union. This autonomy is manifested through Article 370, 1957 State Constitution (the only Indian state with a separate constitution) and the 1975 Accord. In justifying additions or changes to the quantum of autonomy to be provided, one has to assess political, economic and social benefits to the state as against the situation in other states that have not been given similar privileges. It does not require a guess to say that indeed the privileges have been abused in Kashmir to the point where the state is politically, fiscally and socially weak or underdeveloped. In making this assessment I am not referring to the current situation that took a turn for the worse in 1989- Even in relative tranquil 1970's, the state received substantial federal subsidies, Moines were misappropriated for questionable projects that only increased graft and corruption, ecological degradation occurred due to massive deforestation : commercial exploitation of wet lands, political adversaries were dealt with harshly, and minorities, particularly Pandits, started leaving the valley in greater numbers. Unfortunately around the same time there were similar events taking place in the Soviet Union where minorities (Jews) were leaving, not by force but out of sheer desperation, because the ruling class (communist majority) were denying jobs to them and engaging in religious persecution. What happened to Jews in the Soviet Union is not unlike what led to slow migration of Kashmiri Pandits from Kashmir since 1947, and at an accelerated pace since 1975. The burden of flight was not due to forcible eviction but by subtle denial of full economic, religious and cultural freedoms. So a plan must be made that if the current autonomy has ill served the state and has been particularly harsh on the minorities, what would happen with additional autonomy that the ruling party is clamoring for? The thought is frightening and bodes ill for India and loyal citizens who see no reason to distinguish one citizen of the country from the other. What the ruling party in Kashmir is doing is what can be aptly described as "cafeteria style integration" where the state picks and chooses its relationship with the center. This urge must be resisted at all costs.

Given the realities stated above, one has to wonder what is motivating the state government in pursuing this ill conceived and advised process. Is it merely implementing an election promise, or is it more a case of demagoguery of the worst kind? But even worse, is this exercise taking place at the behest of foreign powers, who not having secured the "third option" in Kashmir are trying their best to settle for "two and-a-half option"? The two scenarios that have come to our attention are ones that have either a major Islamic fundamentalist nation behind it or the leading western superpower. In the first scenario, the real reason going back to 1952 is to replace the current secular state constitution with an Islamic constitution that converts Kashmir into an Islamic sub-state. Giving credence to this scenario is the state's reluctance to shut down Islamic schools (madrassas) or Islamic Trusts in spite of paying a lip service to do so. Furthermore, the valley leadership has engaged in slow Islamization of the state and its society that began right after 1947 and continues even today. This scenario settles well with Islamic fundamentalists behind the current armed insurgency, and even some non-militants in Kashmir who believe the state will receive significant infusion of (oil) money for development if Kashmir turns into an Islamic enclave. In the second scenario, the major superpower is using diplomatic means to ensure the pseudo-independent status of Kashmir by tacitly supporting the autonomy moves by the state. Giving credence to this scenario is the recent formation of the Kashmir Study Group (KSG) in the United States, that is fronted and financed by a Kashmiri Muslim from the valley but run by well known members of the U.S. foreign policy, military and security establishments. This group is diligently working on securing endorsements from the state and central officials of India to further its ambiguous mission. We have reasons to believe that the foreign power will exercise its wishes through this group and try to weaken India's territorial integrity through subtle efforts of the KSG.

In summary, our organizations representing overseas Kashmiri Pandits vehemently reject the notion that the J&K state needs additional autonomy. Specifically, we devalue the significance of the 1952 Agreement in light of the successor instruments and geopolitical changes that have occurred in the subcontinent since 1952. Furthermore, we contend that existing autonomy has been harmful to full development of the state and its subjects, particularly the minorities, and efforts should be directed instead of reducing autonomy to bring the state in line with other thriving states of the Indian union. Lastly, we are apprehensive about the scope and timing of this exercise, wondering if the current autonomy effort is getting encouragement from foreign interests who are unable to accept Kashmir's integration with India and are still looking for ways and means to weaken India's territorial integrity.

We have one additional closing comment. We strongly feel that the terms of reference of the committee are grossly inadequate in fully assessing all dimensions of the autonomy issue. Autonomy and constitutional protections for all citizens, particularly the minorities, are closely linked together, and one can not address one without addressing the other. We therefore urge you to request the state government to broaden the terms of reference in order to allow the committee to develop a special framework that ensures legal and possibly physical protections to minorities to prevent abuse of power that is prevalent under autonomy.

I thank you for giving us an opportunity to address this important issue. We hope our comments will be taken in a constructive manner and given full consideration in your deliberations. Please do not hesitate to contact me if you should need additional information.

With my best regards,
Dr. Vijay Kumar Sazawal
 President, Indo-American Kashmir Forum (IAKF)
 Washington, DC
 January 21, 1997

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