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KASHMIR
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PROSPECTS

Papers by
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INDIA, THE FEDERAL STATE AND THE KASHMIR PROBLEM

RASHEEDUDDIN KHAN

Ethos of the Contemporary World: The Relevance of Federalism and Pluralism

As we reach the end of the twentieth century in the post-Cold War epoch of world history, four dominant processes have gained preeminence and global legitimacy in human consciousness, cutting across continents, ethnic groups and ideological orientations. They are: (i) peaceful coexistence, (ii) socio-economic development, (iii) secular democratic polity and (iv) extension of basic human rights to all segments of society. These processes have become universally valid guiding values of contemporary collective existence in an interdependent, organic new world.

The world today is in the stage of a parading shift, from a centralized, over-arching, sovereign state system (developed between the middle of the 17th to the middle of the 20th century) to a pattern of diminishing state sovereignty and authoritarianism, giving space to expanding inter-state linkages and various forms of decentralized federal arrangements. Sovereign states have certainly not withered away (and there is no need or prospect of that either), but states are acquiring newer forms of increasing accommodation of *civil society, of ethnic diversities and socio-cultural specificities*. Earlier, the dominant goals of States were concentration of authority, centralized direction, acquisition of self-sufficiency and promotion of socio-cultural homogeneity. Today, as a result of the new decentralized federal system, States (of all sizes, industrialized and developing economies) are increasingly recognizing the compulsions of global interdependence, of non-centralized authority within the state, and accommodation of heterogeneity and pluralism. The federal principle and a whole range of federal arrangements are gaining recognition as they provide a conducive environment for peaceful coexistence of ethnically diverse communities and support problem-solving efforts in plural societies.

Let us pause and ask: What is the new and compelling relevance of federalism in solving the complexities of collective life?

One might hypothesize that three determinants of Federalism are crucial: (i) Federalism as a social theory recognizes *Pluralism* as the valid basis of collective peaceful coexistence, (ii) Federalism as a political principle seeks to stabilize a pattern of constitutional *diffusion of power* in order to reconcile the twin concerns of common/generalized 'shared rule' with specific/particularist 'self-rule', (iii) Federalism as an administrative arrangement coordinates the legitimate distribution of power and jurisdiction between the general/ Central/federal authority and the constituent units/states! Provinces/landers/cantons, etc. Federalism in essence is a covenant-based arrangement of regulated partnership in a pluralistic society. Pluralism and Federalism emerge as the two essential principles for organizing heterogeneous societies into a viable pattern of political sharing of power by reconciling the twin processes of *political unification and social diversity, of commonality* for certain purposes and *specificities* for others. Federalism is a political

structure of unity in diversity, a mosaic of integrating the polity and preserving civil society based on socio-cultural diversities. In a word, it builds and sustains the *unity of polity*, and preserves and promotes the *plurality of society*.

Federalism seeks to promote, in its respective jurisdiction, certain trends of *centripetalism* and *centrifugalism*, without making them contrary to each other, or placing them in confrontational moulds. In a federation the equation between centralism and decentralism, between union and states, is not adversarial, or of 'either-or' dichotomy but of convergence in a pattern of cooperative distribution of jurisdiction and power. If there is no union/centre/general authority then there is no federation. Similarly, if there are no states/provinces/regions/cantons/federating units, etc., there is no federation. Federation then is a dialectical amalgam of 'apparent' opposites, which 'realistically' are not opposites but components of a complex whole. The essence of the federal principle is the perpetuation of both union and non centralization. Federalism is thus not merely a structural arrangement but also a process of functioning.

It has been estimated that there are over 3000 ethnic or tribal groups in the world, conscious of their respective identities. Of the 185 sovereign states which are members of the United Nations, over 160 are multi-ethnic in composition. About forty percent of the world's population lives today, within polities that are formally and constitutionally federal. About one-third of the human population lives in polities that utilize some form of federal arrangements in their political systems. In other words, over 70 percent of the human population is within the purview of one or the other pattern of federal dispensation.

Pluralism and Federal dispensation are the mood of the present and the wave of the future in humanity's quest for an egalitarian, just and equipoised pattern of collective existence. They seek to reconcile two basic imperatives of liberty and order in a world of variety and diversity.

In India, under the visionary leadership of the national movement for independence symbolized by the personalities of leaders like Mahatma Gandhi and Jawaharlal Nehru, the 'melting pot' and the 'salad bowl' approach to reconciling and accommodating diverse ethnic problems was rejected. On the other hand, preference was given to the 'bouquet' approach, involving appreciation of diverse flowers, each with its own individuality, yet 'tied' together as a single beautiful whole. The Indian concept draws its metaphor from flowers and the 'garden' and not from the 'kitchen' and 'cooking'. Ethnic pluralities should be considered not as items to be 'burnt', 'cooked', 'chewed' and 'digested', but as gifts of Nature's beauty in its varied human richness, demanding equal respect, legitimacy and dignity in an atmosphere of compassion, humanism and tolerance. Politically, legally and ethically it should be an essential part of a federal culture to perceive the phenomena of plurality and federal nation as a 'bouquet' and not as a melting pot' or a 'salad bowl'.

Of the 185 sovereign states in the world, only 22 are categorized as federal and three as quasi-federal states. Till 1993 the number was 20, including the erstwhile Soviet Union, Yugoslavia, Czechoslovakia and Senegambia. While the latter two have not given rise to any successor federation, in the case of the disintegration of the Soviet Union, the Russian federation has emerged with several autonomous republics

within it. Together with this a confederal arrangement has also come into being in the place of the Soviet Union, called the Commonwealth of Independent States (CIS), comprising Armenia, Belarus, Kazakhstan, Moldavia, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. However, five former Union Republic have not joint the CIS. These are the three Baltic states of Estonia, Latvia and Lithuania and the two southern states of Azerbaijan and Georgia. Federation of Yugoslavia used to comprise six republics. On its break up Serbia and Montenegro have formed a federation, and there is a move for the creation of a confederation between Bosnia and Croatia. States in the world include 6 out of the 10 most populous states (namely, China-which is functionally quasi-federal-India, USA, Brazil, Nigeria and Pakistan) and all the six States with large territories (namely, Canada, China, USA, Brazil, Australia and India). These 22 federal states account for well over one-third of the land mass and about half the total population of the world. Four out of the 20 recognized Federations in the world till 1993 were dissolved between 1989 and 1993. These were Senegambia (in1989), Soviet Union and Yugoslavia (in 1991), and Czechoslovakia (in 1993). Today several other are passing through a phase of grave tension, conflict and violence due to newer and assertive demands of minority segments; and ethnic and linguistic conflicts. These include Ethiopia, Nigeria and Tanzania (in Africa), Brazil, Mexico and Canada (in America), Germany, Switzerland, Russia, and erstwhile Yugoslavia (in Europe), India, Pakistan and Malaysia (in Asia).

All federations in the last two centuries exhibited a strong propensity for centralization of power and decision-making. There were strong political and economic compulsions necessitating such a development. Need for stability of the system, territorial security and political integration and the requirements of an integrated market system for faster growth were some of the factors that promoted this trend. While this has strengthened the sovereignty of the federal state, it vitiated the federal-balance between the centre and the federating units, eroded the necessary autonomy of the states and ethnic groups and weakened the democratic ethos at the grass-roots level. It transformed the federal state into a maximal state and sapped initiative at the regional and local levels of political life. It contributed to the emergence of authoritarian structures and arbitrary style of politics in many federations.

By the 1980s, however, the situation changed radically, leading to a questioning of concentration of power in the federal centre. New democratic challenges have shaken the earlier certitude reposed in centralized authority everywhere. Rigid centripetal structures are crumbling. A new world-wide demand for human rights, democratic culture and regional autonomy has resulted in the thrust for cooperative federalism, based on a demand for ‘independence’ rather than ‘autonomy’ of the federating units, as a necessary prelude for a better union. This is illustrated in the demand of militants in Kashmir in India, or more so in the innovative but controversial concept of ‘sovereignty-association’ articulated by *Party Quebecois* for determining the status of Quebec in the Canadian federation. Indeed, the format of the new federal union is envisaged as less rigid and more flexible to accommodate socio-cultural diversities, almost in the mould of a confederation.

In the new world of economic globalization, close-knit universal communication and permeation of an electronic media system, the earlier and familiar

concept of exclusive state sovereignty has been rendered weak, partially inoperative, and even obsolete. Even a die-hard conservative like Winston Churchill, attached to the sovereign independence of Britain, once spoke about the prospects of a European Union as attaining "a larger sovereignty". The rigid sovereign state system is giving way, on the one hand, to pooling of inter-state sovereignties in regional confederal arrangements for shared socio-economic gains, and on the other, to increasing assertion of ethnic entities, not necessarily conflicting with larger sovereign states, but demanding greater space for autonomy and group-rights, within the domestic areas of the State jurisdiction. Therefore, at one level there is an increasing world-wide demand for human rights-individual human rights, group human rights, socio-cultural and regional human rights. And at another level, the world is moving towards building viable regional identities, which, as in the case of Europe exhibits a frontier-free neighbourhood, upholding the four basic principles of free movement of people, free flow of goods, free flow of services and free flow of capital. Tariff walls have collapsed. Tax boundaries are no longer obstacles. This is indeed the new *weltanschauung* of our age and time.

The Context of the Quest for a New Indian Identity

It is in this wider global context that the relevance and challenge of creating a pluralist polity in India should be viewed.

To comprehend the specific identity of India, four propositions including the dimensions of history, socio-economic existence, characteristic of the polity and the nature of the federal system need to be recognized as the determining framework.

These propositions are: (i) that India (along with China) is the world's most ancient and uninterrupted civilization, marked by continuity of traditions and cultural values stretching for over 5000 years of recorded and pre-history; (ii) that India is the most diverse, complex and a continental plural society in the world, in terms of its multi-regional, multi-ethnic, multi-religious, multi-lingual and multi-class segments; (iii) that India, for the first time in its long and chequered history, has decisively opted for a participatory democratic system with an adult electorate of over 500 million in 1991,which is equal to the combined total population of Europe and USA; (iv) that India is building one of the world's largest federal polity in terms of population (second largest in the world), territory (seventh largest in the world), and socio-cultural diversity (comprising about 58 defined and well-marked sub-regions).

While geographically India is a recognized subcontinent, civilizationally and in terms of its cultural characteristics it is more than that-it is indeed a distinct continent. Both in its spatial spread and cultural-linguistic-cum-ethnic diversities, it is as big as Europe excluding Russia.

Within its territorial sovereignty the Republic of India encompasses, as of now, 25 States and seven Union Territories, composed in 479 administrative districts. In global terms, it is instructive to remember that almost half, i.e., 12 of the States in India are bigger in population and larger in territory compared to nearly 100 sovereign states of the world. Uttar Pradesh has a population (138 million) bigger than Pakistan (120 million) or Bangladesh (100 million) which are seventh and eighth largest states in the world, and united Germany (80 million), the most populous state in Western

Europe. Other five states-Bihar (70 million), Maharashtra (63 million), West Bengal (55 million), Andhra Pradesh (54 million), and Tamil Nadu (49 million)-have a population equal to some of the larger states of the world like Mexico (73 million), ltaly (57 million), United Kingdom (56 million), Egypt (45 million), Iran and Turkey (41 million each), and Canada (25 million). Four of the larger cities of India in 1981-Calcutta (9.2 million), Bombay (8.3 million), Delhi (6 million) and Madras (4.4 million), had a population bigger than 96 sovereign states in the world.

All the eight major religious systems of the world, comprising four originating in South Asia, and four in West Asia, coexist in India. The population of religious communities in the 1981 Census was as follows: the Hindus (75.8 per cent, including Caste Hindus-61.2 per cent and Scheduled Caste-14.6 per cent); the Muslims (11.4 per cent); the Christians (2.4 per cent); the Sikhs (2 per cent) the Buddhists (0.7 per cent); the Jains (0.5 per cent); Zoroastrians or Parsees (0.1 per cent); and the Jews (0.1 per cent). India has also one of the largest tribal population in the world, constituting in 1981 about 52 million people, accounting for 7 per cent of the Indian population.

There are 18 major language groups, whose population in 1981 Census was as follows: Assamese (9.0 million), Bengali (44.8 million), Gujarati (25.9 million), Hindi (162.6 million), Kanada (21.7 million), Marathi (42.3 million), Sanskrit (2,212), Sindhi (1.6 million), Tamil (37.7 million), Telugu (44.8 million) Urdu (28.6 million), and Konkani, Manipuri and Nepali (1 to 1.5 million each).

There are about 58 socio-cultural sub-regions marked for their distinct internal homogeneity and sub-national identify within the seven natural geographical regions of India.

In terms of its socio-cultural diversities, population density and continental spread, India is bigger than a country, larger than a nation and more than a mere State. It is a defined civilization, with all its varieties. It is a determinate territorial identity carved out uniquely by physical geography. Centuries of interfacing and interaction among of a pattern of coexistence, generally called *unity in diversity*. It is in this context that India should appropriately be called a *Federal Nation.*

It is quite evident that India is not a nation, in the conventional sense of the term. India is a Federal nation. This distinction is vital, and of the very essence of our pluralist society. The implications of being a federal nation should be clearly understood in theory and worked out in policy thrust in practice.

What is the relevance of the *Federal Nation*, as a concept and as a functional political system?

A *Federal Nation* is not homogeneous like a nation. It is a mosaic of socio-cultural heterogeneity, diversities and pluralities, aggregated into a unified political sovereignty, It has aspects of commonality and uniformities coexisting with aspects of distinct specificities. Its hallmark is *unity of polity* and *plurality of society.*

The Kashmir Problem

It is in this larger theoretical framework of a modern and evolving federalism, and in the context of building a new identity in democratic sovereign India that we must position and analyze the Kashmir problem. There are four dimensions of the Kashmir problem—Indian, Indo-Pakistan, International and the People of Kashmir. In the contemporary post-Cold War era, marked by global interdependence, all the four dimensions are so closely interlinked with each other that development in one has repercussions on the other three as well. An autarchic approach to solving the Kashmir problem within the domestic jurisdiction of India was even earlier impractical and impossible. In the present global environment, the Kashmir problem has acquired more complexity due to which it cannot any longer be meaningfully discussed and solved in isolation. Furthermore, this puts considerable strain on the process of solving the problem within the legitimate territorial sovereignty of India as part of its federalizing process. And it also leads to tensions and conflicts in the Indo-Pak bilateral dimension, tension, militancy and violence among the people and to stalemates and reservations in the international environment.

In terms of the Indian dimension, the Kashmir issue is basically a problem of the crises of the federalizing process: of reconciling legitimate demands and expectations of state autonomy, respect for human rights and fulfillment of the agenda of socio-economic transformation for improving the quality of life. In terms of the bilateral Indo-Pakistan dimension, the Kashmir problem is caught in the long-drawn divergence and discord on the question of the legitimacy and validity of the accession of the erstwhile princely state of Jammu and Kashmir to India, and the form and method of what the Simla Agreement (signed by India and Pakistan on July 2, 1972) calls “a final settlement of Jammu and Kashmir”. In terms of the international dimension, the Kashmir problem should be perceived and analyzed at two levels—as part of the United Nations resolutions and its peace-keeping operation and as part of international politics in two phases—as a factor in Cold War power politics between 1948 and 1990, and in post-Cold War approaches of the major powers to problems of regional tensions and conflicts. Finally, there is the factor of the people of Kashmir, whose participation in the amicable solution of the Kashmir problem is an important ingredient.

The four dimensional nature of the Kashmir issue in its historical origins and its politico-legal context should be clearly perceived to understand the complexity of the problem in its global and regional context.

Politico-Legal Context of the Indo-Pakistan Discord on the Kashmir Problem

The Kashmir problem is a legacy of the British colonial settlement of India’s independence. The form of national independence in India was predetermined at least by two limiting factors: the manner of the transfer of power by the British and the consequences of the Muslim League demand for Pakistan. The final strategem of the withdrawing British imperial rulers, anxious to establish a balance of power in their erstwhile sub continental empire by the transmutation of the principle of *divide et impera*, was made possible by the partition of the country.

Due to a combination of factors, the national leadership of India was ineffective in resisting the bifurcation of the country based on the untenable 'two nation' theory. Partition, indeed, became the price of liberty. Yet, the longing for liberty was so powerful and supreme that despite the high price, it was considered risky to postpone its attainment in the faint hope of a delayed independence with the unity of the country intact. There were, at that time, open threats of fratricide and fear of Britain's reversal of the decolonization policy if partition was rejected. This fatality of the political situation in 1947 needs to be kept in mind.

The genesis and substance of the so-called Kashmir problem is enmeshed in the faulty (and what turned out to be also mischievous) procedure prescribed for the 'lapse of paramountcy as envisaged in the British constitutional documents.

In the whole range of international law and indeed in the bulky corpus of British constitutional jurisprudence, no concept is as vague—despite its effective utility for the Crown—as the concept of paramountcy. When pressed to define the concept by the Nizam of Hyderabad in a famous controversy, Lord Reading, the then Viceroy and Governor General of India, borrowing as it were the famous biblical aphorism, 'I am that I am', said: 'Paramountcy is paramount'. And so it was: with the withdrawal of the paramount, paramountcy lapsed and what remained was chaos, anarchy and conflict of claims.

Therefore, in so far as the princely states were concerned, the withdrawing colonial British authority left them to their own fate. Almost all the 565 States acceded (mostly to India and some to Pakistan) within a year of independence, with some difficulties as in the case of the states of Hyderabad and Junagarh. The accession of Kashmir to India, however, generated a never-ending acrimonious controversy between the two successor States of India and Pakistan.

At this point, to give the context and the content of Kashmir's accession to India and to set the record straight, it would be appropriate, and authentic to quote extensively from the historic speech of Shaikh Mohammad Abdullah, the then Prime Minister of Jammu and Kashmir State, delivered on August 11, .1952 in the Jammu and Kashmir Constituent Assembly, Srinagar. He said:

> "May I mention here the developments which led to the establishment of our relationship with India in October 1947? After the Independence Act of 1947 was passed by the British Parliament, the Dominion Status was conferred on India and Pakistan; and the British Paramountcy having lapsed, the Indian States became independent. They were, however, advised to join either of these two Dominions. It is a tragic commentary on these arrangements proposed by the British Government that the position of these Indian States, comprising one fourth of the total population of the entire Indian sub-continent, was left absolutely vague and nebulous with the result that the future of the States' people came to be subjected to the vagaries of their respective rulers. Many of them acceded to either of the two Dominions after a good deal of procrastination while others hesitated and delayed the final decision to the detriment of the interests of the people living in those States.

"The Jammu and Kashmir State was one of the States whose ruler had not taken a decision in regard to accession. While the State was in the condition of uncertainty and indecision and while the national movement was seeking transfer to complete power to the representatives of the people and the then State Government was indulging in repression in certain areas of the State particularly in Poonch, the State was suddenly invaded. Thousands of tribesmen from Pakistan as well as Pakistan nationals launched a savage attack against the people of this State. The administration then in charge of its, affairs proved singularly ineffective to cope with the grave emergency and consequently it collapsed all of a sudden. At that critical moment in the history of the State, the National Conference stepped in to avert what looked like total annihilation at the hands of the raiders from Pakistan who were later proved to have been abetted by the Pakistan Government. The National Conference mobilized all sections of the population in an effort to prevent conditions of chaos and dislocation from spreading to the entire State. This factor was mainly responsible for the splendid morale displayed by the people of Kashmir who were inspired to heroic deeds in their resistance against the invaders.

"It was, however, obvious that in face of the overwhelming number of the well armed raiders, the unarmed people of Kashmir could not hold out for long. Consequently, it became urgently necessary for us to seek the assistance of the friendly neighbour which alone would enable us to throw back the invaders. In that critical moment, we could turn only to India where the Government and the people had demonstrated their sympathies for the ideals for which we were fighting the raiders.

"But legal complications came in the way of India rendering the State any immediate help for its defence against aggression. The Government of India could send their army only if the State would accede to that Dominion. In accordance with the Indian Independence Act 011947, The Instrument of Accession had to be executed by the Ruler of the State in order to make it legally valid. Consequently, with the backing of the most popular organization in the country, the Maharaja signed the Deed of Accession on the 26th of October 1947 and the State of Jammu and Kashmir became part of the Indian Dominion.

"The basis of our relationship with India is The Instrument of Accession which enabled our State to enter into a union with India. In accordance with the' terms of the Instrument, certain powers were transferred to the Centre. The principal matters specified for this purpose in respect to which the Dominion Legislature could make laws for this State were:

(a) Defence,
(b) External Affairs, and
(c) Communications

"This arrangement involved a division of sovereignty which is the normal feature of the Federation. Beyond the powers transferred by t to the Dominion, the State enjoyed complete residuary sovereignty.

"... Earlier to this, it had been agreed between the two Governments that in view of the special problems arising in respect of its people that they would themselves finally determine their political future, a special position should be accorded to Jammu and Kashmir in the future Constitution so that a limited field of the Union Powers over the State is ensured.

"Taking into account the special circumstances in which this State was placed, a special constitutional arrangement was evolved and provided in Article 370 of the Constitution which defines the position of Jammu and Kashmir". (Reproduced in Saifuddin Soz, ed., *Why Autonomy to Kashmir?* (New Delhi, 1995) 121—139).

In view of this background, the Pakistan claim that Kashmir as a Muslim majority area would have acceded to Pakistan is untenable on several objective counts.

The political situation in Kashmir at that time was such that the National Conference under the leadership of Shaikh Mohammad Abdullah would not have preferred to accede to Pakistan. The Maharaja might have and indeed he was inclined to because of his misgivings about the implications of a democratic rule in India, and its impact on his princely position. But the Maharaja was dismayed and frustrated by Pakistan's tactless move to sabotage his authority and thereby it lost its only chance of formalizing Kashmir's accession to it.

The impression that is sometimes created by Pakistan that had not Kashmir acceded to India, it would have naturally acceded to Pakistan is not only far-fetched and hypothetical but also contrary to the available evidence of the political situation in the state in 1947. No statement had ever been made by any responsible leader of Kashmir at the time or before partition, demanding its accession to Pakistan. Dominion status or independence of some sort was the only alternative considered at that time.

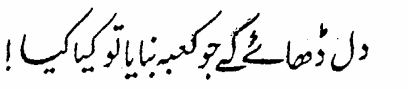
It is a fact of history that there had never been any collaboration, close contact or affiliation between the political movement in Kashmir and the progenitors of the Muslim League's demand for. Pakistan.. Kashmir's history and politics, particularly in its modern phase, has been closely knit to the fortunes of what today constitutes the Republic of India. The Muslim League could never have struck roots there. On the contrary, the political elite of the State had intimate, personal and ideological relations with the composite national leadership of the Congress. It was Jawaharlal Nehru and not M.A. Jinnah who was arrested by the Maharaja's Government. And the National Conference drew its direct inspiration from the composite nationalist leadership of India. Therefore, the State's political development and the choice of its articulate elite prevented Kashmir's accession to Pakistan.

The assertion made in an unqualified manner that India was partitioned only on religious basis is misleading and tendentious. The Congress leaders refuted the 'two nation' theory and the religious basis of India's division. They accepted partition as the price for liberty as otherwise the prospects of independence would have been in jeopardy. The conclusion to be drawn is that while the theory that Hindus and Muslims formed separate nations was repudiated by the leaders of the national movement in principle, partition perforce was accepted because of political

expediency. Therefore, the acceptance of partition need not to be quoted as a simultaneous and ipso facto acceptance of the religious basis of the partition of India.

Further, while by the process of partition about 60 percent of the Muslims in undivided India constituted Pakistan, the remaining 40 percent continued to stay in India, thus demonstrating the practical inadequacy and conceptual fallacy of the partition proposal based exclusively on religion. An instructive and amusing fact to remember today is that almost 50 years after partition, the total Muslim population in India, approximately 125 million in 1995 is the second largest Muslim population in the world. Ranking next to Indonesia, and more than the Muslim population in Pakistan or Bangladesh, and almost twice the size of the total Arab population in the 11 states of West Asia (Middle East). Therefore, the earlier claim of Pakistan that Kashmir should become part of it because it had a larger Muslim population compared to India has also lost its validity.

The growth of a composite, multi-regional, multi-lingual federal polity of India is a decisive refutation of the 'two nation' theory. For Pakistan, however, that theory remains the sheet-anchor of its political identity, enabling it to justify elimination and suppression of non-Muslim minorities without feeling obliged to abide by its much advertised Islamic conscience. It is a great human tragedy that today in the expanses of Lahore, a city of beauty and culture—towards the evolution of which Hindus, Muslims and Sikhs gave generously of their very best, with love, toil and devotion, and with mutual friendship and good neighbourliness—today in that very city no Sikh and no Hindu can find shelter and call it his very own. The pathetic words of the Urdu poet Meer comes to mind:



Dil dhai ke jo Kaaba banaya, to kya kiya!

(What if, even if you have built the Kaaba (House of God) on the ruins of the human heart!)

In brief, therefore, except by bringing in the religious consideration for state-building and acquisition of territories, Pakistan has no claim in seeking Kashmir. And the religious consideration has been refuted conclusively. Apart from the patently obscurantist and medieval basis of this claim which militates against the modern norms of state and nation- building, it also reflects by implication the rather immodest presumption on the part of the Pakistani elite that it alone should be recognized as the authentic South Asian region spokesman to voice Muslim demands. In the range and depth of Muslim thought, and culture, in the spread and influence of the *Sufi silsilahs*, in terms of centres of religious discourse, and practically in all spheres of social and collective existence, Muslims in India have a greater variety, depth and sophistication, and therefore, a valid claim to the humanist and liberal heritage of Islam in the subcontinent Hence Kashmir as a specific ethno-culture identity can flower better in India rather than in Pakistan.

Kashmir and the United Nations

The voluntary offer by India to 'ascertain' the wishes of the people (later called 'plebiscite' by other interested parties and the U.N.) did not make the accession of the state to India conditional, incomplete or imperfect. The offer to ascertain the wishes of the people was not a legal undertaking but a political engagement. It was not part of the Instrument of Accession, and in no way modified its terms. And the Instrument is the only legal document binding Kashmir's political integration with India.

The concession of reference to the people was contained in a communication by the Governor General. The democratic government of India presided over by Jawaharlal Nehru was keen to make a firm legal act also politically valid and morally defensible. It implied essentially an attempt by India to obtain the concurrence of the political movement in Kashmir (the National Conference which was the only organized representative body), and also because democratic India believed that the Maharaja's unassailable constitutional right for accession alone was not enough to satisfy popular opinion here or elsewhere.

This brings up the question as to why plebiscite as proposed by the United Nations and accepted by India and Pakistan was not held. To appreciate the reasons why it could not be held, one has to remember not only the fact of Pakistan's systematic violation of its commitments to the United Nations, and of its international obligations, but also the changing spectrum of fast-moving events which gave a new and different setting to the Kashmir problem.

Two fundamental factors inhibiting India's will to conduct an internationally supervised reference to the people may be mentioned. One was Pakistan's failure to comply with the accepted proposals of United Nations Commission for India and Pakistan (UNCIP) dated August 13, 1948, and January 25, 1949-what are usually referred to as the two agreed international engagements between India and Pakistan. Another was the changed international context in which Kashmir did not remain a question between two States but become a factor in regional and global big-power politics. Beyond doubt, the Indian submission is unassailable that the two proposals of the UNCIP jointly constitute what in law is called 'concertina resolution'.

Since the plebiscite proposal is only contained in Part III, and its implementation is dependent on the previous consecutive operation of Part I and Part II (dealing respectively with the 'cease-fire' and 'truce arrangement'), therefore, unless the proposal contained in these parts are fulfilled (even according to the UNCIP resolution) it is not possible to implement the recommendation contained in Part III, i.e., plebiscite.

India observed that not only did Pakistan flout the proposals contained in the agreed UNCIP resolutions, but did many things which militated against the spirit and the letter of those resolutions. Two significant instances of flagrant violation in this regard are: (i) the strengthening of the so-called '*Azad*' Kashmir forces and (ii) the acceptance of the U.S. arms deal. As pointed out by United Nations, the above factors radically altered the military balance, not only between the two countries, but, in a sense, in the entire South Asian region.

The second basic factor which radically altered the situation was the emergence of the adversarial international relationship of the two conflicting power-blocs-led by the United States and the Soviet Union-that dragged the Kashmir issue into the Cold War arena as part of their confrontational politics.

With an increased interest shown by Britain ad America in Kashmir, the issue began to figure prominently in their calculations of global strategy-focused on the objective of 'containment of communism'. Kashmir's proximity to Russia and China, in the wake of India's pronouncement of nonalignment, appeared dangerous to the Western powers. By February 1954, the Kashmir Constituent Assembly had passed a declaration reiterating the fact of the State's irrevocable accession to India. Soon after, in May 1954, followed the U.S. arms deal to Pakistan.

By 1956, India held the position that a plebiscite would unsettle the domestic peace of the subcontinent, and might also be exploited by the antagonistic superpowers lacked in a global contest for supremacy. In 1957, India announced that it was unable to fulfil its commitment to hold a plebiscite, chiefly because of the continuing and threatening aggression of Pakistan and its defiant, illegal occupation of a considerable part of Kashmir. 'Vacation of aggression', said India was the main issue and it was the responsibility of the United Nations, and that nothing could be done until that situation subsists.

It is against this background of events that the UN almost ceased to play any role in the Kashmir situation. Several of its attempts at mediation had failed in the decade between 1948 and 1958. The fact is that for a variety of reasons both India and Pakistan were suspicious about the impartiality and objectivity of the UN efforts. Primarily because it was felt that the UN was besieged by big-power politics and Cold War strategies.

Four Major UN Efforts in Kashmir (1948—1958)

The first effort was made on January 5, 1949, after the acceptance of the cease-fire by India and Pakistan in pursuance of the two UN resolutions of August 13, 1948 and January 25, 1949. The UN proposed that a Plebiscite Administrator be appointed to supervise the plebiscite process and that for the duration of that period, the State of Jammu and Kashmir should pass under the full control of the functionary. American Admiral Chester W. Nimitz was appointed to the post in March 1949 by the Secretary General. India rejected the proposal, because it not only questioned the legality of accession, but also involved the exercise of quasi-sovereignty by the Plebiscite Administrator for a period of time. Pakistan initially welcomed the idea, but later showed indifference as it was more interested in the delimitation of the cease-fire line in order to bring the actual fighting to an end. This was achieved by the Karachi Agreement of July 27, 1949. As a result this UN proposal remained inoperative.

The second UN attempt at mediation was made in December 1949. The Security Council proposed the appointment of the Canadian General McNaughton to mediate directly between the Indian and Pakistani delegations at the UN. It was proposed that the Northern Areas occupied by Pakistan—Gilgit and Baltistan should be considered part of the "disputed territory, along with the Valley, Poonch and Jammu", but should remain under the control of the local authorities, that is, the

current pro-Pakistan administration. This in effect meant legitimization of the concept of "Azad Kashmir", which is referred to by India as "Pakistan Occupied Kashmir" (POK). Inevitably India rejected the proposal. Hence the McNaughton attempt at mediation failed.

The third, and probably the most serious UN attempt at mediation was made in 1950 with the appointment of Sir Owen Dixon, a distinguished Australian jurist, as the United Nations Representative in India and Pakistan within the framework of the UNCIP. He visited the subcontinent, went on a tour of the State of Jammu and Kashmir (May—August 1950), and had detailed discussions with the Prime Ministers of India (Jawaharlal Nehru) and Pakistan (Liaquat Ali Khan). In his comprehensive report to the UN on September'15, 1950, Dixon was clearly skeptical about the practicality and even political wisdom of holding a "general plebiscite" covering the entire territory of the State of Jammu and Kashmir suggested by the UNCIP. He recognized four regions in the State—Jammu (together with Poonch), Ladakh, the Valley of Kashmir (including the Muzaffarabad area under Pakistan occupation), and the Gilgit Agency and its dependencies along with Baltistan (for convenience referred to as the Northern Areas). He made two alternative proposals: (I) to hold a plebiscite in each region, and let it join India of Pakistan according to the result of the vote, or (ii) to recongnise even before the plebiscite that since some areas were certain to vote for India or Pakistan, therefore, let Jammu and Ladakh go to India and the Northern Areas to Pakistan, and let plebiscite be conducted only in the "politically most uncertain area of the state", that is, in the Valley of Kashmir and some adjacent areas. There was no provision at that time, as was clearly implied in the UN resolutions, for what is now known as the 'third option', that is independent Kashmir.

The Indian leaders looked with interest at the second proposal of Sir Owen Dixon, involving plebiscite only in one region, to be followed by a demarcation of boundary by an indo-Pakistan Commission. India assumed that with Shaikh Abdullah at the helm, the people of the Valley would naturally opt for India. Pakistan did not respond positively, indeed protested against the break up of the State. But it should be noted that Shaikh Abdullah strongly opposed any scheme for the partition of State. The Dixon plan, therefore, had to be abandoned. Regarding general plebiscite, Dixon argued that while Pakistan would have it conducted only in the absence of Governments of both India and that of Jammu and Kashmir, that is by a Plebiscite Administration with quasi-sovereign powers during the period; India, on the other hand, maintained that Pakistan being the "aggressor" and "usurper" of territory cannot be equated with the legitimate Indian authority. In this atmosphere of rigid positions, Dixon had to accept the failure of his efforts.

A most instructive contribution of Sir Owen Dixon, however, was to put in a proper perspective the heterogeneous character of the State in terms of the diversities of its ethnic, religious, linguistic and regional identities. He wrote in the concluding section of his report to the UN that: "the State of Jammu and Kashmir is not really a unit geographically, demographically or economically. It is an agglomeration of territories brought under the political power of one Maharajah. That is the unity it possesses……Great areas of the State are unequivocally Muslim. Other areas are predominantly Hindu. There is a further area which is Buddhist. The interest of the people, the justice (and) permanence of the settlement, …point to the wisdom of

adopting partition as the principle of settlement and abandoning that of an overall plebiscite……..”

The fourth UN effort was made in March 1951 after the failure of the efforts of Sri Owen Dixon. The UN appointed a former US Senator, Dr. Frank Graham, as United Nations Representative for India and Pakistan for mediation. He submitted five reports to the UN between 1951-1953. None were accepted by India and Pakistan-India focused attention on its original demand for Pakistan “vacation of aggression”, and Pakistan mistrusted the fairness of any plebiscite, without adequate international safeguards. In 1953, Shaikh Abdullah was dismissed as the Chief Minister, and put under arrest. In November 1956, the Jammu and Kashmir Constituent Assembly declared that “the State of Jammu and Kashmir situation had radically changed, and with it the focus of the UN debates. In December 1957, the resolution of the Security Council on the report of its President Gunnar Jarring of Sweden recognized the impotence of the UN in dealing with the Kashmir Problem. Dr. Graham submitted his sixth and last report in March 1958, expressing his despair and disappointment. From 1951 to 1958, all his efforts remained unsuccessful. A decade of UN involvement, from 1948 to1958, could not produce any basis of mutually acceptable mediation for India and Pakistan. Since then UN almost ceased to have any effective role in the Kashmir problem.

Pakistan’s Policy on Kashmir in Recent Years

In 1977, the Muslim fundamentalist movement in Pakistan received a great impetus under General Zia-ul-Haq and his military regime which had close links with the Jamaat-i-Islami, a right-wing religious group. The Soviet Union’s incursion into Afghanistan helped the Jamaat and the Pakistan military regime to raise the slogan of *Jehad* (religious war) and mobilize support for their ideological counterpart in Afghanistan. A mood of pan-Islamic militancy was assiduously promoted, not only to fight secular democratic opposition parties and forces within Pakistan, but also to strengthen the base of insurrection in Afghanistan and Kashmir. It was in pursuance of this policy that the Inter-Services Intelligence Directorate (normally designated as ISI by the media and political analysts) was developed, among other things, to extend all possible support to militants, insurrectionary groups and terrorists in Punjab and Kashmir. This involved a whole host of activities—conspiracy, sabotage, intelligence and logistic support to militants, training and supplying of arms to terrorists, engineering uprisings, sending in infiltrators, organizing covert operations etc. Many analysts have observed that Pakistan has been waging a low intensity proxy war in Kashmir. A number of Jehad conferences, rallies and demonstrations have been held in Pakistan and in P0K. Pakistan has also been conducting well orchestrated multimedia campaigns against India. Former Chief of Army Staff, General Mirza Aslam Beg, stated in a seminar in Lahore (January 15, 1992), that “a crore of Rupees were spent on keeping the Kashmir struggle alive”. It has been reported that there are 105 camps—48 in Pakistan and 49 in P0K and the rest on the Afghan border—to train militants and terrorists.

Of course, all this was most effectively done by using the disgruntled and dissident elements among the local people— the Sikhs in Punjab earlier and the Kashmiri Muslim youth later, especially since 1984, due to their alienation and discontentment for a variety of reasons. In Kashmir it was easier to persuade young

militants cross the Line of Control (LOC) to get training on the Pakistan side, and then return to the Indian side of the Valley. In this venture, mercenaries from Afghanistan were used by invoking the slogan of Jehad. Evidence collected from different sources, not merely Indian but overwhelmingly based on statements of Pakistani and Kashmiri militant leaders, clearly reveal Pakistan's complicity in promoting terrorism.

Widely reported in the international media, two revealing reports, from well-known American journalists and analysts of South Asian affairs, corrobrate the evidence of Pakistan's involvement.

Mr. Selig S. Harrison, senior associate at the Carnegie Endowment for International Peace, and South Asian correspondent of *The Washington Post*, wrote a detailed report on Pakistan in the newspaper dated April 23, 1990. According to him, "Pakistani stimulation of the Punjab insurgency goes back to the beginnings of the Zia-ul-Haq regime in 1978. By 1984, the Pakistan Army's Field Intelligence Unit was helping to organize the Liberation Front in the Kashmir Valley. By 1988, the Inter-Services Intelligence (ISI) Directorate in Islamabad had begun to set up training camps in Pakistan-held Azad Kashmir manned by retired Pakistan army officers.

"Evidence obtained in Pakistan as well as from Indian and American intelligence sources indicates that some 63 Pakistan-operated camps have been functioning at various times during the past two years, roughly half located in Azad Kashmir and half in Pakistan. At least 11 have operated continuously.

"Captured agents and guerillas have provided detailed evidence that Pakistan has trained hundreds of guerilla leaders and has smuggled more than 600 weapons into the Valley, including rocket launchers and *Kalashnikov* rifles from US-supplied Afghan aid stockpiles."

In a similar vein, Steve Coil from Karachi reported in the *International Herald Tribune* of December 10, 1990 that "Muslim guerillas fighting the Indian government in Kashmir acknowledge that they are receiving arms and training from Pakistan, as well as advice from Pakistan's Inter-Services Intelligence Agency. The level of Pakistani assistance has been substantial and steady since earlier this year, according to the guerillas. In the Indian State of Punjab, radical Sikh separatists continue to wreak havoc with weapons obtained in Pakistan. But the level of assistance to the guerillas from Pakistan's government appears to be lower than that in Kashmir."

Faced with this irrefutable evidence, Pakistan, however, takes the position that its basic interest in the Kashmir problem is to help the people either join Pakistan or at least gain independence from India. In pursuit of this policy position, Pakistan extends moral, political, diplomatic and material support (that is arms supply to, and training of, what they call "freedom fighters") to those who are struggling for the liberation of Kashmir from Indian occupation and to show solidarity with the oppressed Muslim people left at the mercy of (what they, in their polemical rhetoric prefer to call) a Hindu dominated government of India. In an attempt to internationalize the Kashmir issue, particularly taking advantage of their membership of the Organization of Islamic Countries (OIC), Pakistan harps on the violation of human rights in Kashmir, and on the rights of self-determination to its people.

Formally, Pakistan still talks of the UN supervised plebiscite to conclusively decide the Kashmir problem, however, without complying with the prerequisite conditions stipulated in the UNCIP resolutions for the conduct of such a plebiscite. Further, the UN resolutions only speak of the *bifold* version of plebiscite, that is the option to join either India or Pakistan. It does not include, what is now popularly called the third option of independence. It has been observed. by careful analysts that it is both contradictory and unrealistic for Pakistan to expect India to concede the right of self- determination to the people of Kashmir, while defining that right only to mean accession to Pakistan. Officially, Pakistan has ruled out the possibility of Kashmir becoming independent.

From all accounts since the 80s, Pakistan has used Kashmir more as a factor for embarrassing India in multilateral fora, especially the UN and its agencies, like the Human Rights Commission, and as a rallying point for its own domestic political cohesion. By doing so Pakistan's objective has been to shift the focus of its people from the basic issues of development to the so-called Islamic solidarity with the people of the Kashmir Valley. It is evident, as the years go by, that due to the disenchantment of the Kashmiri people both with India and Pakistan, the Pakistani regime and elite is no longer interested in solving the Kashmir problem, as much as, in keeping it alive to use it in its campaign against India. This provides Pakistan a sentimentally charged item to overcome its own identity crisis, and maintain its political identity by the rejection of everything Indian. Especially the values of India's composite culture, religious and ethnic pluralism, secular polity and open society. Rejecting all these values, Pakistan arrives at its criterion of statecraft and format for building an 'alternate' and different national and state identity. Otherwise, Pakistan tears that its basic political premise of Hindus and Muslims being two separate nations, per se, would stand refuted.

Kashmir and India

The most important of the four dimensions of the Kashmir problem is the Indian dimension, which merits serious reflection.

For over two thousand years, Kashmir has been a part of India's history, legend and mythology. From the time of the great Mauryan Emperor Ashoka (269-236 BC) whose vast dominion covered areas from the Kabul valley and Gandhara region in the north-west, touching the realm of the Greek King Antiochus II of Syria (261- 246 BC), to the deep south in the Godavari-Krishna basin of the Andhra, as for as the Tamil regions of the Cholas and the Pandyas also included the Vales of Kashmir and Nepal. Early history of Kashmir is contained in the 12th century AD poetic account of Kalhana's *Rajatarangini* (River of Kings). This chronicle mentions Jalauka as the son and successor of Ashoka in the Kashmir valley, and his other son, Kunala as heir to the rest of the sprawling empire. Later, Kashmir becomes part of the trans-Indo-Central Asian empire of the Kushanas (15-152 AD). In the medieval period, it acquired importance as a dominion ruled by the Muslim Shahs of Kashmir for more than two centuries (1339-1586), and later Akbar annexed it and made it a part of the expanding Mughal Empire. Kashmir remained part of the Mughal Empire for 166 years (1586-1752). The Afghans over-ran Kashmir (1752-1819), followed by

the Sikhs (1819-1846) and then the Dogras of Jammu (1846-1947), the latter with the concurrence of the entrenched British colonial authority in India.

The States of Jammu and Kashmir in India comprises three well-marked regions-Jammu (including Poonch), Kashmir Valley and Ladakh. (Gilgit and Baltistan, and Western strip of the Valley are now part of the Pakistan Occupied Kashmir. Aksai Chin area of Ladakh is under Chinese occupation). The total area of the erstwhile princely state of Jammu and Kashmir was 222,236 sq km of which approximately 78,114 sq km is occupied by Pakistan and 42,735 sq km by China.

While the 1991 Census has not yet been conducted due to disturbed political condition in the region, the Jammu and Kashmir Experts Committee had tentatively projected the population as 7,718,700 in 1989. The 1981 Census had recorded the total population as 5,987,389. In terms of the religious communities, in the whole state, the Muslims account for 64.3 percent, the Hindu 32.1 percent, the Sikhs 2.17 percent and others 1.43 percent. In the three regions, population proportions are as follows: Kashmir Valley (Muslims: 29.7, Hindus: 66.3 including 18 Scheduled Castes, Sikhs: 3.58, others: 0.42) Ladakh (Muslim; 46.2, Hindus: 2.6, Sikh: 0.2, Buddhist: 51).

Kashmir today is in turmoil, and anarchy prevails. Business is badly disrupted as security of life, liberty and property is conspicuous by its absence. Civil authority and civil liberties are suspended. As the Legislative Assembly stands dissolved, a centrally-controlled Governor's rule exists. The security forces, comprising the military and Para-military personnel look after the law order situation in the state. Militants and terrorists have been on the rampage. Common citizens are caught in the cross-fire between the violence and counter-violence of the insurrectionary elements and the security forces. For almost seven years, since 1989, Kashmir has been passing through a period of great chaos, anxiety, tension and unabated violence. For the Republic of India, it has been a most testing time. Kashmir represents the most difficult and complex problem in terms of federal nation building for a republic of such large continental dimension like India.

There are many factors and forces responsible for the emergence of this dismal state of affairs. Undoubtedly, the internal situation deteriorated largely because of the lapses, defaults and mismanagement of the Union of India and the successive state governments, over the last four decades. Political process was disrupted, sometimes due to petty factional quarrels within different parties, and sometimes due to manipulation from the Centre and the political elites in New Delhi. Elections were mostly rigged, except in 1977 and partially in 1983. This eroded the confidence of the electorate in the democratic process. On various pretexts, the Central government and leadership of the Congress frustrated the growth of indigenous parties which were attuned to the specific needs of the Valley and imbued in the ethos of Kashmiri culture.

People are aware that corruption is widespread at all levels, from ministers to government contractors. The top leaders amassed conspicuous wealth and acquired landed property. Land grabbing became a favorite game of the political elite. A sordid joke made the rounds that if the states were to compete for the top prize in corruption, then Kashmir would top the list, followed by Bihar. Blatant instances of graft and

nepotism were common occurrences. During Gui Shah's tenure as Chief Minister (1984—86), a forum of intellectuals, lawyers and businessmen sent a memorandum to New Delhi, alleging that he had broken all records of corruption, favouritism and misrule in the state. In exasperation, former Chief Minister Mir Kasim commented that "now there is no limit to corruption in Kashmir". In several cases the Central funds earmarked for specific developmental projects were not utilized appropriately. Communal parties like Jamaat-i-lslami, Hindu Mahasabha and Jana Sangh (now BJP) exploiting religious susceptibilities of the illiterate and the semi-literate masses for partisan political gains and electoral victories, contributed to suspicion, tension and animosity between the Muslims and the Hindus.

Despite comprehensive land reforms called 'Naya Kashmir' (New Kashmir) initiated boldly by Shaikh Abdullah's National Conference in the initial phase, due to lack of adequate infrastructure and non-availability of resources it did not improve appreciably the standard of life of the people. Available employment opportunities were seized by the better educated and more affluent levels of the Hindu Pandits—the classical Brahmin elite of Kashmir. Adequate job opening for the common Muslim, constituting the majority, was not there. Therefore, unemployment and underemployment among the Muslim youth increased over the years. In most departments, jobs were filled by non-Muslims and by persons from outside the State and very few by the Muslims. In 1953, no less a national leader than Maulana Abul Kalam Azad had written to his colleague Lal Bahadur Shastri (then Minister of Post and Telegraph and later also to Prime Minister Jawaharlal Nehru) that he would like them to enquire if it were a fact that the Department of Post and Telegraph in Kashmir had very few Muslim employees. If that be so, he asked, how we convince the Muslims of Kashmir that their welfare is close to our heart. In the field of education, especially technical and scientific education, there has been a big short-fall of Muslim students. Education has spread, but not commensurate with the requirements of an increasing population. Over the years, the youth and educated middle class have developed an adverse impression about neglect and lack of genuine concern of the Central government, and the subservience, inefficiency and manifest impotency of successive State governments. And all this made it worse for a community set in the background of rampant poverty, centuries of feudal exploitation, and of rising expectations.

The cumulative effect of all this was the increasing alienation of the people of Kashmir. A former Congress Chief Minister and a leader of integrity, Mir Kasim in a statement of April 24, 1989 said: "The government has to decide what it wants, the people of Kashmir, or just the land". The Kashmiris were unhappy and disgusted with being denied their democratic rights, proper employment opportunities and developmental prospects by a succession of corrupt puppet regimes foisted by New Delhi.

One major reason for the sudden militancy in the Valley, however, was not only due to poverty and economic deprivation, more so because of the despair of the emerging, new but disinherited middle class—frustrated by the system. This is essentially a class, trained in schools and the colleges established after independence, for occupying positions in government, public and private sector industries—expanding trade and commerce. A class trained for better employment and to wield power in society felt cheated when denied the opportunity to do so. A

disproportionate number of salaried jobs in government and the public sector were appropriated by the better educated and more qualified Kashmiri Pundits— mostly because of merit but also due to nepotism and favouritism practised by the entrenched Pundit elite in the higher echelons of gainful employment. Sensitive and educated Muslim youth felt frustrated as recruitment in banks, private companies, trading houses, hotels, etc., were from outside Kashmir or, from among the Kashmiri Pundits. Muslims, when employed, got jobs at the lower levels.

A second reason for the alienation of the youth, some of whom preferred to become militants, was due to the fact that after the reign of terror unleashed by the violent insurrectionary groups, the security forces began to round-up many innocent people, out of suspicion, false reports or mere misjudgment. Several persons were arrested and kept as detenues. Many citizens, including minors were picked-up in what is called "cordon-and-search operations" or "crackdown". As a result of such operations, families have suffered due to the death of their kin in fake encounters, deliberate punitive action or 'cross-fire' and have become alienated from the government. A counter-terror generated by the security forces, probably in their zeal and dedication to do their. Assigned jobs of combating the terrorists, alienated a large number of innocent young people and their families. In a judgment on the malpractices in the treatment of detenues, Justice S.M. Rizvi of the Jammu and Kashmir High Court said: "police agencies and the administration in Kashmir are committing all sorts of illegalities, which would put even criminals and terrorists to shame." He added, "...even this court has been made helpless by the so-called law enforcing agencies". Many human rights activists emphasize that the crimes committed by the terrorist do not condone the excesses of the security forces or the insensitivity of the state administration.

And the third reason for alienaton is the general feeling that the security forces and administration have scant respect for Muslim places of worship and sacred shrines. The recent siege of Hazratbal mosque for weeks and the 1995 burning down of the most famous Sufi shrine—the *Charar-e-Sharief*, where for centuries both Muslims and Hindus have prayed to Shaikh Nuruddin Nun, popularly known as *Nand Rishi* (1379—1442) came as a big shock and insult to the religious sensibility of the people. A report of the Citizens for Democracy and People's Union for Civil Liberties said: "There is a strong feeling among the people that the Army is responsible for the destruction. They should have been more careful".

In this gloomy, confused and recalcitrant atmosphere dominated by over 26 terrorist organizations, to win back the confidence and trust of the people of Kashmir the Government of India needs to take a bold democratic initiative with the support of a broad cross-section of people, groups and political parties. It is a difficult task in the prevailing mood of despair and anger among the masses, nevertheless there is no option but to pursue a policy of friendly overtures and continuous dialogue with the Kashmiri people.

During the last five years, marked by increasing militancy and violence, several proposals for the solution of the problem have been offered by academics, journalists, diplomats, and media persons. The following steps to defuse the situation were suggested.

i. that the people of Kashmir want peace and are tired of political violence, economic decline and social degeneration;
ii. that the disenchantment with the violence has caused Pakistan's agencies to rely more and more on mercenaries, who are mainly Afghan or Pakistani nationals;
iii. that a settlement can be sustained only if it ,meets the aspirations of the Kashmiri people and is acceptable to the public opinion of India and Pakistan;
iv. that a political package, acceptable to all sides, appears to be impossible to create, except within confederal arrangement incorporating a degree of "internal sovereignty" for citizens of the valley;
v. that there are two Kashmir conflicts—one is bilateral between India and Pakistan, and the second is an internal conflict between the Kashmiri people and the Indian government; therefore, negotiations are necessary between India and Pakistan on the one hand and between the Indian government and Kashmiri leaders on the other;
vi. that the people of Kashmir have realized that India will not give up the Valley;
vii. that the state government must aim to create at least 50,000 jobs for local unemployed youth as well as seriously examine ways and means to diversify the economy from its earlier concentration on tourism;
viii. that the process of human resources development— schools,. colleges, health centres—should be strengthened;
ix. that the representatives of the Government of India need to make efforts to find common ground and not wait until the militants give up violence, which would be unrealistic;
x. that the Government of India must offer a political and economic package, as a precursor to elections. The Kashmiri people's elected representatives can then negotiate the details of a political settlement.

(See for instance: Kashmir Fact-Finding Mission Report the International Centre for Peace Initiatives (lCPl), *Peace Initiatives* 1:2 (September—October 1995).

Ms Teesta Setalvad, a young journalist, wrote (in *The Sunday Times Review*. September 3, 1995) that "erosion of a culture by violence threatens a whole generation of young Kashmiris". She reported that the students to whom she talked to said: 'We face guns from both sides... But why must the Indian army continue to humiliate us?' She added that the "continued presence of BSF and Army in civilian areas-particularly the university, educational institutions and hospital-is a sore point with all Kashmiris. The ignominy of their forced physical presence is heightened by the humiliation of sudden but frequent searches on civilians-students, doctors and professionals-despite the mandatory possession of identity cards."

What is to be Done to Solve the Kashmir Problem?

Seen in the historical perspective it is evident that the Kashmir problem is a direct consequence of the disruption if India's **Civilizational Unity** and the process of slow and steady evolution of a composite federal nation, envisaged by the Indian National Movement for independence from the British colonial system. That movement in terms of numbers was the largest mass movement for liberation ever attempted in world history. It was also in its character and form a multi-religious, multi-ethnic, multi-lingual and multi- regional movement committed to building a new democratic,

secular, federal identity after independence. The partition of India was made by the withdrawing British colonial authority on the erroneous and factually incorrect premise that Hindus and Muslims are not merely religious communities, but because of religious differences, are indeed two different and mutually irreconcilable nations. Today, South Asia is facing the repercussions of that historic error.

However, since history cannot be changed and accepting the realities of the 'given' political situation, the main question is: what should be done to promote peace and harmony in the South Asian region, and to solve the Kashmir problem? How do we break the stalemate?

The four dimensional nature of the Kashmir problem: Indian, Indo-Pakistan, United Nations and the international community and the people of Kashmir makes it necessary that each component contribute towards a feasible and durable solution of the problem.

(a) Proposed Action by the UN and International community

Today the United Nations needs to use its good offices with the concurrence of major powers for:

i. making all possible efforts to defuse indo-Pakistan animosity by refusing to internationalize the Kashmir problem, or, making it a factor in big-power politics as in the past;
ii. recognizing the irrelevance and impossibility of a plebiscite, either general covering the whole state, as implied by the Security Council resolutions of 1948 and 1949, or regional as originally suggested by Sir Owen Dixon in 1950.
iii. in the spirit of the approach and thrust of Secretary General Boutros Boutros-Ghali's Agenda for peace, the UN should find ways and means of checking and stopping the infiltration of terrorist elements across the LOC in the Kashmir Valley, and trans-border help to militants;
iv. UN and major world powers should encourage and induce India and Pakistan to make serious efforts towards a meaningful dialogue leading to a negotiated settlement, bilaterally and peacefully, as agreed to by both in the Simla Agreement of July 2, 1972.

The European Union in the UN Commission on Human Rights, commenting on the situation in Kashmir on March 3, 1994 stated that "while terrorist violence must be firmly resisted, we believe that while doing so, security forces in Kashmir must show full respect for human rights and the rule of law". It called on Pakistan "to take effective measures to prevent violent infiltrations from territory under its control". They urged India and Pakistan "to persevere with the high-level consultations they have initiated" and "in the spirit of good neighborliness" check deterioration in the security situation in the region.

In the last few years, the British position has also changed. A three-point British proposal on Kashmir was made in March 1994, which calls for the resumption of political process in Kashmir, Indo-Pak talks and stoppage of trans-border help to militants.

In June 1995, for the first time in the meeting of the Group Seven (G-7) industrialized nations, a deep concern was expressed on the "potential for conflict in Kashmir", and they urged "all parties to pursue a peaceful settlement". They called India and Pakistan to avoid an arms race "to help lower tensions and build confidence in the subcontinent."

The UN Secretary General Boutros Boutros-Ghali made it clear that the UN would not interfere or give any encouragement to internationalize the Kashmir issue, because the world body is already burdened with several issues and its resources are highly stretched. He, however, said that he would be prepared to help "if both sides desire". In an interview to *The Times of India* of February 18, 1996, the Secretary General mentioned 'Kashmir' as an area of potential conflict and reiterated that the UN would mediate only if both the protagonists, i.e., India and Pakistan required its services.

(b)Required Pakistan Action

The most disturbing element in the Kashmir problem has been the Indo-Pakistan factor. Having fought and lost three-and-a half wars with India (including two directly on Kashmir, one in the wake of Bangladesh struggle for emancipation from Pakistan, and the half on Kutch), Pakistan realizes that war is no longer a means of settling disputes. It only aggravates matters; therefore, a military solution to the Kashmir problem is illusory. To any intelligent and well- informed Pakistani, the redundancy of the UN resolutions of 1948 and 1949 should be obvious. Pakistan has not complied with the prerequisites for holding the plebiscite. Indeed, they are in no position to do so, as it would involve withdrawal under international supervision from areas under their control and occupation in Kashmir. This could create more problems for them. Further, with the emergence of the demand now almost conceded in many circles and countries, including the OlC that the proposed plebiscite, or reference to the people under any name, should no longer be the original bifold version of accession to India or Pakistan, but must have the third option of independence included in it, Pakistan, like India, cannot concede this because of the adverse repercussion it would have on its people. The pursuit of their strategy of engaging India in a low-tension, long-duration proxy war is also becoming counter-productive. Pakistan is getting exposed for its support to militants, mercenaries and terrorists in the international media and in the chanceries of the world. It is time they call a halt to this venture, in order to create a more normal atmosphere, conducive to mutually beneficial negotiations. This certainly calls for an innovative approach and bold initiative, which will eventually bring peace and security to both the countries.

Finally, from a realistic, pragmatic and positive approach to politics, Pakistan should seriously examine the usefulness of recognizing the Line of Control (LOC) as a permanent international boundary between India and Pakistan. It has remained so for almost half a century: beginning with the cease-fire from January 1, 1949 as required by the UN resolution and then known as the cease-fire line (CFL), later delimited in general terms in the Karachi Agreement of July 27, 1949, and then renamed as the Line of Control (LOC) resulting from the cease-fire of December 17, 1971, and known as such since 1972 in the post-Simla Agreement phase. From several sources, proposals have been made for demilitarization of the existing effective boundary, i.e., LOC, so that all forms of armed violations of the boundary

are eliminated. This would also mean sealing of the LOC against infiltrators. Several analysts and commentators have suggested that there should be a joint Indo-Pakistan acceptance for the conversion of LOC as a permanent international boundary, which anyhow since 1948 has been *a de facto* boundary.

It is widely believed and confirmed by those who were members of the Indian delegation that on the concluding day of the Simla Agreement in July 1972, Indira Gandhi and Zulfikar Ali Bhutto had informally agreed to such a proposal. In a recent two-part article published in *The Times of India*, April 4—5, 1995 on Kashmir, Mr. P.N. Dhar, former Principal Secretary to the late Prime Minister Indira Gandhi, wrote: "It was thought that with the gradual use of the LOC as a de facto frontier, public opinion on both sides would be reconciled to its permanence. In the meanwhile, the opening of trade and commerce and cooperation between India and Pakistan would result in easing tensions between the two countries. When Mrs. Gandhi, after recounting their points of agreement, finally asked Bhutto, "Is this the understanding on which we will proceed?" He replied, "Absolutely, *Aap mujh par bharosa keejiye*" (you should trust me).

How misplaced this 'trust' has been, is now part of Indo-Pakistan history. From the beginning, there were grave doubts about Bhutto's commitment to a durable peace and an Indo-Pakistan rapprochement. In India, the opposition parties and political commentators criticized Indira Gandhi of having been naive and weak, thus ineffective in seizing an excellent opportunity in the wake of Pakistan's defeat in the Bangladesh war in December 1971, to impose Indian terms, or at least to have made Pakistan recognize the LOC as an established boundary between India and Pakistan. This would have eventually led to the settlement of the Kashmir problem on the basis of existing realities on the ground, that is to let Pakistan administer the part which is presently under its occupation (the Western Muzzaffarabad strip and Gilgit area) and let India retain the rest of Jammu and Kashmir as part of the Indian Union.

Both India and Pakistan are formally opposed to the partition of Kashmir. But in reality the original undivided State of Jammu and Kashmir has already been partitioned since 1948, and has remained so ever since. It can be argued that if India could be partitioned in 1947 and in that process the original provinces of Punjab and Bengal could also be partitioned, then why should serious political and moral objection be raised for recognizing the already existing partition of Kashmir? Indeed, seen closely, the partition of Kashmir, in the wake of India's partition, probably could not have been avoided. In terms of realpolitik, both India and Pakistan should take cognizance of this option, recognize it as a factor in defusing tension and border conflict, and avoiding the posture of constant military confrontation on the LOC.

(c) Possible Steps to be taken by India for the Eventual Solution of the Kashmir Problem

The basic responsibility for solving the Kashmir problem, undoubtedly rests with the Republic of India. *De jure* and de facto, the State of Jammu and Kashmir is part of the territorial sovereignty of India since 1948, despite the fact that Pakistan questions this legality, and a few other countries still refer to it as a disputed territory. But this is, by and large, not the UN position.

Constructive steps need to be taken by India at two levels: the Indo-Pakistan level and at the level of the people of Jammu and Kashmir.

There is no alternative but to engage in a continuous, uninterrupted and structured dialogue with Pakistan. As experience has shown this is not an easy proposition, and maybe international persuasion should be diligently sought by India. In the post-Cold War phase, there is an obvious shift of policy on this issue among the major world powers including the US, UK, France, Germany, China and Japan. Members of the SAARC and even the ASEAN could be involved I building pressure for an Indo-Pak dialogue. A *modus operandi* will have to be worked out in this regard.

The real challenge facing India, is to win over the alienated people of Kashmir by an innovative and constructive approach. It rests primarily on the Government of India, supported by a national consensus of major political parties and groups. The National Integration Council together with few special invitees drawn from parliamentarians, jurists, academics and media persons, should hold a special session exclusively for discussing ways and means of improving the Kashmir situation.

There is an immediate need to enter into a broad continuous dialogue with the people. As of now there are three groups in Kashmir of different political orientations:

i. the National Conference and the Congress elements (Farooq Abdullah, Mir Kasim etc.) and its sympathizers, who recognize that Kashmir is an integral and an inseparable part of India.
ii. the *Hizb-ul-Mujahideen, Jamaat-i-Islami, Harkat-ul-Ansar* and several other groups, who seek Kashmir's merger with Pakistan, and
iii. several groups and organizations like JKLF, Peoples League (Yasin Malik, Shabir Ahmad Shah, Hashim Qureshi, Geelani, Lone etc.) and other in the *Hurriyat* conglomeration who raise the slogan of *Azadi* for Kashmir and assail both India and Pakistan. Apart from the political leaders there are social and cultural workers, academics and journalists, who can be made to play a constructive role, if encouraged and supported.

India needs to be involved in a dialogue, without preconditions, and in right earnest to listen, discuss, argue, persuade and be persuaded. Indications from the Valley are that people are now in a mood to give a chance to the political process to responsible representative government in the state.

Simultaneous with this, a package announcement should be made about plans, and priorities of economic development, together with basic assurances about respect for human rights and recognition of autonomy would be acceptable, in the background of the long years of militancy and struggle for what they call, *azadi.*

There must be unequivocal reiteration by the Parliament of India that it respects and adheres to the provisions of Article 370 of the Constitution of India. That Article (though included in the temporary provisions of the constitution in Part XXI, and hence, by implication transitory) has remained a legal basis for recognition of the special status granted to the State of Jammu and Kashmir at the time of its accession. It restricts the power of Parliament to make laws for Kashmir only on items included in the Union and the Concurrent list.

The Article, nevertheless, does not affect the state as a unit of the Union of India as envisaged in Article 1. Because Article 1 defines the territory of India and is applicable to the State of Jammu and Kashmir as well.

There is no denying the fact, according to Dr. Karan Singh, the former *Sadar-i-Riyasat* (special designation given to the head of the state of Jammu and Kashmir) that "Jammu and Kashmir is a special case due to historic reasons. It still has a separate constitution...and the jurisdiction of Parliament to pass laws for the state is restricted." And significantly he added, "...the Simla Agreement with Pakistan does envisage 'a final settlement of Jammu and Kashmir.' Therefore this state will have to be treated as a special case. In a large, pluralistic *federal nation* like ours we should be prepared to adopt a flexible and imaginative approach rather than seek to steamroll all constituent units into a single rigid pattern". (Article in *The Times of India*, New Delhi August 31, 1992).

Five years after the accession of the State, prior to his arrest on August 9, 1953, Shaikh Abdullah wrote letters to three important national leaders of India—Jawaharlal Nehru, Maulana Abul Kalam Azad and Rafi Ahmad Kidwai. These letters were not widely publicized. They were reproduced by *The Illustrated Weekly of India* on August 17, 1991, from their own records. In his letter of July 4, 1953 to Nehru, he made certain formulations, which in retrospect appear ominous and premonitory. An extended citation of this letter would reveal the dilemma, which not only Shaikh Abdullah but successive leaders of Kashmir had faced.

He wrote: "Objectively, the State is subject to pulls from India and Pakistan. This external pressure naturally creates internal reactions in terms of divided loyalties. In order to neutralize these reactions, we have devised a formula and considered a restricted relationship with India as a suitable course conducive to internal consolidation. We believe that the accession of the State to India on the terms of Instrument of Accession would provide necessary opportunities of allaying the fears of various sections of the people of the State. It is true that the choice before the State lay between full integration and full autonomy. We wished to steer a middle course between these two extreme positions. When it is said that we are impatient for full autonomy, it is not perhaps remembered that we made certain concessions. The fact of transfer of three vital subjects, viz., Defence, Communications and Foreign Affairs, to the Union is a sufficient guarantee...When Article 370 was devised, we felt assured that the Instrument of Accession would be the final basis of Indo-Kashmir relationship..." Then he complained about inadequate job opportunities for Kashmiris in the State Forces, in the Post and Telegraph services, and the civil services in India. He then went on to add: "In spite of you and many others, the ideas of secular democracy are not much in evidence so far as treatment to Kashmiri Muslims is concerned. ... I derived my strength from what I supposed was an assurance that the State's accession with India would result in a fair deal to all sections of the people. But unfortunately that goal has not been achieved."

In May 1995, after six years of bitter experience of terrorist violence in the Valley, and with agonizing awareness of the increasing alienation of the people of Kashmir from India, in a discussion on Kashmir in parliament, in the wake of the burning down of the famous shrine of *Charar-e-Sharif*, the Prime Minster of India (P.V

Narasimha Rao) made four important points: (i) India seeks dialogue on autonomy with Kashmir leaders in quest of a solution to the Kashmir problem, (ii) such a dialogue should be within the frame-work of the Indian Constitution, (iii) by use of the term *Azadi* the Kashmir leaders *may not mean total independence,* but greater autonomy, (iv) The Indian constitution was " flexible enough to provide for some adjustments towards realizing the goal of unity in diversity". He also reiterated his government's commitment to restore popular rule in Jammu and Kashmir. With a rhetorical flourish, he concluded: "this is what I think should be done, can be done, and if circumstances permit, will be done, can be done, and circumstances permit, will be done." (Report in *The Hindustan Times*, New Delhi, may 17, 1995)

This speech was widely reproduced, quoted and most favorably commented upon by the media. Replying to the criticism of the BJP – the major opposition party in parliament, on the Prime Minister's proposal- the Home Minister (S.B. Chavan) categorically started: "Let it be known that the people of Jammu and Kashmir acceded to India after they were assured of a special status with the Indian Union and I do not think now we can go back on it unless the people of the State wanted otherwise". He reaffirmed that Prime Minister's suggestion of "giving some sort of *Azadi* to the people of Kashmir has except the communal Hindu groups and parties popularly known as the *Sangh Parivar like* the BJP, the RSS, VHP, Shiv Sena etc."

In a much expected follow-up action, on November 4, 1995 Prime Minister, P.V Narasimha Rao, made a major and significant statement on Jammu and Kashmir on TV Form Burkina Faso, where he had gone on a state visit. He firs reiterated the dismal ground reality that: (a) terrorism and militancy have subjected the people of Kashmir to unprecedented suffering during the last six years. The people have faced untold violence resulting in death and destruction; (b) virtual proxy war has been unleashed from across the border in complete disregard of international law, good neighbourly relations and all canons of decency and human behaviour; and (c) persistent attempts are being made to create anarchic conditions in the state to keep the turmoil going.

Then emphasizing that historically the rest of India shares a special kind of relationship with the state of Jammu and Kashmir, he made the following important policy pronouncements to solve the Kashmir problem:

i. the basis of relationship is delineated in Article 370 of the Constitution of India. We have repeatedly asserted that Article 370 shall not be abrogated;
ii. the constitution provides ample opportunities to meet the aspirations of diverse groups in our population. It is a vibrant document that enshrines the principle of federalism in a pluralistic society;
iii. it shall be our endeavour to strengthen within the Constitution the autonomy of the State of Jammu and Kashmir, keeping in view the aspirations of the people;
iv. the State of Jammu and Kashmir itself represents several diversities of culture, language and religion;
v. we treat all the three regions – the Valley, Jammu and Ladakh – of the State on an equal footing;
vi. we propose to establish a popular State government (through elections), so that the free will of the people of the State alone shall prevail;

vii. the relevant documents concerning Jammu and Kashmir are the Constitution Order 1950, the Delhi Agreement of 1952, the Constitution Order 1964 and the Kashmir Accord of 1975;

viii. both the Constitution of India and the State Constitution have a built-in flexibility in respect of the autonomy of the State, within the overall limits of the Constitution;

ix. the Government of India was willing to review any Central law, relating to matters on the concurrent list, which the State thought had been unfairly extended to it after 1953.

This statement was received with positive, though cautious, response by a large cross-section of the political spectrum and the citizens. Opposition, as expected, came from the SJP and the *Sangh Parivar*. (Report in *The Hindu, New Delhi*, November 5, 1995).

Since 1947, the recurrent slogan of *Azadi* has been continuously raised by the National Conference and Shaikh Abdullah and other leaders and groups as well. The Urdu term *Azadi* is susceptible to several meanings, depending oh the text and the context of its use. It could mean complete independence even implying sovereignty (though there is a specific word for sovereignty, *Khud Mukhtari*). It could also mean *freedom, liberty, self-rule, self-governance, autonomy* or in the context of Kashmir just special status as was implied in Article 370, and has been used in Kashmir for decades. It is quite evident that because of this in-built ambiguity inherent in the use of the term *Azadi*, various groups and parties, put different constructions on it as per their own political orientation and ideological inclination. But whatever it may mean, in the context of Kashmir, it certainly implies *maximum internal self-rule and minimum interference from the federal Centre.* One might paraphrase it to mean recognition of *maximum autonomy within the Union of India*.

However, it should be clearly realized by the people and leaders of Kashmir, that total independence, in the sense of secession from India, and even withdrawal of the territory now under Pakistani occupation is impossibility and beyond the realm of practical politics. They must remember the adage: *Politics is the art of the possible*. The militants and terrorists, with all the support even from Pakistan and from ruthless mercenaries cannot challenge the military might of India (which has today, from one account, a strength of 300,000 in the Valley). It may be noted that Pakistan has also opposed the independence option of the Kashmiris. Even otherwise, the so-called independence would only be an appearance *without reality, a form without substance.*

In specific terms, one might discuss whether *maximum* autonomy, would mean the restoration of the 1952 settlement, the status prevailing in 1953, the understanding arrived at in the Kashmir Accord of 1975, or even something different and more innovative from all these. Further, even as Shaikh Abdullah had conceded, and even advocated, autonomy for the whole State of Jammu and Kashmir must involve the delegation of regional autonomy to Jammu and Ladakh as well. The problem of inter-regional relations based on regional autonomy was thoroughly discussed at the Jammu and Kashmir Peoples' Convention convened by Shaikh Abdullah in Srinagar in 1968, and later at another convention in August 1974 on the eve of his return to power. After becoming Chief Minister in February 1975, he again reiterated the offer of regional autonomies within the State of Jammu and Kashmir.

Earlier, the Gajendragadkar Commission, appointed to examine the demand of the Jammu Autonomy Forum, conceded in its report in November 1969 the soundness of the proposal in theory but rejected it because of alleged lack of popular support. Now that the situation has changed, there should be an attempt to constitute three Regional Councils for the three regions, with adequate administrative authority to deal with problems of basic regional concern, including education, health-care, housing, panchayats, road transport, problems of women and youth and specific regional culture.

Seen in this perspective, it should be evident that the solution to the problem of Kashmir lies in devising a new format of the federalizing process in India, that would reconcile the genuine aspirations of the three parts of the State— Jammu, the Valley, and Ladakh, with the evolving reality of India's responsive and responsible, continental federal system.

Practical steps should be worked out to induce and persuade the displaced and migrant Kashmir, Pandits to return to their homeland in dignity, justice, security and protection of their human rights. It is reported that at present over two hundred thousand Pandit migrants constituting about 20 thousand families are in Jammu, 16 thousand in Delhi, about a thousand to three thousand in Haryana and Uttar Pradesh and 800 elsewhere. There are also about 10 thousand Muslim families who are reported to have migrated to different parts of India due to fear, intimidation and insecurity.

In this connection, it is interesting to recapitulate that the idea of a confederation was contemplated by Jawaharlal Nehru. It is on record that he had discussed this with Shaikh Abdullah in an extensive conversation on December 14, 1962. Nehru, the architect of India's democratic state and federal polity and a man of profound erudition and bold historical vision, also mentioned it while talking to a correspondent of *The Washington* Post in 1962. He suggested "that a confederation between India and Kashmir could lead by stages to a similar arrangement linking the eastern and western halves of Pakistan and then to a larger confederation joining all the states of the South Asian region..." *Confederation*, he is reported to have said, "remains our ultimate goal. Look at Europe, at the Common Market. This is the urge everywhere. There are no two peoples any where nearer than those of India and Pakistan, though if we say it, they are alarmed and think we want to swallow them". (S. Gopal, *Jawaharlal Nehru. A Biography*, Vol. III: 1956—1964 Cambridge, Harvard, 1984, 261—62).

After half a century of Indian federal experience, it is both necessary and desirable that the Republic of India should shift its *paradigm* of governance from *Union type Statism*, to a devolutionary, non-centralized, cooperative *Federalism*, the latest trend in modern federalism. Accommodation of internal diversities, characterized by ethnic, religious, linguistic and regional specificities, can take several forms, even within a formal federal system. A federal state, managing social heterogeneity, cannot and should not, counterpoise itself to peoples' rights and their legitimate demands and expectations. What should be rejected in our age of global democratic explosion, is the format: State versus People. State should serve the People, and not oppress them, under any pretext.

In our epoch, there has been a clear shift of focus from State to People. The world over, the main focus of discussion has been whether federalism is a viable concept in the management of plural societies and minority rights. Operationally state sovereignty has diminished and has been considerably abridged in the current environment of global interdependence, and an expanding civil society, assertive of its human rights and liberties is emerging.

As the world moves to a new destiny of expanding human lights, ethnic liberties and peaceful coexistence, India as the largest and most complex federal polity in the world, and as the biggest participatory democracy, comprising a fifth of the human race has a moral and political responsibility to reconstruct its federal system with suitable modifications and changes, commensurate with the challenges of a new democratic global revolution.

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GAME PLAN:
AN ASSESSMENT OF THE STRATEGIES AND OPTIONS AVAILABLE TO THE GOVERNMENT OF INDIA FOR ENDING THE CRISIS IN KASHMIR

SUMIT GANGULY

A variety of strategies and options have been suggested for the resolution of the crisis in Kashmir. The spectrum ranges from coercively altering the demographic profile of the state to conceding independence and sovereignty.

Ethnic Flooding[1]

One option, which has been only partially articulated, suggests that the demographic profile of the Valley should be altered. This strategy would entail encouraging large numbers of Hindus to move into the Kashmir Valley and thereby transform its demographic composition. It is believed that the transformation of the demography of the Valley would also simultaneously and profoundly change its political coloration. Since the newly introduced population would be fiercely loyal to the Indian state, it is supposed, the issue of secession would be rendered moot.

A first step toward this end would be to repeal Article 370 of the Indian Constitution. This article, which has a number of provisions, prohibits the sale of immovable property to non-Kashmiris; in effect, it prevents non-Kashmiris from permanently settling in the state.[2] This stipulation was included in the Indian Constitution in recognition of the unique circumstances of Kashmir's accession to India in 1947.[3]

Once this legal barrier is removed, large numbers of Indian citizens from other parts of India would be encouraged to settle in the Valley. Over time such a population transfer would dramatically transform the valley into a predominantly Hindu region. Implicit in this argument is the belief that the Muslims in the Valley are disloyal to India and that Hindu migrants from other parts of India would owe their allegiance to the Indian state for its having allowed the migration in the first place.

This strategy is not unlike the policy that the Menachem Begin government pursued in the Israeli-occupied West Bank beginning in the late 1970s. In another parallel with the Israeli settlement process, the Indian Government would have to increase substantially its police and paramilitary presence in order to ensure the safety and security of these newly arrived migrants. It would also have to increase public services, including schools, hospitals,1 housing and roads; and to boost the economy of the state to create new sources of employment.

This strategy would be entirely unlikely to succeed. Surprisingly, the legal barrier would in all likelihood be the easiest to breach. Apart from India's "attentive public," many Indians do not seem to comprehend fully the significance of Article 370.[4] If a BJP-dominated national government came to power, it might well be able to muster the necessary votes to abrogate Article 370.

The other components of the strategy, however, would be far more difficult to implement. At the present time, following the flight of some 250,000 Hindus from the

Valley, the population of Kashmir is composed almost entirely of Muslims. Transforming the demographic profile of Kashmir would require an enormous Hindu migration. Ensuring the safety and security of migrants in a region wracked by an insurgency is a task well beyond the capabilities of the Indian state. Currently, the paramilitary units and the Indian Army are stretched to a breaking point.[5] Furthermore, the Indian exchequer would be hard pressed to generate the resources necessary to meet the sharply increased demands for infrastructural and employment projects. The strategy of "ethnic flooding," though superficially attractive and laden with populist appeal, is fundamentally unworkable.

The Mailed Fist Strategy

Another approach, which also commands a degree of populist appeal, can be referred to as the "mailed fist" strategy. Again, this option has not yet been explicitly articulated.[6] This strategy would involve markedly increasing the military pressure that currently is being applied in the state. The singular goal of this approach would be to crush the insurgents militarily. No quarter would be given to the insurgents in pursuit of this strategy.

In popular parlance, this approach is called "doing another Punjab". Under the leadership of K.P.S. Gill, a senior Indian Police Officer (IPS) from the Assam cadre, the insurgents in Punjab were worn down through the ruthless and unbridled application of force.[7] With the insurgents on the run, elections were held, initially at the state and subsequently at the local level. The state elections of 1992, which followed five years of insurgency and direct rule from New Delhi, resulted in extremely low voter turnouts but did bring to power a legally constituted government. The subsequent local elections produced extraordinarily high levels of turnout—over 80 percent of the eligible electorate. Widespread coercion appeared to have produced the necessary conditions for peace.[8]

A similar strategy has been proposed for handling the insurgency in Kashmir. With the insurgents on the run, the ground would be prepared for an election. After a legally elected government is brought to power, the political situation would assume some modicum of normalcy.

This option is as deeply flawed as the previous one. First, the demographic composition of Kashmir is markedly different from that of the Punjab. In Punjab, the Sikh population barely outnumbered the Hindu population,[9] whereas Kashmir has clear Muslim majority. More to the point, the vast majority of the Sikhs in the Punjab, even after the 1984 pogroms in New Delhi and elsewhere, did not support the creation of a separate state of Khalistan, even though they were deeply disaffected from the Indian Government. In the Kashmir Valley, the seat of the insurgency, the vast majority of the population is alienated from the Indian state. Consequently, it is unlikely that the "hearts and minds" of the Kashmiris could be won over as easily after unleashing a harsh counter-insurgency campaign.

Second, the political status of the territory of Kashmir is an important factor. Kashmir has been the subject of a territorial dispute between India and Pakistan almost since the moment the two countries were created. Despite Pakistani support for various Khalistani terrorist group, Pakistan never had any claims on Punjab.

Consequently, the government of India did not have to prosecute a two-pronged strategy. It could systematically apply force with a considerable degree of impunity. On the Kashmir issue, however, Pakistan can and has raised the question of human rights violations. In response, India has been forced to snuggle up to such curious political bedfellows as Iran and the People's Republic of China to fend off international disapprobation.

Third, part of the Indian government's strategy in Punjab was to seal the border with barbed wire, trenches, floodlights and machine-gun towers, making the entire State virtually impenetrable. The success of a counter-insurgency strategy depends in large part on the ability of government forces to deny the insurgents sanctuary and sources of material support. Sealing the Punjab border created conditions conducive to the implementation of such an approach to counter-insurgency .[10] A similar tactic is all but impossible in Kashmir because the terrain does not permit it. Kashmir's physical proximity to Pakistan, coupled with its highly mountainous territory makes it exceedingly difficult to create a "cordon sanitaire" around the Valley.

Fourth, the international community is far more consistently focused on human rights violations. Between 1993 and 1995, India has taken important steps to limit the likelihood of human rights violations. International pressure and scrutiny led to the creation of the national human rights commission in 1993 and also to a "human rights cell" in the Indian Army.[11] Returning to an unbridled counter-insurgency strategy would inevitably undermine the fitful progress that the Indian government has made in protecting human rights in those very counter-insurgency situations. This strategy would also bring overwhelming pressure from a variety of quarters for India to rein in its forces.

Fifth and finally, the pursuit of a no-holds-barred strategy would have a profoundly corrosive impact on the ethos and morale of the Indian Army. In the 1990s, senior army officers, including one chief of staff of the Indian Army, expressed serious reservations about the repeated involvement of the army in "aid-to-the civil" operations.[12] The pursuit of a full-scale counter-insurgency operation would inevitably involve the India Army, and would place some of its units in untenable situations.

The Wear-Down Option

The current strategy that the Government of India is pursuing in Kashmir reflects years of institutional learning from the counter-insurgency operations that the government conducted in India's northeast during the 1 960s and the 1 970s. In the northeast India's strategy was to wear down the fighting spirit of the insurgents over an extended period of time.[13] This strategy involved the extensive use of force and resulted in significant violations of human rights. Two factors led to the collapse of those insurgencies; After fighting the Indian Army and paramilitary forces for over two decades, the insurgents realized that the Indian government forces would eventually prevail. Furthermore, the insurgents' principal supporter, the People's Republic of China (PRC), lost its desire to foment rebellion abroad and, at the same time, wanted to improve relations with India. Consequently, the insurgents' major source of support was cut off. Today, even though the northeast is hardly trouble-free,

many of the leaders of that insurgency are prominent politicians. Along with the British experience in Malaysia and the Philippines government's success against the Hukbulahap rebellion, India's experience in the northeast counts as one of the few genuinely successful examples of counter-insurgency operations.[14] It is hardly surprising, then, that some Indian governmental agencies have inferred that the model of the northeast can be applied with equal vigor elsewhere.

Nevertheless, there are fundamental contextual differences between the northeastern experience and Kashmir. First, as in the case of Punjab, the northeastern areas of India were not disputed territories. The rebels in the northeast did make appeals to international fora, but these appeals were largely ignored. Their foreign supporters, other than the PRC, were few and far between. Consequently, the Government of India could without the slightest hesitation insist that the problem was an internal one. Even though the government has adopted the same posture on Kashmir, segments of the international community tend to see the Kashmir problem as a bilateral dispute between India and Pakistan.

Second, the sheer physical isolation of the northeastern areas removed both the insurgency and the government's counter-insurgency measures from public scrutiny both in India and abroad. Kashmir, on the other hand, has commanded both domestic and international attention from the very outset. The government paramilitary forces, in large part because of the pressures of international and domestic scrutiny, cannot act with impunity.

Third, as a consequence of deft Indian diplomacy and the loss of the PRC's revolutionary fervor, the steady supply of weaponry to the northeastern rebels tapered off by the late 1 970s, gradually giving the government forces a decided advantage. In Kashmir, however, despite India's concerted efforts to implicate Pakistan in aiding the rebels, there has been no appreciable decline in the quality or quantity of weaponry available to the insurgents. Furthermore, the Kashmiri rebels appear to have access to the floating arms bazaar that was spawned in South-Central Asia at the end of the Afghan war.[15]

Fourth, in the northeast there were specific individuals and groups that the government of India could seek out as negotiating partners. Unfortunately, in Kashmir the fragmented nature of the insurgency makes it exceedingly difficult to pinpoint viable negotiating partners. As many as 130 insurgent groups currently operate in the Valley. Furthermore, even the two principal groups, the Jammu and Kashmir Liberation Front (JKLF) and the Hizb-uI-Mujahideen (HUM), have engaged in internecine warfare. It is also by no means clear that the Hurriyat Conference, a loose agglomeration of some thirty political parties, can negotiate on behalf of the insurgents.

Fifth, despite assertions to the contrary in India, such a long –term strategy is with at least the *possibility* of inadvertent escalation. It is true that all three Indo-Pakistani wars resulted from deliberate, conscious decisions. Nevertheless, Pakistan's decision to report to war in 1965 was profoundly influenced by a series of cognitive and affective misperceptions[16]; it would not be inconceivable for similar misperceptions to provoke another international conflict. Although both Indian and Pakistani forces have shown considerable restraint along the Line of Control in

Kashmir,[17] such restraint can break down from the cumulative effects of stress, miscalculation and misperception. Some evidence already exists that a spiral of mutual misperceptions brought India and Pakistan close to another full-scale war in 1990.[18]

Despite all these caveats, it should nevertheless be conceded that a wear-down strategy may well work over the long haul. The staying power of the Indian state is considerable. After several years, the insurgents could be worn down and their numbers dwindled. Furthermore, Pakistan may also tire of supporting the insurgents. There is already growing resentment amongst Kashmiris against the presence and harsh tactics of the opportunistic Afghan mujahids who have entered the fray. Besides, the pristine quality of the movement has to a very extent been lost. Many of the Kashmiri insurgent groups are interested solely in engaging in mayhem, exportation and kidnapping.[19] The criminalization of significant protons of the movement has denuded the insurgents' base of support among the local population. The Government of India could profit from this growing body of sentiment against the insurgents. At some point in the future a war-weary and violence-fatigued population may decide that making a deal with New Delhi and an end to reutilized violence may well be preferable to the status quo.

Conceding the Valley

Appalled with the continuing carnage in Kashmir and concerned about the concerned about the corrosive effect on the Indian Army and the paramilitary forces, a small coterie of individuals in New Delhi have suggested that it may be best for India to declare victory and simply concede the valley to Pakistan. This proposal has seemingly intuitive appeal. It would enable India to retain control of Jammu, Kargil and Leh while simultaneously addressing a number of concerns. It would bring an end to the insurgency, enable the Indian Army and paramilitary faces to withdraw from an apparently untenable situation and satisfy Pakistan's irredentist claim to the Kashmir valley.

The apparent simplicity of this proposal masks a range of problems. First, no government in New Delhi, at least In the foreseeable future, will be able to muster the enormous human and material costs that New Delhi has incurred in Kashmir conceding the valley to its principal adversary is politically untenable. Any government that seriously entertained this proposal would be writing its own death warrant. In effect, this option fails the important test of political feasibility.

Second, even if it were politically feasible, this option would fall shout on a number of other counts. Conceding the Valley to Pakistan might not satisfy all the insurgent groups, some of which, most notably the JKLF, remain committed to the notion of a unified, independent Kashmir. Third, it is also unclear that conceding the Valley would satisfy all of Pakistan's ambitions. Having obtained the Valley, Pakistan might simply revive its claim to the entire princely state of Jammu and Kashmir, barring the portions that it conceded to China in 1963. Furthermore, Pakistan might construe India's concession as a sign of India's weakness and pusillanimity; just such a misinterpretation led to war in 1965.

Fourth, the Government of India may well be loath to make such a bold territorial concession for fear of demonstration effects. India is still engaged in delicate negotiations with the PRC on a longstanding border dispute. A willingness to concede the Valley to Pakistan under duress could have extremely deleterious consequences in India's negotiations with the PRC.

Fifth, conceding the Valley would leave the northern portions of the state, the districts of Leh and Kargil, far more vulnerable militarily; they would remain connected with Jammu \by a narrow neck of land that could easily be severed in a wartime situation. Indian military planners who still rue the conceding of the strategic Haji Pir Pass after the 1965 war with Pakistan would find this territorial concession simply intolerable.

Sixth and finally, by conceding the Valley, India would be abandoning its moral commitments to a significant portion of its own citizenry—Hindus, Buddhists and even Muslims who have little desire to become Pakistani citizens. In effect, this option would completely negate the rights of minorities within minorities.

Shared Sovereignty

Yet another seemingly creative option, that of shared sovereignty, has been suggested. This option, though not spelled out with great clarity or precision, holds that Kashmir would become a condominium between India and Pakistan. The two sides would jointly administer the state of Jammu and Kashmir with Kashmiris able to move freely across a porous border.[20]

Any attempt to implement this proposal would encounter a plethora of political and, administrative obstacles, however. Would India and Pakistan share sovereignty over all of Kashmir's affairs or only in the area of defense? Would Kashmir be self-governing in all areas except defense and external security? Who would be responsible for maintaining civil order in the face of disturbances? If India and Pakistan were jointly responsible, how would they mediate the inevitable differences over their responsibilities? Who would be allowed to immigrate to and settle in a jointly held Kashmir? On what basis would settlement be permitted? Who would be responsible for the collection of revenue? Who would assume responsibility for economic development? Finally, and perhaps most important, why would Pakistan accept this as a desirable solution? The seemingly endless list of logistical hurdles indicates the practical futility of this option.

Plebiscite

It is always possible to return to a plebiscite as a possible means of settling the dispute. The United Nations Security Council resolution of April 21, 1948, called for Pakistan's withdrawal of its "nationals" from Kashmir and the subsequent holding of a plebiscite. A second resolution, passed on August 13, 1948, took into account the presence of Pakistani troops in Kashmir, which, according to the resolution, constituted "a material change in the situation". This resolution called for Pakistan to withdraw its troops in order to produce conditions conducive to the holding of a plebiscite.[21] Various arrangements for holding a plebiscite were also contained in subsequent U.N. resolutions.

But would a plebiscite yield a fair and just solution to the problem? A number of compelling arguments can be made against a plebiscite.[22] First, the very terms of the plebiscite would be sharply contested. The government of Pakistan would insist that the options in any plebiscite be limited to two: a choice between joining India of joining Pakistan. Pakistan would insist that so-called "third option", namely independence, be ruled out. The People's Republic of China, which came to occupy a significant portion of Jammu and Kashmir after the 1962 border war, has also categorically ruled out the option of independence. Segments of Kashmiri public opinion, however, would insist that that independence option be part of any plebiscite.

Second, even if the majority of Kashmiris voted for independence what guarantees would be made to the minority Hindu and Buddhist populations of the strategies of self-determination in the post-colonial age do very little to address the right of minorities within minorities.[23] In the Kashmir case many of the groups demanding the right of self-determination on the basis of their minority status would be quite loath to extend the same principle to others in their midst. Some harbingers of their future behavior are already apparent: the vast majority of the insurgent groups and the Hizb-ul-Mujahideen in particular have repeatedly threatened and even attacked a number of journalists and newspaper offices to quell adverse reporting. [24]

Independence

A final option that merits discussion is one that was introduced above: that of independence. The Jammu and Kashmir Liberation Front (JKLF), one of the oldest and very possibly the most popular secessionist organization, notionally favors independence. As indicated in the preceding section, however, this option faces a number of structural hurdles. Remarkably enough, the three regional powers who have important stakes in the conflict, India, Pakistan and China, all agree that independence as an option will not be countenanced. The reasons for the Indian and Pakistani opposition to the creation of an independent state of Kashmir are clear; both sides fear the demonstration effect that such a territorial loss could have on their respective polities. Interestingly enough, the costs of Kashmir's independence would, in all likelihood, be far worse for Pakistan. Granting independence to "Azad Kashmir" could ring the death-knell of the Pakistani state. The Chinese remain adamantly opposed to the independence of Kashmir for similar, if not identical, reasons. They fear that an independent Kashmir would provide a tremendous boost to the hopes and demands for Tibet's independence. The Chinese also believe that an independent Kashmir could be used to conduct intrigues against them in the twenty-first century.[25]

Finally, the best-financed and most powerful secessionist organization, the Hizb-ul-Mujahideen, remains firmly opposed to independence. Its posture is hardly surprising; the bulk of its financial, logistical and moral support comes from Pakistan,

The Preferred Strategy

What, then, constitutes a workable strategy for bringing an end to the insurgency? Any option that fails to recognize the fundamental territorial integrity of India will fail to meet the test of political feasibility. No government in India will concede Kashmir even if it entails continuing losses in blood and treasure, for two reasons. First, most if

not all of India's national leadership believes that the secession of Kashmir would set off centrifugal forces throughout the country. Furthermore, many within India's "attentive public" also hold that the secession of India's only Muslim-majority state could have profoundly deleterious consequences for the rest of the country's Muslim population, who might find themselves punished for the secession of Kashmir. Such a possibility cannot be dismissed as a mere chimera. Given the rise and the increasing respectability of fanatical Hindu sentiment in India, such a scenario must be countenanced.

Second, the Indian state has demonstrated considerable resilience in handling insurgencies. Even today its coercive power remains considerable. In the absence of a viable alternative strategy, the Indian state can and will continue to use substantial force to curb the insurgency, domestic and international criticism notwithstanding.

Their current strategy may have reached its structural limits, however. The status quo in Kashmir has reached a stalemate; neither side can win outright. If the conflict continues in its current form, both sides will continue to pay an exceedingly high price. Of course, given the greater firepower, resources and tenacity of the Indian state, it will eventually prevail, simply by wearing out the insurgents. But it would amount to a Pyrrhic victory. More than a generation of Kashmiris would remain sullen and deeply alienated from the Indian state. Indian rule in Kashmir would have tenuous political legitimacy and would be subject to periodic challenges. Finally, apart from the material costs of continuing, the costs of this insurgency could have long-term, moral effects on the Indian forces. A prolonged, brutal counter-insurgency operation could corrode morale and probity within the army and the paramilitary units.

Yet such a bleak future should hardly be deemed inevitable. A change of politico-military strategy, even at this late state, can ward off such an outcome. One possible alternative strategy should be considered. On the international front, the United States should be persuaded to pressure Pakistan to stop supporting the insurgents. Pakistan's support of the insurgency is critical; the insurgents derive sanctuary, weaponry and logistical support from Pakistan. In return for American pressure on Pakistan to cease support for the insurgents, India should undertake a number of steps to restore both law and order in Kashmir. Second, negotiations must be initiated with Pakistan. After nearly six years of unrelenting violence in Kashmir, Pakistan is on closer to realizing its goal of wasting Kashmir away from India. It has been more successful in pursuing its secondary objective; raising the cost (to India) of the Indian presence in Kashmir. The result, contrary to Pakistan assertions, is fraught with considerable risk. On at last one occasion since the beginning of the insurgency in 1989, India and Pakistan have come precipitously close to full-scale war.[26] The two could reach such a point again, or war could actually break out, through a combination of misperception and inadvertence. Consequently, it is in the interests of both sides to resume bilateral negotiations. In these negotiations, India could offer Pakistan a package of concessions. This package can build on the six non-papers that were offered to Pakistan in January 1994.[27] Specifically, India can offer to make unilateral concessions in three areas of contention: Sir Creek, the Wullar Barrage and the Siachen Glacier.[28] Additionally, it can offer Pakistan limited territorial concessions along the line of Control in Kashmir. These concessions could recall the

offer that Sardar Searan singh made to Zulfiquar Ali Bhutto in 1963, during a series of bilateral talks on Kashmir.

Within Kashmir, India will have to start negotiations with the insurgents. The Indian government, to its credit, has already started this process. In 1994 it released two of the principal leaders of the JKLF, Yasin Malik and Shabir Shah. It is widely discussions have been held with both individuals. The next step in this process may well prove to be difficult but it is nevertheless necessary. This would entail offering a time-bound cease-fire arrangement. Once the principal groups have agreed to a cease-fire, the government could start negotiations with representatives from the insurgent movement.

What would be the subject of these negotiations? Independence or a merger with Pakistan are not viable option. Short of those two options, the Government of India can offer the insurgents significant concessions in the immediate and long terms. In the short term, as a means of building trust and confidence, the government can offer an unconditional amnesty to the insurgents. Such an offer will not very easy to sustain politically. Certain political groups, most prominently the BJP, will vigorously oppose any such move. The Indian army and the paramilitary forces, which have suffered significant casualties, will also strenuously object.[29] Nevertheless; interests of waging peace in Kashmir, the government will have to demonstrate a degree of boldness. It could also offer to mete out condign punishment to members of the armed forces who have exceeded their orders. The government has already taken some initial steps in that direction. It could go further, however, by providing greater information on the cases it has prosecuted and the punishments handed down.

Over the longer term, once a cease-fire has been established, the government could offer to make several key concessions to the militants. First, since the basis of many of the grievances in Kashmir are related to electoral irregularities, the government could offer to hold the next election under international auspices. Neutral observers could be present to ensure that no electoral shenanigans take place. Second, the government could also offer two longer-term concessions of considerable import. It could, for instance, return Kashmir to its pre-1953 status when the central government in New Delhi controlled only defence, foreign affairs and communications. The government could also allow the Kashmiri to write their own constitution for a second time.

These proposals hardly amount to a complete panacea for the Kashmir conundrum. Nevertheless, they offer a politically realistic approach to a vexing issue that has shown few signs of going away on its own. Indeed, it is entirely possible that even this package of concessions and bilateral negotiations with Pakistan will not address the demands of certain insurgent groups. Faced with further intransigence, the government of India would have little choice but to use force to subdue those groups unwilling to negotiate. Furthermore, it is entirely likely that Pakistan will not fully abandon its irredentist claim to Kashmir, even if it were to accept the package of unilateral concessions. However, if it would secure an end to active Pakistani support for the insurgency, which would in turn give the Indian government leverage to begin outright negotiations with the insurgent groups, that would be reason enough to grant Pakistan some concessions.

NOTES

[1] This term emerged during the course of a conversation with Kanti Bajpai, a friend and colleague from Jawaharlal Nehru University in New Delhi.

[2] On this point see Chitta Basu, "Abrogating Article 370 Can Only Bring More Disaster," and Dinesh Gupta, "A Case Against Article 370," in Asghar All Engineer (ed.), *Secular Crown on Fire: The Kashmir Problem* (New Delhi: Ajanta Publications, 1991).

[3] For a detailed explanation of the circumstances of Kashmir's accession, see Vernon Hewitt, *Reclaiming the Past? The Search for Political. and Cultural Unity in Contemporary Jammu and Kashmir* (London: Portland, 1995), Chapter 4.

[4] The term "attentive public" is derived from the work of Gabriel Almond and refers to those individuals within a society who pay significant heed to questions of public affairs. See Gabriel Almond, *The American People and Foreign Poilcy* (New York: Praeger, 1960), p. 151.

[5] Interview with Indian journalist, New Delhi, August 1995.

[6] It can be inferred, however, from the work of a former governor of Jammu and Kashmir, Jagmohan Malhotra, *My Frozen Turbulence in Kashmir* (New Delhi: Allied, 1991).

[7] On this point see Steve Coll, "Among the Death Squads," in *On the Grand Trunk-Road* (New York: Random House, 1994).

[8] The seeming end of the insurgency was called into question with the dramatic assassination of Chief Minister Beant Singh in front of the government secretariat in Chandigarh on September 2, 1995. Beant Singh had come to power in Punjab in 1992. See Clarence Fernandez, "Indian Police Suspects Inside Job in Punjab Killing," *Reuters* wire report, September 3, 1995.

[9] On this point see the discussion in M.J. Akbar, *India: The Siege Within* (New Delhi: Penguin, 1987).

[10] Personal interview with former senior Ministry of Home Affairs official, New Delhi, January 1993.

[11] Indian Army officials are loath to discuss publicly the scope and activities of the "human rights cell." An officer with the rank of colonel, heads up the cell Among other matters, the cell is responsible for drawing up a human-rights curriculum for officers serving in counter-insurgency situations Interview with senior Indian Army official, New De1h January 1995.

[12] Rahul Bedi, "concern on Army's internal Use", *India Abroad*,26 February 1 993,. p. 5.

[13] On this point see Onkar Marwah,."New. Delhi Confronts the Insurgents," *Orbis*, 21:1 (1977), pp.:353—73.

[14] For a thoughtful critique of counter-insurgency doctrines in general and American models in particular, see Michael D. Schafer, *Deadly Paradigms: The Failure of U.S. Counterinsurgency Strategy* (Princeton, NJ: Princeton University Press, 1988).

[15] Selig Harrison and Geoffrey Kemp, *India and America after the Cold War* (Washington D C Carnegie Endowment for International Peace 1993).

[16] For the origins of the lndo-Pakistani conflicts, see Sumit Ganguly, *The Origins of War in South Asia*, 2nd ed. (Boulder: West view, 1994). For a discussion of the role of misperceptions in the Indo-Pakistani war of 1965, see Sumit Ganguly, "Deterrence Failure Revisited: The lndo-Pakistani War of 1965," *Journal of Strategic Studies* 13:4 (December 1990), pp. 77—93.

[17] After the 1971 war and the Simla Agreement of 1972, the Cease-Fire Line in Jammu and Kashmir was converted into the Line of Actual Control; it is the de facto international border between Indian-held Kashmir and Pakistani-held Kashmir.

[18] Seymour Hersh, "On the Nuclear Edge," *New Yorker*, March 29, 1993, pp. 56—73.

[19] Harinder Baweja, "The Hostage Crisis," *India Today*, September 15, 1995, pp. 19—25.

[20] Variants of this proposal can be found in 'the writings of Ayesha Jalal, B.G. Verghese and Joseph E. Schwártzbèrg. See, for example, Hamish McDonald, "Forced into a Corner," *Far Easten Economic Review*, December'23, 1993, pp. 18—20; Ayesha Jalal, "Kashmir Scars," *New Republic*, July 23, 1993. B.G. Verghese, "The Fourth Option", *The Hindustan Times*, March 25, 1993, P. 4. and Joseph E. Schwartzberg, "An American Perspective II," *Asian Affairs* 22:1 (Spring 1995), pp. 71—87. Schwartzberg, to his credit, offers the most detailed blueprint. Among other matters, he spells out the conditions for the creation of a Kashmir Autonomous Region (KAR). The problems discussed herein remain nevertheless

[21] The tortured history of the U.N.-sponsored attempts to broker a peace in Kashmir is nicely covered in Jyoti Bhusan Das Gupta, Jammu and Kashmir (The Hague: Martinus Nijhoff, 1968).

[22] The extraordinary logistical difficulties of holding a plebiscite are discussed in Lawrence T. Farley, *Plebiscites and Sovereignty* (Boulder: Westview, 1986).

[23] Amitai Etzioni, "The Evils of Self-Determination," *Foreign Policy*, 89, (Winter 1992—93), pp. 21—35.
[24] Vikram Parekh, "On A Razor's Edge," (New York: Committee to Protect Journalists, 1995).
[25] Ahmed Rashid, "The China Factor," *Far Eastern Economic Review*, January 13, 1994, pp. 12—13.
[26] Devin T. Hagerty, "The Theory and Practice of Nuclear Deterrence in South Asia," unpublished Ph. D. dissertation, University of Pennsylvania, 1995.
[27] "Non-papers Presented by India during Indo-Pakistani Foreign Secretary-Level Talks in January 1994," Embassy of India, Washington, D.C.
[28] A.G. Noorani, *Easing the Indo-Pakistani Dialogue on Kashmir: Confidence-Building Measures for the Siachen Glacier, Sir Creek, and the Wular Barrage Disputes*, Occasional Paper 16 (Washington, D.C.: The Henry L. Stimson Center, 1994).
[29] For a sample of the objections, see the reactions to Sumit Ganguly, "Conflict Resolution in South Asia: An American Perspective," in Jasjit Singh (ed.), *The Road Ahead: Indo U.S. Strategic Dialogue* (New Delhi: Lancers, 1994).