CHAPTER-VI

INDIRA-SHEIKH ACCORD OF 1975 AND ITS IMPACT

The events that took place during and after the Indo-Pak war of 14 days in 1971 had a pronounced psychological impact on Sheikh Abdullah. The emergence of Bangladesh served as a catalyst for a marked shift in the attitude towards India…. If west Pakistanis were capable of meting out such treatment to fellow Muslims of East Bengal what assurance was there that similar behaviour would not be displayed elsewhere?\(^1\) Victory of India in the war convinced him that India has emerged as a stronger country in the subcontinent. Sheikh Abdullah began to realize that Mrs. Indira Gandhi, victorious and determined as she appeared after the war, and especially after the dismemberment of East Pakistan from West Pakistan, would not hesitate to curb and control him.\(^2\)

Another factor which changed the attitude of Sheikh Abdullah and his Lieutenant Mirza Afzal Beg was Shimla Agreement of 3\(^{rd}\) July, 1972 between India and Pakistan, where by the two countries agreed to sort out their problems peacefully through bilateral discussions. This agreement made the issues in Jammu and Kashmir an internal matter for India.\(^3\) Thereafter, Sheikh Abdullah realized that his negative attitude was swerving no useful purpose and in fact had led to his exclusion from the mainstream of the State’s political life. His advancing age may have been another factor influencing his attitude towards reconciling to the finality of the state’s accession with Indian Union.\(^4\)

The death of Ghulam Mohammad Sadiq also altered the situation as his successor Syed Mir Qasim was submissive. Immediately after assuming chief ministership, Syed Mir Qasim, in a meeting held at Jammu and Kashmir guest house Delhi, which was attended by D.P. Dhar and Mufti Mohammad Sayeed and others, took some important decisions regarding party politics and coming elections. The main decisions taken were:

(i) The politics of liberalization was to be contained through forging alliances with Jammat and Moulvi Farooq.

(ii) The Ghulam Mohammad Sadiq’s group was to be politically liquidated through subtle manoeuvres in the elections.
iii) Extremely anti Sheikh Abdullah splinter group to be inducted into the congress - Abdul Rahid Kabli and Moulvi Iftikhar Ansari and others.5

(iv) Meanwhile the secessionists had announced their intention of participating in the general elections of 1972. The main leaders of the secessionists were Moulvi Mohammed Syed Masoodi, Ghulam Mohi-ud-Din Kara and Mubarak Shah. Two leaders Ghulam Mohi-ud-Din Kara and Moulvi Sayed Masoodi made a declaration on Eid festival at Idgah Srinagar about their policy of participation in elections. Further Ghulam Mohi-ud-Din Kara went to Delhi to call on Sheikh Abdullah and convince him about the new strategy to be adopted. It surprised state chief minister Syed Mir Qasim and his coterie, they felt unnerved and uneasy, took a decision in huff to arrest Ghulam Mohi-ud-Din Kara.6

Syed Mir Qasim in alliance with Jamat-i-Islami and Moulvi Farooq thwarted this move of Moulvi Mohammad Sayed Masoodi, Ghulam Mohi-ud-Din Kara and others to participate in the elections. They had manipulated to eliminate Sadiq’s group in the elections.7

In this way state government under Syed Mir Qasim did not allow leaders of Plebiscite Front and Awami Action Committee to participate in State Assembly elections of March, 1972.8 Finally the elections to the state legislative assembly were held in March 1972 in which out of 74 seats the State Congress won 57, the Jammat-i-Islami-5, the Jana Sang-3 and independents-9. Once again Congress party returned to power.9

By the encouragement of Syed Mir Qasim, five members of Jammat-i-Islami were elected to the state assembly. It was for the first time in the post independence history that an opposition party as weak as Jammat-i-Islami as it then was, had won five assembly seats in the valley. This is how Mulsim fundamental politics was introduced and penetrated into the public life in the valley.10 The process of consolidation of Jammat-i-Islami had begun. Syed Mir Qasim’s Education Minister, Abdul Gani Lone (A pro Jammat Minister) packed educational institutions, scholars and colleges with thousands of Jammat cadre as teachers. Generous aid was provided to Jammat run schools. Jammat legislators’ writ was running large over the bureaucracy, developmental projects and administration.11
Another ally of Mir Qasim was Moulvi Farooq whose main function and assignment was to rebuke and castigate Sheikh Abdullah in his public utterances.\textsuperscript{12} On the other side Sheikh Abdullah was prepared to accept finality of accession on 10\textsuperscript{th} March, 1972, when results of election to the state assembly were declared, Sheikh Abdullah stated “my difference with the Government of India is not on the issue of accession but on the quantum of autonomy.”\textsuperscript{13} This formed the basis for the final phase of his negotiations with the Government of India. Before this, Sheikh Abdullah’s Chief Lieutenant, Mirza Afzal Beg, issued a statement in which he had interalia asserted that the question internal autonomy for Jammu and Kashmir was a matter of discussion between the people of the state and Government of India and Pakistan had nothing to do with it. “The fact of State’s accession was irrelevant to us because we have lent our support to the Instrument of Accession of 1947 with all its implications.”\textsuperscript{14}

Thus, after election of state legislative assembly, Sheikh Abdullah assured the central government that he had no differences with Union government regarding accession. He only wanted Article 370 to be maintained in its original form that means the status it enjoyed in 1953 was restored and guaranteed against future erosion. He was prepared to enter into negotiations with Indira Gandhi.\textsuperscript{15}

In March, 1972 Sheikh Abdullah met a Russian emissary in Delhi to seek the Soviet mediation for ending the deadlock between him and the Government of India. Sheikh Abdullah’s not very rigid posture helped Moscow as well as some Indian leaders in convincing Mrs. Indira Gandhi on the need for a dialogue with the Jammu and Kashmir leader. Indirect part played by some Russian leaders, including Premier Kosygin in reducing the tension between the two sides was followed by informal meeting, firstly between Sheikh Abdullah and D.P. Dhar and P.N. Haksar, two trusted men of the Indian Prime Minister, Mrs. Indira Gandhi and later with Mrs. Indira Gandhi in the Indian Capital.\textsuperscript{16} As a result, restrictions were removed from the Plebiscite Front and Begum Abdullah, Mirza Afzal Beg and G.M. Shah were allowed to enter Jammu and Kashmir on 11\textsuperscript{th} May, 1972. By 5\textsuperscript{th} June, 1972 the state government also removed restriction on Sheikh Abdullah’s entry into the state of Jammu and Kashmir.\textsuperscript{17}

By 1972, Prime Minister Mrs. Indira Gandhi said, that she wanted a new chapter to open with regard to Kashmiri leadership. She had realized that a solution to
the domestic problems of the state could not be sought without Sheikh Abdullah. In pursuance of Government of India’s policy to secure the active cooperation and involvement of all democratic, secular and progressive forces in the country it was considered desirable to have a dialogue with Sheikh Abdullah. In the context Indira Gandhi said: “Sheikh Abdullah had played a notable part in the freedom struggle and in the accession of the state of Jammu and Kashmir to the Indian Union. He formed and headed the state government for a number of years after independence.”

Despite the differences which led to the subsequent estrangement it seemed clear from the public statements made by Sheikh Abdullah as well as personal talks with him that his commitment to basic national ideals and objectives had remained unchanged. He reaffirmed that the accession of the State to the Indian Union was final and irrevocable. His main area of concern was about the legal and constitutional changes made after August, 1953.

Accordingly, the Centre and State leadership continued to explore the ways to find a solution within the constitutional framework of India. On 19th June, 1972 Sheikh Abdullah returned to Srinagar after about 18 months of his externment from the State. He addressed a public meeting at Huzoori Bagh where he informed the people of his talks with Indira Gandhi he said: “The Prime Minister desired that we should turn a new leaf in the Indo-Kashmir relations and forget what happened in the past. Certainly I could not say ‘no’ to that.” He stressed that his talks with Mrs. India Gandhi were not on an official level. “We are old friends and naturally our talks were on that level. We revived old memories and incidentally, we talked about the situation in Jammu and Kashmir.”

In meeting at Huzoori Bagh, Sheikh Abdullah nominated Mirza Mohammad Afzal Beg for further negotiations with the Prime Minister’s representative G. Parthasarthy. Indeed on 16th June, 1972 Beg-Parthasarthy talks were initiated at Srinagar. Sheikh Abdullah was not alone to recognize the necessity of rethinking and reconciliation; the leadership in India too realised that his return to the active political scene would have a healthy impact on the politics of Jammu and Kashmir. The Central leadership was conscious of the fact that, in spite of all efforts, there was hardly any political stability in the state.
It had been the policy of the Government of India to secure the active cooperation and involvement of all such forces in the country which have faith in the basic principles of the Indian Political system. This faith was shown by Sheikh Abdullah by saying “The accession of the state of Jammu and Kashmir to India is not a matter in issue. It has been my firm belief that the future of Jammu and Kashmir lies with India because of the common ideals that we share.” It was in accordance with this policy that the Central government decided to have a dialogue with Sheikh Abdullah. Eventually, on 16th June, 1972 there began in Srinagar a series of talks between Mirza Afzal Beg and G. Parthasarthy.

Negotiations between the two sides had assumed much importance in the context of Sheikh Abdullah’s announcement that he favoured Jammu and Kashmir’s permanent link with the Indian Union and that he wanted maximum autonomy for the state with only Defence, Foreign affairs and Communications being the centre’s responsibility. In the initial stages of the dialogue, Sheikh Abdullah demanded the restoration of the constitutional status as prevailing in 1953 for the state of Jammu and Kashmir. In other words he pleaded for the repeal of a number of post 1953 enactments and presidential orders in relation to the operation of the emergency laws, imposition of the President’s rule and the extension of the jurisdiction of the Supreme Court, the Election Commission and the Comptroller and Auditor General to the State of Jammu and Kashmir. Also demanded change in designation of the Governor and the Chief Minister to their pre 1965 nomenclature of Sadar-i-Riyasat and the Prime Minister respectively.

However, these demands were not presented as a pre-condition for a political settlement, because the leaders of Plebliscite Front were conscious that any insistence on their part that these demands must be conceded, would have led to the breakdown of the dialogue which they did not like. Further, during the talks Mirza Afzal Beg demanded the dissolution of the State Assembly followed by early elections so that the new house identifies the laws which needed to be repealed. In this context Sheikh Abdullah in a Public meeting at Bandipora Srinagar said, “A new and a truly representative assembly be brought into being, alone should decide which of the laws made applicable to the state after 1953 should be retained.”

But the central leadership was neither willing nor in a position to accept all the demands and conditions put forward during the initial stages of the talks. If central
government accepted such demands that would mean the administration of the state since the exit of Sheikh Abdullah was not legal and that the elections held in the state were not fair and assembly, therefore, was not the true representative body of the people. Consequently, every action of the assembly after 1953, including the ratification of the accession in 1956, was invalid.\textsuperscript{29} From the international point of view, the demands if accepted would, “\textit{... weaken India’s position in the United Nations and give an opportunity to Pakistan to raise the Jammu and Kashmir issue.}”\textsuperscript{30}

No doubt the Union Government was willing to accommodate the Sheikh Abdullah and provide him with an opportunity to re-enter the mainstream of national politics. It was also in the interest of India to win over Sheikh Abdullah to its side to put an end to the instability prevailing in Jammu and Kashmir. But the central government could not afford to create the problems for itself at national and international level in trying to settle with Sheikh Abdullah. Keeping in view the national interests Sheikh Abdullah was told by central leadership that it would neither be possible to disturb the existing constitutional relationship between the Union and the state of Jammu and Kashmir nor would it be possible to dissolve the state legislature before it completes the normal tenure. However, he was assured that the government did not intend either to abrogate Article 370 of the constitution or ask for the scrapping of the Constitution of the state.\textsuperscript{31}

These two measures were deemed to be sufficient to assure him of the special position of the state in the Indian federal setup. Indira Gandhi made it clear at Srinagar in a speech to congress men that any agreement with Sheikh Abdullah would have to be such as would find acceptance both in the State Assembly and in the Indian Parliament. She also said that such an agreement would also provide safeguards for the people of Ladakh and Jammu. She told the opposition parties that there would be no going back on the changes made already in the political setup of Jammu and Kashmir.\textsuperscript{32} Sheikh Abdullah himself wanted to resolve the situation through negotiations and was optimistic about the talks. He changed his stand on plebiscite. In a press conference he said, “\textit{Who insists on plebiscite? Some other method could be found by all the parties concerned.}”\textsuperscript{33}

It seemed that Sheikh Abdullah and other members of plebiscite Front like Mirza Afzal Beg had realized the impossibility of going back to 1953 status. In order
to persuade the people that peace was now the only option left, Farooq Abdullah, living then in London, visited Mirpur, a small town in the Jammu region near the line of Control where he was hosted by plebiscite Front. He visited Poonch area, Muzaffarabad, Kotli and number of other places. At the convention, where his status was that of an observer, the view he heard repeatedly was that Jammu and Kashmir would vote for independence in a plebiscite and not for Pakistan and they wanted this conveyed to Prime Minister Mrs. Indira Gandhi and Sheikh Abdullah, who were than in the thick of negotiations.34

Among those seated on the dais at Mirpur were Hashim Qureshi, Maqbool Bhatt and Ananullah Khan (Later become famous as leaders of Jammu and Kashmir liberation Front). During that tour Farooq Abdullah had most significant meeting with Zulfikar Ali Bhutto. Regarding that meeting Farooq Abdullah said: “When I went to Rawalpindi in 1974 from England the entire bureaucracy of Pakistan and Zulfikar Ali Bhutto’s Secretary himself told me that a final solution has been arrived at; there can be nothing more what we (Pakistanis) have got (in Jammu and Kashmir) we are keeping, what they have got they are keeping and that is how it is.” Zulfikar Ali Bhutto confirmed this. Farooq Abdullah flew to Delhi where he briefed Indira Gandhi in the presence of P.N. Haksar then her Principal Secretary. He then left for Srinagar to meet his father.35

The task of negotiations was not easy for Sheikh Abdullah. A new good will might exist, but often goodwill is not good enough. Indira Gandhi had to legitimize in the eyes of the people, a settlement with a man who had been jailed for attempting secession by every Prime Minister of India, from his friend Jawaharlal Nehru in 1953 to his friend’s protégé Lal Bahadur Shastri in 1965 to his friend’s daughter Indira Gandhi.

On his side Sheikh Abdullah had to carry the people of Jammu and Kashmir, who lionized him precisely because the word surrender was not available his dictionary.36 In the beginning of 1973, the pro-Pakistan secessionist began reorganizing themselves to defeat Sheikh Abdullah more for a settlement with New Delhi. They accused the Sheikh Abdullah of having gone back on the self determination commitment and betrayed the people of Jammu and Kashmir. They did not want him to decide about the fate of the people of Jammu and Kashmir without their consent. Political groups like Awami Action Committee, Jammat-i-Islami,
Itehadul Muslimeen and Tableegul Islam were opposed to Sheikh Abdullah’s new Jammu and Kashmir line. Leaders of these groups stressed that Sheikh Abdullah had not been authorized by the people of Jammu and Kashmir to seek a settlement of the Jammu and Kashmir problem with the Government of India.  

They criticised him for agreeing to hold talks with New Delhi; for a settlement envisaging Jammu and Kashmir’s permanent link with India in return for its autonomy and his personal power, Sheikh Abdullah had gone back on his slogan that he would secure for the Kashmiris their right to decide, in a United Nations guaranteed plebiscite, whether they wanted to remain with India or join Pakistan or die striving for it. The intensification of the political activity by Moulvi Farooq during the period when the Sheikh-Centre dialogue, was going on, had two objectives:  

(i) To prevent Sheikh Abdullah from coming to power and  
(ii) To widen his influence beyond those areas in the valley which were traditionally associated with the Mirwaiz politics. In other words, he was trying “… to secure a political niche for himself in the valley…” and for this purpose he would utilize his Mirwaiz office, to impress upon the people to take note of the shifting stands of Sheikh Abdullah which he adopted for his political survival.  

Maulvi Farooq was very critical of the attitude of the Central government, which regarded Sheikh Abdullah as the only leader and ignored other leaders of the State. He advised the Central government to take other leaders of Jammu and Kashmir into confidence, falling which, “any unilateral agreement would not help to resolve the dispute.”  

Similarly, the Jan Sangh expressed its opposition to the dialogue between central government and Sheikh Abdullah because it felt that it would reverse the process of the integration of the state of the Jammu and Kashmir with the Indian Union. The working of the Jan Sangh on 10th September, 1974 adopted a resolution which demanded that “the talks with Sheikh Abdullah should be called off immediately because the greater autonomy as demanded by him for Jammu and Kashmir would mean nothing less than taking it away from India.”  

The stand by Jan Sangh that the reversal of the process of integration would not be tolerated was in fact the continuation of its opposition to the special status of
Jammu and Kashmir which the Jan Sangh had adopted in the early 1950’s. Ever since then it had been continuously demanding the abrogation of the Article 370 of the Constitution of India in order to achieve the full integration of the state with the Indian Union. The ruling congress party in the state also did not want Sheikh Abdullah’s return to power. But the congress men in state of Jammu and Kashmir lacked courage to face Indira Gandhi and failed to sabotage the negotiations.

The opposition parties ignored that the successful conclusion of the dialogue would prove to be the biggest single factor in imparting political stability to the state, lead to the normalization of the relations with Pakistan, put an end to all the uncertainties about Jammu and Kashmir’s future, and would, …. lift the Jammu and Kashmir issue out of the international arena of conflict and Pakistan will have no locus standi to raise Jammu and Kashmir question either in the international forum or in the bilateral discussions. The only aspect of Jammu and Kashmir problem that will remain open to discussion with Pakistan will be the future of Pakistan occupied part of the state. Despite such opposition Sheikh Abdullah was optimistic about talks as he was anxious to regain power. Therefore he said that, “he did not want the laws that had been extended to the state since 1953, to go into the Dal Lake.”

The Central government too was very keen to find out some workable solution with the Sheikh Abdullah to achieve political harmony in the state of Jammu and Kashmir as under the chief ministership of Mir Qasim the corruption was rampant. Interference of power brokers into the administrative affairs was absolute and total policy of liberalization was frozen and abandoned. Dialogue came to standstill. Economic conditions were worse. Expenditure on development works was shared by engineers, legislators and congress apart. Situation was uneasy under the surface.

After protracted talks, extending up to almost three years, G. Parthasarthy and Mirza Afzal Beg, representatives of the Prime Minister and Sheikh Abdullah respectively signed a six point accord on 13th November, 1974 at New Delhi, which finally bridged the gulf that was created in 1953 between popular leadership of Jammu and Kashmir and the National leadership in Delhi regarding finality of the state’s accession to India. This accord paved the way for resumption of power by the Sheikh Abdullah on 25th February, 1975.
The Indira-Sheikh Accord

Following were the main features of the Indira-Sheikh Accord:37

I. The state of Jammu and Kashmir, which is 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.

II. 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 any part of the territory of India from the Union or causing insult to the National Flag or the Indian National Anthem or the Constitution of India.

III. 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 repealed by an order of the President under Article 370, each individual proposal 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.

IV. 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 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.

V. 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 the legislature of the state of Jammu and Kashmir, seeking to make any change in or in effect of any provision of the Constitution 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:

(i) the appointment, powers, functions, duties, privileges and immunities of the Governor; and

(ii) the following matters relating to elections, namely, the superintendence, direction and control of elections by the Election Commission of India, 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.

VI. No agreement was possible on the question of nomenclature of the Governor and the chief minister and the matter is therefore remitted to the Principals.48

Sheikh Abdullah was quite happy with the agreement. In a letter to Prime Minister Indira Gandhi, on 11 February, 1975, he wrote: “As you are aware, it is my view that the constitutional relationship between the Centre and Jammu and Kashmir should be what it was in 1953. Nevertheless I am happy to say that the agreed conclusions provide a good basis for my cooperation at a political level and Centre-State relationship.”

Further he wrote: “The accession of the state of Jammu and Kashmir to the Union of India is not the matter at issue. It has been my firm belief that the future of Jammu and Kashmir lies with India because of the common ideals that we share.... I am sure that the central government would cooperate with the state government fully in respect of the measures to be taken by the state government to further the progress and welfare of the people of the State as an integral part of India.”49

Indira Gandhi replied to Sheikh Abdullah as follows: “I am aware of your views on the centre-state relationship in respect of Jammu and Kashmir.... The central government would undoubtedly continue to co-operate with the state government in respect of the measures to be taken by the state government which is of
equal concern to the central government.” On 24th February, 1975 Prime Minister Indira Gandhi presented the documents of Accord in Parliament (in both houses).

In Lok Sabha, she said: In pursuance of government policy to secure the active cooperation and involvement of all democratic, secular and progressive forces in the country it was considered desirable to have a dialogue with Sheikh Abdullah.

The agreed conclusions have been formulated within the framework of the constitution of India. The constitutional relationship between the state of Jammu and Kashmir and the Indian Union will continue as it has been and the extension of further provisions of the Constitution to the state will continue to be governed by the procedure prescribed in Article 370. There will be no weakening of the ties which exist between the Union of India and its constituent unites of which the state of Jammu and Kashmir is one. The existing jurisdiction of the centre to deal with activities directed towards questioning or disrupting the sovereignty and territorial integrity of India or bringing about secession of any part of the territory of India from the Union will also continue. It had also been agreed that any amendment of the Constitution of the state on certain specified matters of importance will not become effective unless the assent of the President is obtained. The agreed conclusions seek to reassure the state that in case the state government comes up with any proposal to change any central law made after 1953 on matters in the Concurrent List such as social welfare measures, cultural matters, social security, procedural laws and the like, the grant of assent to the Bill will be sympathetically considered.

Further she explained the demands which were not accepted by central government during negotiation. A proposal was made by Mirza Afzal Beg that the jurisdiction of the Supreme Court in relation to the State should be curtailed. This was not accepted as it was considered important that the Supreme Court should continue to have its original and appellate jurisdiction in the matter of writs, appeals and other matters. However, it was agreed by collateral letters that the provision in Article 132(2) enabling the Supreme Court to grant special leave on the refusal of a certificate by the High Court need not apply to the state.

As far as the question of nomenclature of the Governor and the Chief Minister was concerned she said, “This is a matter which is provided for in the state Constitution which at present uses the expressions ‘Governor’ and ‘Chief Minister’. A
change in the nomenclature can be made to only by amendment of the State Constitution by the State legislature. So far as the Chief Minister is concerned, there should be no objection to the adoption of the designation ‘Wazir-e-Azam’ in the state if the legislature of the State of Jammu and Kashmir amends its Constitution accordingly. But, so far as the centre is concerned, we would like to call all the Chief Minister as Chief Ministers because there would be utter confusion if each chief minister had a different designation. Sheikh Saheb will not be able to call himself Prime Minister in English even in his state. In English he has said that he will use ‘Wazir-e-Azam’ in Roman characters.”

Regarding the abolition of Plebiscite Front Indira Gandhi Said, on 6th February, 1975 Mirza Afzal Beg stated that in the changed circumstances plebiscite has become irrelevant and that the name and objectives of the Plebiscite Front have to be changed accordingly. We have been informed that this statement was endorsed at the recent meeting of the executive committee of the party and that Mirza Afzal Beg has been entrusted with the task of calling a meeting of the general body of the front for taking the necessary follow up action in this regard.

The members of opposition parties in Parliament raised question about Article 370. The chief grievance of these parties was that the accord had made Article 370 a permanent feature although it had been incorporated as a temporary provision in the Constitution of India. Jana Sangh member from Gwalior, Atal Behari Vajpayee protested. He was supported by the socialist Member of Parliament from Uttar Pradesh, Janeshwar Mishra.

Indira Gandhi replied: “So far as Article 370 is concerned, you know that Jammu and Kashmir is the only state which had constituted a separate Constituent Assembly for the state to determine its Constitution and the sphere of Union jurisdiction over the state. It was left to that assembly to decide whether Article 370 should remain or be modified or abrogated. That is reflected in clause (3) of that Article. That is why Article 370 was called temporary, as the constituent assembly for that state had not given its decision by 1950. That constituent assembly completed its work in 1956, but it did not suggest the deletion or modification of Article 370, which, therefore, became a permanent part of our Constitution since, 1956.”
In this way Indira-Sheikh Accord had made Article 370, which governs the relations of the state of Jammu and Kashmir with the Union, a permanent part of the Constitution. This is contrary to what Mr. Jawaharlal Nehru said on 27th November, 1963: Article 370 is not a permanent part of the Constitution and it is a part of certain transitional provisional arrangements. However, under Indira-Sheikh accord the state of Jammu and Kashmir will continue to enjoy its special status.\(^57\)

Some opposition leaders in the parliament held that the continuation of Article 370 as part of the Constitution would block the further extension of Union laws and provisions of the Constitution of India to the state of Jammu and Kashmir. Dispelling the doubts of the opposition leaders the Prime Minister said that Article 370 had not in any way, ever since its inclusion in the Constitution blocked the extension of the Union laws and the Constitutional provisions to the state. In fact, it has served as a means without which “…. no act passed by the parliament could have been applied to Jammu and Kashmir, not even those extending the jurisdiction of the Supreme Court and the Election Commission.”\(^58\)

Sardar Swaran Singh the then Defence Minister while expressing his views on the accord in connection with Article 370 said, “Article 370 serves as link between the special status which Jammu and Kashmir already enjoys and brings it into closer ties with us and makes it possible for us really to extend many spheres of influences through Article 370 to Jammu and Kashmir and therefore, we feel, we have got to consider Article 370 as a positive step and not a negative one.”\(^59\)

He further explained, that this accord is based on the recognition and reaffirmation of two fundamental points:

(i) the accession of Jammu and Kashmir to the Indian Union is final and irrevocable.

(ii) the special position of the state of Jammu and Kashmir recognized in Article 370 of the Constitution of India will continue to govern the Centre-State relationship.\(^60\)

Besides making Article 370 the permanent part of the Constitution, accord gave choice to the State of Jammu and Kashmir to review the laws falling within the purview of the concurrent list, extended to it since 1953. This provision of the accord was criticised by the leaders of erstwhile Jan Sangh Mr. Atal Bihar Vajpayee as an
“....effort to put the clock back, without of course taking into cognizance Article 254, clause 2 of the Constitution which provides that, “where a law made by the legislature of a State with respect to one of the matters enumerated in the Concurrent list contains any provision repugnant to the provisions of an earlier law made by the parliament or an existing law with respect to that matter, then the law so made by the legislature of such state, if it has been reserved for the consideration of the President and has received his assent, prevails in that state.”

In other words, Article 254, clause 2 of the Constitution of India permits a State to exclude the applicability of a central law to its territory in matters falling within the purview of the concurrent list, if the president so assents.61

The Indira-Sheikh Accord strengthened the basis of unity and understanding. It created mutual trust, mutual confidence and mutual faith. It consolidated the forces of secularism and democracy and at the same time made a great contribution to the cause of national unity.62

Though the accord reaffirmed the accession provided for the dissolution of the plebiscite Front, and made Article 370 a permanent feature but in essence, the accord did not change the Constitutional relationship between the Union and the State. In this context, Om Mehta, Minister of State in the Ministry of Home Affairs, said that “the centre’s Jurisdiction over the state will continue to be as provided in the Constitution and the Accord does not in any way alter that position.”63

Support of Ruling Congress Party to Sheikh Abdullah

During the talks that led to the accord, the negotiators discussed two important political issues and subsequently agreed upon by the parties were:

(i) that the plebiscite Front will be dissolved.

(ii) the congress party though in a majority in the state legislature will surrender power in favour of Sheikh Abdullah.

In accordance with the agreement the congress government headed by Syed Mir Qasim resigned from office on 22nd February, 1975, to enable Sheikh Abdullah to take over the administration of the State. The congress legislature party adopted a resolution whereby it pledged it support to Sheikh Abdullah in, “.....consolidating secular and democratic forces in the State and in toning up the state administration to
make it a more effective instrument for the progress and welfare of the people in all the three regions of the state.”

On 24th February, 1975, Sheikh Abdullah left Delhi for Jammu. There was a large crowd assembled at the Railway Station to welcome him. In the evening of 24th February a special meeting of the Congress Parliamentary party was held in the office of the Chief Minister, at which Sheikh Abdullah was unanimously elected leader. Dev Kant Baroah, president of Indian National Congress also attended the meeting.

Sheikh Abdullah received a tumultuous reception everywhere. Before he was installed the State’s Chief Minister, he referred to the Kashmir Accord and said, “Basically what has been achieved a reestablishment of trust and confidence born out of shared ideals and common objectives of the kind which as there all through until 1953.” In a statement issued in Jammu on 24th February, he endorsed Mirza Afzal Beg’s views that the happy developments “arising out of this dialogue with the Prime Minister and her colleagues provide a changed context in which plebiscite as a means to achieve the goal of the party (Plebiscite Front) has been rendered irrelevant.”

On 25th February, 1975 Sheikh Abdullah assumed the office of Chief Minister of the State of Jammu and Kashmir after a break of about twenty two years, at Jammu, the winter capital of the state. He declared that he had returned to power because the country wanted him at this critical juncture to strengthen the ideals of secularism, democracy and socialism.

The legislative assembly of the State had a majority of members from the congress party who had promised to give support to the new government led by Sheikh Abdullah. Sheikh Sahib chose his own cabinet of five who were not members of the assembly. They included Mirza Afzal Beg, Mohan Kishen Tikku, Devi Das Thakur and Sonam Narboo from Leh, Ladakh.

After few days in Jammu, Chief Minister, Sheikh Abdullah left for Srinagar. He accompanied by his cabinet colleagues reached Srinagar on 3rd March, 1975 where attended a public meeting held at Lal Chowk. Huge crowds of people gathered there, cabinet members and many ardent party workers and supporters present were Mirza Afzal Beg, G.M. Shah, Salam Deva, Sonam Narboo, D.D. Thakur, M.K. Tikku, Hakim Habibullah, Hissam-ud-din Bandey, Abdul Ahad Vakil, Sheikh Rashid, Sheikh Nazir, G.N. Kochak and Mohiuddin Shah were present in meeting.
Many political personalities addressed the audience and the people listened eagerly. They were enthusiastic and were getting impatient to hear Sheikh Sahib. When he began to speak, people raised loud slogans ‘Sher-i-Kashmir Zindabad’, which resounded in the sky and there was a loud applause. He said a new phase of development and progress would be ushered in the state, so that it could reap the benefits like other states of India. He made it clear that the amendments made in the Constitution after 1953 will be reviewed and examined and those which are considered unsuitable shall be revoked. While saying so he pointed towards two of his colleagues, D.D. Thakur and Sonam Narboo and declared that he had brought these ‘golden sparrows’ from Jammu and Ladakh respectively. He thanked the audience for the love and confidence shown by them throughout. 71

So far as pre-1953 status was concerned, it was believed that lot of water had flown down the Jhelum in twenty two years. A number of elections were held to the legislative assembly of the state under the leadership of Bakshi Ghulam Mohammed and Ghulam Mohammad Sadiq, when they were head of the government, the state legislative assembly had already passed legislation to eradicate the previous laws and thereby pull down the walls that kept the state away from the national mainstream. People had accepted these changes and were used to them. They had become aware of and experienced in the advantages of participation in mainstream politics. 72

After accord the consequent changes in the state administration had created an unprecedented and potentially embarrassing situation for the congress party in the state. It had an overwhelming majority in the legislature but was neither running the government 73 nor could assume the functions of an opposition party. Therefore, with the passage of time the two sides (Congress and Sheikh Abdullah) began to accuse each other.

**Merger proposal**

Sheikh Abdullah proposed to the congress leadership that the two splinters of the former National Conference, namely the congress and the Plebiscite Front should merge in order to defeat the communal, reactionary and the separatist forces in the state. The main purpose of the proposal was to restore the position that obtained in the state till 1953. But the proposal could not be accepted by the congress leadership for following reasons:
(i) It would have led to the revival of Single Party System in the state.

(ii) To maintain its separate identity in the state of Jammu and Kashmir. As every political party in a democratic setup strives to extend its influence and consolidate its base in every part the country so as to capture political power.  

Instead of accepting the merger proposal, the congress leadership suggested to Sheikh Abdullah to join the congress party in order to improve a common platform to the secular, progressive and democratic forces in the state. Sheikh Abdullah also wanted to consolidate these forces to fight against the reactionary and communal elements in the state when he made a merger proposal. But despite the shared aim of consolidation of the Secular and progressive forces the congress leadership and Sheikh Abdullah made counter-proposals to each other because of their own reasons. However, Sheikh Abdullah refused to join the congress because of the apprehensions that, if returned to power as a congress leader, his success would be attributed to this factor, rather than to his own popularity.

When Sheikh Abdullah was in political exile, he had opposed the extension of the congress party to the state of Jammu and Kashmir. In 1965, when the congress came to be established in the state he launched ‘Tark-e-Mawalat’ (Social boycott) against the congressmen, in order to socially condemn those who had joined the congress. Now, if he himself had joined the congress, it would have been difficult, rather impossible, for him to explain to the people as to what had forced him to launch the Tark-e-Mawalat against the congress men. By joining the congress he would have staked his own popularity and leadership.

Thus, the suggestions by the congress leadership and Sheikh Abdullah to each other were made purely with a view to further their own interests and not for the consolidation of the secular and progressive forces as the two would claim. In such a situation it would neither have been possible for the congress leadership to accept the merger proposal of Sheikh Abdullah, nor would it have possible for the latter to join the congress.

**Impact of Indira-Sheikh Accord**

Indira-Sheikh Accord helped in bringing about a closer emotional integration between the state and the rest of India. In 1975, Sheikh Abdullah revived National Conference with Mirza Afzal Beg as its president. Immediately after the assumption
of power as Chief Minister, Sheikh Abdullah and his deputy Chief Minister Mirza Afzal Beg decided to change the Constitution and the nomenclature of the Plebiscite Front. This ceremony was performed in Mujahid Manzil on 4th and 5th July, 1975 in a special delegate session of the front. The resolution reads as: “Today, 5th July, 1975, the All Jammu and Kashmir Plebiscite Front in a special session, after due deliberations for about thirteen hours amongst the delegates from all parts of the State, giving due cognition and serious thought to prevailing political situations, decided to change the name of the Plebiscite Front into the National Conference. For this purpose, appropriate amendments are visualized so that there is collaboration between the name and the deed further the committees subordinate to it would accordingly bring a change. The Conference unanimously agreed to request Sher-i-Kashmir to accept the leadership of the National Conference-the acceptance of the offer would encourage the integration of various regions and sections of the state. Consequently, it will help the country and the nation to move on the path of reconstruction and honour…….”

While addressing the meeting of the executive members of the plebiscite Front Sheikh Abdullah said: “The primary consideration of its acceptability should be the party’s all state character, representing all the three regions of the state.” He insisted on the statewide character of the party because of following reasons:

(i) He did not like to remain confined to the valley of Kashmir, as he had been since 1953, because of his association with the Plebiscite Front, which had no base in Ladakh and in the major parts of Jammu province;

(ii) A party with statewide base was meant to serve as an apparatus to defeat the force that demanded the separation of Jammu and Ladakh from Kashmir.

Initially the Plebiscite Front leaders had started thinking in terms of converting the party into either Democratic Front or people’s Front. However, the idea of naming the proposed party either the Democratic Front or the people’s Front was dropped in view of the fact that a party with such a name would not cut much ice in the Jammu and Ladakh regions. So left with no choice, Sheikh Abdullah proposed the revival of the National Conference.80

Another reason that he put forth in favour of the revival of National Conference was that it would give concrete shape to the economic programme
embodied in the historic document “Naya Kashmir”. The Sheikh Abdullah said: “In my support for the rebirth of the National Conference it was my sole purpose to see this organization as an effective instrument for giving a solid shape to the economic programme embodied in its famous document, the Naya Kashmir and execute it so that, we may…. justify our roles in the eyes of the coming generations.”

Another impact of Indira-Sheikh Accord was that it reduced corruption in the state. The National Conference before and after accord promised clear and fair administrative set up. In this context Sheikh Abdullah said, “A clear and fair administration shall be inducted in the state.” As a result of these commitments, Vigilance Commission and Anti Corruption Tribunal were reorganised and the Tribunal powers and Jurisdiction were increased and enhanced.

After Indira-Sheikh Accord, administrative efficiency improved in the state of Jammu and Kashmir. Firstly, Chief Minister, Sheikh Abdullah paid attention to the deteriorating conditions of the education standards and unfair means in examinations. When Sheikh Abdullah assumed power, the educational institutions were subjected to naked copying in examination halls, disorder, violence and goondaism. Sheikh Abdullah declared these institutions as sacred, ordered disciplinary action against the students and he went on inspection to various institutions. The order was restored and disorder was relegated to the history. The conscience of the youth was stirred and discipline established. The portfolio of education remained with the Chief Minister and enough funds were utilized over the construction of school buildings and libraries and repair and reconstruction of older ones initiated.

The government, conscious of economic development of the state, appointed an “Economic Review Committee”, under the chairmanship of Shri Laxmi Kant Jha (then Governor of the state of Jammu and Kashmir) who was himself on economist of international repute. The terms of reference were:

(i) plans for economic development;
(ii) operation of plans;
(iii) to bring the state on the Industrial map of India; and
(iv) opening of detergent factory at Jammu and reorganize and improve cement factory at Wuyan, Pampore, in Kashmir.
Another impact of Indira-Sheikh Accord was that, it caused frustration among the secessionist forces.\textsuperscript{85} The Accord sent shock waves to Pakistan Janta reactionary circles and pro-establishment press. Inter Services Intelligence (ISI) was depressed and pro Pakistan forces in the valley were confused and cynical.\textsuperscript{86}

Thus, the accord finally resolved the Jammu and Kashmir problem and ended uncertainty about the future of the state.\textsuperscript{87} However, the accord led to cleavage between National Conference and Congress in the state. The accord provided a unique type of arrangement. It accommodated the leaders of the National Conference in the power structure of the state, by permitting Syed Mir Qasim to step down along with his ministry and allowing Sheikh Abdullah along with his ministers to be supported in the legislature by the Congress.\textsuperscript{88} This arrangement did not function long. Sheikh Abdullah demanded unstinted support from the congress and the latter desired merger of the Plebiscite Front into the congress.\textsuperscript{89} On 24\textsuperscript{th} April, 1975 four member ministry of the state was expanded with induction of 11 more ministers of state, six belonging to congress, three to plebiscite front and two independent ones.\textsuperscript{90} On 9\textsuperscript{th} June, 1975 proposal of Sheikh Abdullah to revive the National Conference and project it as the main party was virtually rejected by the working committee of the Pradesh Congress in Srinagar.\textsuperscript{91}

Thus the suggestion to the congress by the Sheikh Abdullah to merge their organization with the National Conference was not acceptable either to the Pradesh Congress Committee or to its high Command.\textsuperscript{92} Since the politics of the confrontation between the congress legislature party and the Sheikh Abdullah’s cabinet had started from very beginning, so to avoid such confrontation, a four member co-ordination committee was formed. In case of difference of opinion among members of the committee on any issue, it was decided that the matter will be referred to Prime Minister Indira Gandhi and Sheikh Abdullah for their decision.\textsuperscript{93}

However, the cleavages continued to widen on following issues:

(i) The developments that took place in the state since 1953;

(ii) The respective role that the Congress and the National Conference had to play in the politics of the state; and

(iii) The economic development of the state since 1953.\textsuperscript{94}
The differences in the interpretation of the events, which took place in 1953 and thereafter, became a source of constant irritation between the two political parties. Sheikh Abdullah and other leaders of the National Conference described the post-August, 1953 period as “…a dark patch of 23 years in the history of the state. On the other hand the Congress leaders refused to accept such an interpretation of the events in Jammu and Kashmir since 1953, particularly because…. in those days when much besides the Pakistani threat was in the air, the responsibility of defending secularism and national integrity had fallen on their shoulders.”

The National Conference leadership, after its revival would project it as the only party which could, as it had done in the past, consolidate the secular and the democratic forces in the state. By implications it meant that there was no room for the congress party in the state. So, Sheikh Abdullah proposed its merger with the National Conference, which of course was rejected. The National Conference played a distinctive role in the consolidation of secular and democratic forces in the state since its inception. However, its approach of seeking liquidation of the Congress party from the state by maligning the latter did not sound logical.

The two political parties objected to the existence of each other in the state because of their basic difference with regard to the quantum of the integration of the state with the Indian Union. The Congress party had never been against the full, but gradual integration of the state with the Union of India. On the contrary, National Conference, under Sheikh Abdullah had always stood for the autonomy of the state and therefore the leadership of National Conference insisted upon the liquidation of the congress. The congress leadership questioned the necessity of having a regional party.

Another reason of confrontation between the two was the allocation of seats in the ministry. The congress party demanded representation in the ministry while the National Conference wanted unconditional support in the legislature from the Congress under the accord. There was interparty dispute over the Srinagar Municipal Corporation election. National Conference offered 5 seats to the congress but they were not satisfied. Accordingly on 24th October, 1975, a meeting was held in Delhi under the chairmanship of the Prime Minister Indira Gandhi which was attended by Dev Kant Barooah, Om Mehta, Mir Qasim and Mufti Mohammad Sayeed. Certain decisions were taken which amounted to a vote-face. Sheikh
Abdullah refused point blank to compromise his position. On 30th October, 1975 in a public meeting at Charrar-e-Sharif, about 30 kms from Srinagar called and pleaded for fresh elections to the state assembly.

Thus the politics of the state during the years 1975 and 1976 was mainly devoted to the rift politics of the Congress and the National Conference. The State Congress party and National Conference entered a politics of Centre-State relations. The Centre interested in retaining its organisation in the state. Prime Minister Indira Gandhi during her visit to Srinagar advised the local congress leaders to keep the organisation alive and functioning. However Central government not allowing the forces to antagonise the Sheikh Abdullah who had come round after enough of political and pressure tactics. Thus the Central government was not prepared to take risks on any side. The politics of status quo was carried for the years 1975 to 1977.

On the other hand during 1975, an important and unique event had passed in the constitutional history of India. The nation was in great turmoil, over corruption, in despair over a falling economy, in disgust at political chicanery. Justice Jagmohan Sinha of Allahabad High Court has his judgement against Indira Gandhi on 12th June, 1975. Accordingly on 25th June, 1975, the President of India Fakruddin Ali Ahmed proclaimed emergency in the country. This emergency was made applicable to the state of Jammu and Kashmir with the concurrence of the state government on 29th June, 1975.

In January 1977, Indira Gandhi dissolved the Parliament and announced fresh elections. Preparations for fresh elections began countrywide at the same time. Keeping in view these profound political developments, the Congress and National Conference went in for a temporary truce for the time being. Under this new compromise formula it was, therefore, agreed that out of the six seats for Parliament from Jammu and Kashmir, Congress will field its candidates for three seats, two from Jammu and one from Ladakh with no opposition from National Conference whereas National Conference will field three candidates from the Valley of Kashmir with none opposing from the Congress. National Conference chose Begum Abdullah from Srinagar, Abdul Ahad Vakil from Baramulla and Mohi-ud-Din Shawh from Anantnag for the Parliamentary seats.
In the elections, the ruling Congress party suffered a crushing defeat, Prime Minister Indira Gandhi, her son Sanjay Gandhi and many other stalwarts were routed. In North India the Congress was almost wiped out. When it became obvious that the Janata Party would form the government at the centre, the leaders of the state Congress Party withdrew its support to the government of Sheikh Abdullah in the State legislative Assembly where Congress was in majority. The State Congress party submitted a petition to the Governor declaring that they had lost confidence in Sheikh Abdullah. On 26th March, 1977, the President of the Pradesh Congress Committee sent a letter to the Governor of the state, withdrawing support of his party to the Sheikh Abdullah Government. Mufti Mohammed Sayed’s demand for grant of permission to his party to form a new Ministry on the basis of the Party’s strength in the Assembly was not conceded.

The Indian Prime Minister Morarji Desai and some of his close associates stood in the way, in the first place, they were opposed to the question of settling up of pro Indira Gandhi government in the state and secondly, they had guessed that fresh polls might facilitate the state unit of Janata Party to form a new ministry. Meanwhile Sheikh Abdullah met new Prime Minister Morarji Desai in Delhi and asked him to dissolve the state assembly and hold fresh elections. After prolonged discussions he agreed and on 27th March, 1977 Governor dissolved the Legislative Assembly under section 92 of the Constitution of Jammu and Kashmir and called for elections and imposed Governor’s rule in the state for a period of six months. Governor Laxmi Kant Jha knew that the Congress Party enjoyed absolute majority in the assembly but he did not care to consult the leader of the majority party before ordering the dissolution of the assembly. With this Laxmi Kant Jha pleased Morarji Desai and Sheikh Abdullah.

After this to organize a state unit of the Janata Party, a central delegation, consisting of Ashok Mehta, Nanaji Deshmukh, Bhanu Pratap Singh and others arrived in Srinagar. This newly formed Janata Party of the state included Maulana Farooq, Chairman of the Awami Action Committee, Maulana Mohammad Masoodi, a former veteran of the National Conference and a long time associate of Sheikh Abdullah, Abdul Gani Lone, a former minister in the congress government. The top central leaders, including Morarji Desai, Jag Jivan Ram and Charan Singh visited Jammu and Kashmir in a bid to build support for the state Janata Party.
It was the time of ‘Janata’ wave accustomed to pampering by Nehru for years and Indira Gandhi since 1975, the Sheikh Abdullah had taken it for granted that Janata, the successor ruling party at New Delhi, too would continue the same or similar policy towards Jammu and Kashmir. Sheikh Abdullah proposed an electoral understanding with the National Conference. But most of the Janata Party did not trust him. He was advised to disband the National Conference and take steps to join the mainstream of political life. This, according to Prem Nath Bazaz, would have upset Sheikh Abdullah’s apple cart and foiled his game of keeping aloof the state as his private preserve and left no opportunity for him to use by turns the National Conference as pro and anti-India force as suited his book.

Loss of support from the central ruling party was decidedly a great blow to the National Conference which set its leaders thinking about their participation in the assembly election. Putting a bold face on the situation, Sheikh Abdullah started election campaign in May, 1975. In Srinagar leaders of National Conference held innumerable meetings among themselves at every level in order to frame a policy, take a decision and chalk out a programme for the assembly election. It was a trying and testing time for the National Conference leaders. For the first time in the history of the party they were encountering tough opposition, Sheikh Abdullah started firing salvos on the opposition. He resorted to the technique of arousing parochial feelings and planting apprehensions in the minds of Kashmiris about the abrogation of Article 370.

Addressing a public meeting on 15th May, 1977, at Anantnag, he warned the audience that even Janata Party wanted to abrogate Article 370 of the Indian Constitution and reduce Jammu and Kashmir to the level of other states in the country. On the other hand the then Prime Minister Morarji Desai, External Affairs Minister, Atal Bihari Vajpayee, Home Minister Charn Singh and others had already emphatically and publicly stated that there was no intention to move or alter, amend or abrogate Article 370 until the State itself wanted to do so as was provided in the constitution itself.

Sheikh Abdullah, however, knew which issue deeply stirred the Kashmiris and how to exploit it to his advantage. He did not only pledge himself and his party to preserve Article 370, but even went further to warn the Union government on 23rd May that if he failed to achieve the objectives the people of Jammu and Kashmir...
would not hesitate to secede from the Indian Union. Thus Sheikh Abdullah threatened to reconsider accession in case a place of honour and dignity is denied to the state within the Indian Union.

Finally the elections to the Jammu and Kashmir state Legislative Assembly were held from 30th June to 3rd July, 1977. The results were announced on 5th July in which the National Conference won 47 seats, Congress - 11, Janata Party - 13, Jamat-i-Islami -1 and four were secured by Independent. Thus, Sheikh Abdullah emerged victorious and on 9th July, 1977 he was sworn in as Chief Minister of the state, ending the Governor’s rule in the State. On the other side Janata Party suffered a crushing defeat.

The legislative Assembly election in the State of Jammu and Kashmir in 1977 were accepted by all as clean, free and fair. Due to imposition of the Governor’s rule, the elections in the State for the first time were held without any political party being in power. All the parties which contested the elections were equally placed, with no room left for any party to utilize the administrative machinery to its advantage.

After these fair elections there was a quantum jump in the process of political and emotional reintegration of Jammu and Kashmir with the rest of India. Another factor which paved the path for normal relations between the state and the centre was the massive dose of central help for this state without which it would have been difficult to achieve anything as the state’s own income, for instance during 1976-77 was Rs. 56.90 crores which in turn is insufficient even to pay the wages of the State administration. Central grants in the same year were Rs. 95.21 crores.

All political parties of the country, including the erstwhile Jana Sangh, which became a constituent unit of the Janata Party in 1977 and reincarnated itself as the Bharatiya Janata Party in 1980, categorically reconciled to continuance of Article 370 of the Constitution and the special status of the state under it. Even the demand for further revision in this status by Sheikh Abdullah in order to enlarge its autonomy, though generally not favoured, does not provoke suspicion about his patriotism in the rest of the country.

As National Conference won 47 seats in the state legislative assembly so congress party decided to support the party both in and outside the house. It secured
59 members as such and the National Conference dominated the scene both in legislation and on overall politics of the state.\textsuperscript{128} Thereafter Sheikh Abdullah government started functioning and the administration was disciplined. Meanwhile Central leadership declared their support to the state administration and avoidance of any confrontation. This sentiment was conveyed to the state ministers through Laxmi Kant Jha, Governor of the state, who visited Delhi to provide first hand information to the Central government on Jammu and Kashmir State.\textsuperscript{129}

In response to such sentiments of the Centre, the State leadership said that in case the Centre cooperates with us, Jammu and Kashmir will perform the most constructive and historical role in building new India. Thus the wooing between the National Conference and the Janata Party leaders started in right earnest.\textsuperscript{130}

Upto 1973 the Indian Parliament had extended about 262 Central laws to the State of Jammu and Kashmir in concurrence with the state government.\textsuperscript{131} Sheikh Abdullah government desired to review the laws applied to the State from 1953-1975 enumerated in the Concurrent list.\textsuperscript{132} About these laws it had already been decided during the Indira-Sheikh Accord of February, 1975 that in order to assure freedom to this state, on matter like welfare measures, personal law and procedural laws, the state government could review these laws made by parliament or extended to the state after 1953 and decided which of these in its opinion need amendment or repeal.

Before the legislative assembly met on 8\textsuperscript{th} September, 1977, the Congress, which had earlier decided to support the Sheikh Abdullah and the Janata Party central leadership had earlier also declared to co-operate with the National Conference, declared that any move towards the restoration of 8\textsuperscript{th} August, 1953 position will not be supported by them.\textsuperscript{133}

However, Sheikh Abdullah appointed a committee in September, 1977, headed by the then Deputy Chief Minister, Mirza Afzal Beg, to review these laws. The committee’s report placed before the legislature of the state which in turn, could accept or reject is recommendations. But this act of reviewing these laws by the state government was assailed in Indian political quarters and inside the state also, holding the view that these laws were very beneficial to the people of the state and had cemented the state’s relations with the Indian Union.\textsuperscript{134}
A sub-committee of the Sheikh Abdullah’s cabinet reviewed all the post-1953 central acts extended to the state. In May, 1978, it was reported that the five member sub-committee had submitted its report to the Chief Minister. Mirza Afzal Beg who headed the committee, had conveyed to Sheikh Abdullah his desire for a thorough study of the report by him (the Chief Minister) before appropriate action on the matter could be initiated. The committee had taken a broad view of the laws before deciding which of them came into conflict with Article 370 of the Indian Constitution. The committee had examined the Union Constitution in its application to Jammu and Kashmir and its various provisions which authorized the application of the central laws. While reviewing the Post 1953 laws extended to the State, the committee members had come across instances in which certain action had been taken which touched the provisions of the Jammu and Kashmir constitution without authorization.135

As Sheikh Abdullah was not prepared to get his relations with the Government of India disturbed or affected, he kept quiet on the findings of the sub-committee.136 Thus, the State government changed its attitude to avoid the centre-state confrontation which Sheikh Abdullah did not want. In this context his Finance Minister said: “the State Government would modify or repeal the laws only when the constitution allowed to do so.”137 Mirza Afzal Beg declared that “whenever we feel that a change in any Act is needed to suit the local conditions, we shall consult the centre in a cordial atmosphere and nothing would be done in regard to the proposed review without consulting the Central Government.” Thus, the attitude of the National Conference leadership towards this issue appears to have undergone a constructive change.138

Infact legally and constitutionally, the State legislature or the Chief Minister of the state is not authorized to set up committees for revision of the central laws already applied to the state. There is absolutely no provision in the Constitution of India or that of the state which can empower the state government to recommend revocation or make amendments to central laws. The President of India under various presidential orders from May, 1954 had been specifying the subjects over which the parliament had the power to make laws for the state and the concurrence of the state governments had always been duly obtained.139 Also during the negotiations before the Indira-Sheikh Accord, Sheikh Abdullah agreed to the application of entry 97 of the seventh schedule of the Indian Constitution. This entry provides that parliament will continue
to make laws for Jammu and Kashmir state relating to prevention of activities directed towards disclaiming, questioning and disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory from the Union….\textsuperscript{140}

Generally, after 1975 the Sheikh Abdullah was dominating the scene and the National Conference effectively controlling the political atmosphere in and outside the state in relation to Jammu and Kashmir. In October, 1977, when the President of India visited the state, in reply to Sheikh Abdullah’s welcome address remarked, “Sheikh Saheb is not only Sher-i-Kashmir, he is Sher-i-Bharat as well.”\textsuperscript{141} However, under the Chief Ministership of Sheikh Abdullah regional imbalance was the problem faced by the people of Jammu and Ladakh. Though the regional imbalance claim is as old\textsuperscript{142} as the freedom struggle in Jammu and Kashmir, yet its revival was to tease the Sheikh Abdullah and his government. In 1978 the agitation was launched over the selection of teachers and some other employees, by the recruitment board of the area. People agitated against such policies of the state government. The agitation was foiled after the appointment of a commission under Justice S.M. Sikri, a retired Judge of the Supreme Court of India. Mr. Sikri was assisted by Dr. Malcolm S Adiseshiat, a member of the Rajya Sabha and Dr. A.R. Kidwai.\textsuperscript{143}

\textbf{The Sikri Commission Report}

The Commission reported imbalance in financial expenditure and in development programmes at the regional level in the fourth plan period and early years of the fifth plan and serious imbalance in some of the district administrative units within each region. To meet these problems the commission proposed the creation of a State Development Board under the chairmanship of Chief Minister and such members of the legislature as the Jammu and Kashmir legislature may nominate in accordance with its procedure.\textsuperscript{144}

\textbf{The Public Safety Ordinance}

On 6\textsuperscript{th} November, 1977 the Government of Jammu and Kashmir state, under Chief Ministership of Sheikh Abdullah, promulgated an order called Public Safety Ordinance which empowered the government to detain any person without trial in public or State interest for as long as two years. All offences under this ordinance are cognizable and non bailable.\textsuperscript{145} The ordinance put curbs on newspapers and other
publications in Jammu and Kashmir, of course an integral part of India which is a ‘Sovereign, Socialist, Secular, Democratic, Republic’.\textsuperscript{146} It was least expected of the Sheikh Abdullah, himself a victim of preventive detention for years at the hands of the congress rulers to issue an ordinance like this.\textsuperscript{147}

On 26\textsuperscript{th} November, 1977 Jammu town observed hartal to protest against the Safety ordinance issued by the government.\textsuperscript{148} However, the Government of Jammu and Kashmir defended the ordinance in the garb of special circumstances such as Jammu and Kashmir is a strategic border state flanked by China and Pakistan which had been holding its vast areas under their illegal occupation. Consequently the state has been confronted with problem of security which the other states of India do not have to face. For example, infiltration and spying is a common feature in this sensitive border state and the Pakistanis are also to be seen; no doubt with valid permits, near large number of defense installations. Under which law could the state government detain them?\textsuperscript{149}

By the end of 1978 there was crisis in the ruling National Conference party. Sheikh Abdullah came to know about Mirza Afzal Beg’s altered or altering attitude towards therefore on 22\textsuperscript{nd} September, 1978 in a bid to combat revolt and check defections in the party in power, Sheikh Abdullah made the members of his ministry to take an oath in the name of God that they would remain loyal to him and to the party. The ceremony which followed the Sheikh’s announcement of the reshuffle of portfolios among the members of the council of ministers was apparently designed to ensure safety for the Chief Minister against the threat to his government. Sheikh Abdullah identified Mirza Afzal Beg as the ‘star-hero’ of the gang of ambitious men who, he asserted, had been motivated by the desire to run him down by re-enacting the drama of 1953 when he (the Sheikh Abdullah) was dismissed and detained.

At that time Mirza Afzal Beg was in Delhi to represent his political guru (the Sheikh Abdullah) at the Chief Ministers conference. After his return he was asked by chief minister, Sheikh Abdullah to resign from the cabinet. Since Mirza Afzal Beg had been apprised of the Sheikh Abdullah’s intention of seeking his dismissal in case he did not submit a letter of resignation to the chief minister, he acted promptly to oblige the wishes of Sheikh Abdullah.\textsuperscript{150} On the same day Beg’s resignation was accepted by chief minister. Thus the Mirza Afzal Beg after an association of forty six years with the Sheikh Abdullah and his organization was now out. Before this it was
believed that Mirza Afzal Beg was the brain behind the Sheikh Abdullah. After this Mirza Afzal Beg described Sheikh Abdullah as “the master of the masses” inspite of his (Sheikh Abdullah’s) unpredictable nature. On 27th September, 1978 Sheikh Abdullah explained in details the policies of the National Conference and the conspiracies which were being hatched against his leadership, he said: “Beg saheb has been working with me for the last forty five years. I had to secure resignation from him because he had become power thirsty. He desired chief ministership. His task for the last some months has been to encourage factionalism in the National Conference. I accept that he has been all along faithful to me but I gave him everything except Chief Ministership. I consider him responsible for the indiscipline in the election to the legislative council. He had personal alliance with Congress, to see that his own candidate is elected. In getting Yaqub Beg elected, though he has public stigma, he (Beg Saheb) used Malik Mohiuddin, the speaker of the Legislative Assembly to arrange his victory. Malik Saheb is presently out of the country and when he urns he shall have to be accountable.” After this, ‘Anti-defection Act’ was passed in September 1979 to curb the defections from one political party to another in the legislature.

Thus, the National Conference with the help of the towering personality of the Sheikh Abdullah was in a position to maintain a distance between the centre and the state through the on and off relationship. Sheikh Abdullah in Kashmir talks in a language that he requires for domestic use- This language may cause injury to Delhi or please her depends on the position whether he is safe in power or not.

According to Giyas-ud-Din Peer in his book ‘Understanding the Kashmir Insurgency’ the new phase of Sheikh Abdullah lacked and was devoid of past idealism as demonstrated by him during freedom struggle. After 1975 Sheikh Abdullah reshaped it out of ‘Plebiscite Front’. History repeats itself-event and persons. The new National Conference was an amalgam of Bakshi’s National Conference, erstwhile congressites and plebiscite rump. It has forgotten its historical precious heritage: “Naya Kashmir”. Money and muscle power are its growing organizational features. It had failed to implement essence of accord.

After the Accord of 1975 and particularly after the state assembly elections of 1977, the process of integration of the state with the Union was put in the reverse gear. Further extensions of the provisions of the Indian Constitution and central laws
to the state virtually stopped, even when these were in public interest and highly beneficial to the common folk. The bogey of autonomy was raised from time to time. The pattern of All India Services was subverted and the protective wall of Article 370 was raised higher.\textsuperscript{157}

**Reaction of the Rightist Parties in Jammu and Kashmir towards the Accord**

In Jammu region it was suspected that the central government might concede more autonomy to the state which would be contrary to the National interests. While criticising Indira-Sheikh Accord, they pointed out that Sheikh Abdullah’s repeated assertions stressing the right of the state to review all the central laws extended to the state at the request of State government between August 1953 to the year of Accord, could, have no meaning, but to ‘\textit{Sell the Settlement}’ and giving him ‘\textit{Kashmir on a platter}’.\textsuperscript{158} Their apprehensions were that the installation of Sheikh Abdullah as Chief Minister of the state was not only undemocratic but would also lead to the emergence of separatist and disruptionist tendencies in the state. They warned that any step against integration with India would be dangerously fraught with grave consequences.\textsuperscript{159}

However, in Kashmir Valley there was mixed reaction towards the Accord. In spite of the fact that all the demands of the plebiscite leadership were not accepted, yet they seemed to be pacified with the conclusions of the accord. Sheikh Abdullah hailed it as it strengthened his desire for maximum autonomy for the state as well as a victory of democracy and secularism. As a result, the plebiscite Front was dissolved and National Conference revived,

The Awami Action Committee, right from the very beginning opposed negotiations between Kashmir leaders and the centre and it strongly condemned the accord. Jamaat-i-Islami while rejecting the accord questioned the wisdom of the Plebiscite Front President Mirza Afzal Beg wasting two decades to affirm the reality of Jammu and Kashmir’s accession to India.\textsuperscript{160}

The negotiations for the agreement conducted at two different levels-one dealing with the legal and constitutional matters and the other with political change over were hard and time consuming. But the spirit of accommodation together with the firmness and resolution of the parties made the conclusion of the accord possible because the parties were determined to resolve the problem. The accord brought the
real leadership of the state back into the mainstream of national life, set at rest all uncertainties about the political future of the state, put an end to the conditions of instability that had been prevailing in the state and created conditions conductive for the economic development of the state.

The accord made it clear that the basic fact of accession had been accepted. The constitutional relationship between the state and Indian Union up to 8th August, 1953 had not been questioned. But the doubts were expressed about the post-August 1953 legislation. There also had been certain provisions which referred to the possibility of revision of the then existing relations. Moreover the provisions regarding Supreme Court were to be revised and the question of nomenclature of Governor and Chief Minister had remained unresolved issue.

The political accord provided that the Plebiscite Front having rendered itself useless, would be dissolved and the Congress in return would surrender power in favour of Sheikh Abdullah. But the Accord failed to provide a long term political arrangement between the National Conference and the Congress, which could have defined their relation and role in the new circumstances. The absence of such an arrangement was a serious weakness in the political accord because of which the relations between the two were a sort of love-hate relations which would sometimes promise to introduce cohesion in the states, political life and sometimes threaten to upset the very basis of the Accord.

Ultimately Congress withdrew its support to the National Conference in March, 1977 and Governors rule was imposed in Jammu and Kashmir under the special status enjoyed by the State. The question of distortion of Indian Constitution does not arise at all. The Centre thus acted wisely in guiding and maintaining the good relations between the state and the Union with the help of the governor who acted as a sagacious counsellor adding harmony between the two governments and him serving as a close link between the two. Under the special status the central government exercises only the enumerated powers and the state of Jammu and Kashmir enjoys the residuary powers. Therefore, the relations between the two defined article by article in the Constitution of India. After accession of the state to the Indian Union various Central laws have been applied to the state with the consent of the state government for the benefit of the people of Jammu and Kashmir.
But the Sheikh Abdullah who wanted to go back to the position of 8th August, 1953, regarding Centre-State relations, before his signing the accord in 1975, became a strong critic of the central laws which had been applied to this state after that date, and wanted to get them revoked after the victory of the National Conference in the 1977 state assembly elections. He even appointed a committee for this purpose but met with strong reaction since these laws are useful for the people of the state and have cemented Centre-State relations without doing much harm to the special status of the state legally and constitutionally, there is no provision in the Constitution of India or that of the state to allow for the revocation of these laws. As a result of very well demarcated legislative spheres of the centre and the state, the legislation for preventive detention also falls within the purview of the state legislature by force of which the public safety ordinance was promulgated in October, 1977. The state government arrogated to itself the right to detain any person without trial in public or state interest for as long as two years and made all offences under this ordinance as cognizable and non-bailable. This ordinance curbs the freedom of the press and the freedom of expression. It also shows clearly that Article 19 and 12 are slashed down considerably in this state where legislature is supreme and not the law courts as is the case in the rest of the country.

If such a law were enacted anywhere else in India, it would have been struck down by the courts as violative of the fundamental rights to freedom of speech and expression and protection against arbitrary arrest and detention. However, the state government upheld the safety laws on the ground of special circumstances such as infiltration and spying from China and Pakistan and saboteurs and smugglers who were equally dangerous for the security of the state which has constitutional competence to legislate in the matter. The parliament cannot extend any such law to this state. These provisions of the Constitution seem to be extraordinary concessions but they are the result of the division of powers under the federal process and can be modified only with the consent of the state legislature.

It was also the duty of the Governor of the state to see and satisfy himself whether the circumstances actually existed or not for the promulgation of the public safety ordinance. But he too, unlike other Governors in India, is bound to act on the advice of the council of ministers of the state. He enjoys much narrower discretionary powers and is, thereby, relegated to the position of a nominal constitutional entity by
the state Constitution. A unique power enjoyed by him unlike Governors in other Indian states, is that he can declare a state of emergency-no doubt in consultation with the President of India-in the case of a breakdown of constitutional machinery and thereafter, can assume to himself the administration of the state. Thus we conclude that the Union government and the Government of Jammu and Kashmir function with the basic understanding that the state of Jammu and Kashmir is a sensitive state, quite different from other states of the Union. The massive doses of central help to the Jammu and Kashmir; its importance in national as well as in international politics and the strength of the National Conference are some of the important factors leading to this cordial relationship. No doubt, both central and the state governments worked together for evolving egalitarian society with justice-social, economic and political-irrespective of caste or creed and region.

2 Kak, B.L., op.cit., p.103.
4 Najar, G.R., op.cit., p.3.
5 Kak, B.L., op.cit., p.103.
6 Peer, Giyas-ud-Din, Understanding the Kashmir Insurgency, Anmol Publications, New Delhi, 1992, p.47.
7 Ibid., p.48.
8 Banzai, P.N.K., Culture and political History of Kashmir, op.cit., p.820.
11 Peer, Giyas-ud-Din, op.cit., p.47.
12 Ibid., p.48.
14 Kak, B.L., op.cit., p.104.
15 Khushwant, Singh, op.cit., p.164.
16 Kak, B.L., op.cit., p.104.
17 Khushwant, Singh, op.cit., p.164.
20 Kak, B.L., *op.cit.*, p.104.
22 Hari Ram, *op.cit.*, Appendix I, p.183.
23 Najar, G.R., *op.cit.*, p.3.
24 Ibid., p.31.
25 Kak, B.L., *op.cit.*, pp.104-105.
27 Ibid., p.32.
30 Ibid., p.33.
31 Ibid., p.33.
32 Vasudeva, Veena, *op.cit.*, p.79.
36 Ibid., p.186.
37 Kak, B.L., *op.cit.*, p.105.
38 Ibid., p.105.
40 Ibid., p.40.
41 Kak, B.L., *op.cit.*, p.106.
43 Bamzai, P.N.K., Culture and political History of Kashmir, *op.cit.*, p.850.
48 Ibid., pp.233-235.
49 Vasudeva, Veena, *op.cit.*, p.79.
50 Ibid., p.80.
52 Ibid., p.692.
53 Ibid., p.692.
54 Ibid., p.694.
55 Ibid., p.692.
56 Replying to the question asked by Member, Rajya Sabha Debate, 24th Feb., 1975, CC 246-249
57 Ibid., p.693.
58 Ibid., p.692.
59 Vasudeva, Veena, op.cit., pp.82-83.
60 Ibid., p.83.
62 Statement made by the Prime Minister Indira Gandhi in Rajya Sabha debate, 24th February, 1975,
64 Vasudeva, Veena, op.cit., p.83.
68 Ibid., p.107.
69 Vasudeva, Veena, op.cit., p.83.
70 Wakhlu, Khem Lata and Wakhlu, O.N., op.cit., p.23.
71 Ibid., p.25.
72 Ibid., p.28.
73 Ibid., p.23.
74 Kak, B.L., op.cit., p.107.
75 Najar, G.R., op.cit., p.35.
76 Ibid., p.36.
77 Ibid., p.37.
79 Ibid., p.183.
80 Ganai, Abdul Jabbar, op.cit., pp.69-70.
81 Najar, G.R., op.cit., pp.53-54.
82 Ibid., p.56.
83 Ibid., p.74.
84 Ibid., p.73.
85 Ibid., p.74.


Hari Ram, *op.cit.*, Appendix I, p.185.


Hari Ram, *op.cit.*, Appendix I, p.185.


Kak, B.L., *op.cit.*, p.108.


Vasudeva, Veena, *op.cit.*, p.239.

In 1931, Maharaja Hari Singh appointed a Commission headed by B.J. Glancy on 12th February, 1931 to study the issue. Later under the Chief Ministership of G.M. Sadiq another Commission under the Chairmanship of P.B. Gagajenderagadkar was appointed to enquire the regional discrimination.
154 Ibid., p.87.
155 Ibid., p.88.
156 Peer, Giyas-ud-Din, op.cit., p.51.
158 Narinder Singh, op.cit., p.156.
159 Ibid., p.157.
160 Ibid., p.157.