

**AGONY
OF
KASHMIR**



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Preface

Kashmir has been bleeding for over two years now. The end of the agony is nowhere in sight. The questions uppermost in the people's minds are: What and who has brought about this situation? What are its dimensions and manifestations? And what needs to be done?

This concise publication touches on but a few of the myriad aspects of the crisis and tragedy of Kashmir. Yet, it attempts to present a factual position and objective view to help the readers reach the truth and perceive the lurking menace. It is a collection of articles and other material written by people who have either gone through the agony that afflicts Kashmir or have intimate and deep knowledge of their subject.

Much of the material included here is culled from a large volume of what was written specially for a sustained and widespread public awareness campaign launched by the Save Kashmir Front (SKF). And it is just a small representation of the signal service the SKF is providing in the cause of the integrity, security and stability of the nation and for bringing honour, safety and justice to the Kashmiri Hindus. These unfortunate citizens of India have always been treated with stark discrimination. They have now been suffering the brutality and devastation wrought by the Islamic fundamentalist terrorists in the Valley, aided and abetted by our country's inveterate enemy across the border, and are reduced to be refugees in

their own country India.

The booklet uncovers much that has remained well-screened for long or has been twisted and distorted for no more than dubious political gains.

Of special interest is an extract from Jagmohan's latest best seller "My Frozen Turbulence in Kashmir", discussing the pros and cons of the controversial Article 370 of the Indian Constitution and throwing light on its dark aspects.

Another piece contains the largely untold but hair-raising story of the genocide of Hindus including some accounts of the utterly inconceivable brutality of the terrorists. These tales are innumerable yet not reported by the media anywhere. The methods of torture by the secessionist fundamentalists would make the human history's cruelest tyrants look gentle.

The publication provides only a glimpse of the hard facts that have turned the heavenly Valley into a veritable hell. Worse still, the challenge there poses a serious threat to the stability and honour of India. Let us all stand together to meet the peril.

20 November 1991

*DWARKANATH MUNSHI
Convener, Save Kashmir Front*

KASHMIR PROBLEM — IN NUTSHELL

By Utpal Kaul

The Valley is in the thick of turmoil, the likes of which it had never experienced since 1947. Terrorists, with the well defined objective of seceding from India, have engulfed the whole Valley, and are finding favourable response from the adjoining areas with a Muslim majority, in the province of Jammu. It is nothing but indiscriminate disinformation being spread by vested interests, both at the state and central levels, that the present turmoil in Kashmir is the consequence of poverty, unemployment, backwardness and paucity of funds to promote economic activity. It is Muslim fundamentalism asserting itself, with open support from Pakistan and tacit encouragement from Saudi Arabia and Iran. The Americans, all along, have also contributed to this end, as they relentlessly poured in the most deadly and sophisticated military hardware into Pakistan, to protect its status as a frontline state, and also under the pretext of equipping the Afghan *Mujahideen*. General Zia-ul-Haq, as a shrewd military general, squeezed as much aid as was possible from USA. Indian protestations were ignored both by the US and Pakistan. The consequences, both in terms of their dimensions and the incidence thereof, on the Indian polity can hardly escape the eye of a patriot.

Pakistan has vengeance to wreak upon India. She failed to achieve her objectives in the earlier campaigns against us. However, the thrust this time is quite different in nature and character. It is our own Kashmiri Muslim youth, who have been lured to take to the gun from across the Line of Actual Control. The whole gamut of insurgency in Punjab and later in Kashmir is a well laid out plan, an integral part of the famous 'Operation Topaz' conceived of by Zia-ul-Haq to balkanize our country.

Its objectives are:

- * To recruit and train Kashmiri Muslim youth in the handling of sophisticated arms and equipment;
- * To subvert the Administration and police in the state;

- * To hound out Kashmiri Pandits from the Valley before engaging India in a full-fledged war;
- * To break the inertia among the Muslims of the state and to mobilise them to wage a so-called holy war against the Indian Authorities in power.

“Operation Topaz” could not afford to allow factional groups among Muslims of the state to exist any more, nor could it allow the existing leadership in the state to remain intact.

Instead of directly involving Pakistan in the operation against India, the terrorists, trained in Pakistan and equipped with the most sophisticated weaponry, are fighting a proxy war on its behalf. The present offensive against the Indian State, exploiting Indian fundamentalists, is, thus, the greatest danger to the country’s territorial integrity and its secular policy.

The nexus between Pakistan’s ISI and the Sikh terrorists in Punjab, and Muslim terrorists in the Valley, and between the terrorists of the two states has been established beyond a shadow of doubt. In such a situation of near civil war conditions, international mafia groups especially from Pakistan, rule the roost by helping the underworld traffickers of arms and drug.

One is intrigued to find the erstwhile political leadership, formerly at the helm in the Valley, playing ducks and drakes instead of facing the situation squarely. It did precious little to shake off the nonchalance and indifference of the Kashmir Armed Police, and instead ordered the release of 70 hardcore terrorists. The Administration, from top to bottom is obliging terrorists by succumbing to their calls - like observing civil curfew; effecting blackouts on days of national importance and participating in celebrations and illumination on days like August 14 - the independence day of Pakistan.

Jagmohan, the former Governor of the state [in his letter to the Editor, *Times of India*, August 1988] wrote, “The drum beaters of parochialism and fundamentalism are working over time. Subversion is on the increase. The shadows of events from across the border are lengthening. Lethal weapons are on way. The face of democracy is increasingly being pimped by exploitation. The overall fabric shows too many loose threads, too many weak stitches.”

The language of the gun was heard loud and clear by all the Muslims alike. Some conscientious patriots in the administration and security forces who recognised the challenge and tried to discharge their duties were done to death mercilessly and perversely soon after they had offered Namaz at a mosque.

The Government at Jammu, the winter capital of the state, turned a deaf ear to all this, knowing full well that this callous behaviour on the part of the political leadership would cause grave damage to the nation in more ways more one. It would:

- * Erode the credibility of the Government itself;
- * Help mobilise mob support for militancy among the masses;
- * Help subversion in the administration and the police;
- * Render the existing leadership of the political parties redundant;
- * Rally support for the liberation of Kashmir from India;
- * Convert mosques into centres for the spread of militancy and terrorism;
- * Embolden women volunteers to mobilise support for the so-called *Jehad* under the women militant organisations like the *Dukhtaran-e-Millat*.
- * Prepare Muslim parents to succumb to militant pressure and proffer a male child each to take to militancy and the gun culture;
- * Embolden terrorists to establish their credentials among the masses;
- * Encourage raising of funds for the “*jehad* against India”;
- * Prepare and train masses to flout the law of the land and to take the law into their own hands;
- * Prepare masses to get used to terrorism and withstand Government retaliation as and when it came, and
- * Convince the people that the days were not far off when “Nizam-e-Mustafa” would be realised and Indians driven out from the soil of Kashmir.

Secret directives were sent by word of mouth, far in advance by as much as six months, that people should stock essential commodities to effectively face the long bouts of curfew imposed either by the

terrorists or by the Government.

The meticulous planning by the terrorists is a supposed feather in their cap. They acclimatised people to the gun culture by firing in the air, even as the local police stood watching in some corner of the street and exploding bombs at vantage points carefully, without causing any damage to life. Some times they burnt the Indian Tricolour or Indian Constitution at important crossing points, under the very nose of security forces, who had no powers to act even after utmost and extreme provocation. As the CRPF & BSF had to function under local police officers, they could do nothing but present a picture of the self-control of the most disciplined force in the world.

As the militancy of the secessionists took roots, it turned the gun on CRPF & BSF Jawans in the down-town areas. On the eve of Id-ul-Fit'r in 1989, half a dozen jawans were done to death in the evening when they were about to retire to their barracks. The jawans waited for orders from their senior local police officers, but the latter stood glum faced and tight lipped and failed to issue any orders to act in self defence. Was this not a wonderful example of abetting secessionists?

Secessionist militancy escalated till it engulfed the whole Valley. The wine shops were forced to be closed and so were cinema halls, beauty parlours and clubs. The women were warned that they must move about 'Burkha' clad or face punishment in accordance with Shariat Law. The foreign money that had been pouring in since 80's had gone unchecked by the authorities and its utilisation was not kept under watch. Even when the DIG Kashmir was attacked at his residence towards the beginning of terrorism, and one terrorist was killed in the encounter, fantastic stories were alleged to have been cooked up to hoodwink the premature exposure of the things to come. Call it abetment or connivance on the part of the authorities, it makes little difference. The guilt was there - the leaders of the treasury benches and the leaders in the opposition, barring a few, all knew what was in the offing!

All of them, almost in the same vein traced the origin of this turmoil to unemployment, backwardness, paucity of funds, corrup-

tion, rigging of elections and what not. According to them the Kashmiri youth felt disgruntled. If this were the whole truth, why did not the youth other than Muslims in Kashmir and the other two divisions namely Jammu and Ladakh take to guns like their counterparts in the Valley? A thorough analyses of the facts would bear out that the Valley enjoyed a much higher level of economic development than did the other two divisions of Jammu and Ladakh. Development in the state was definitely skewed in favour of the Valley than Jammu and Ladakh. That is why different commissions, like the Sikri Commission in 1979, and Gajender Gatkar Commission in 1967 had to be appointed to look into the lopsided development in Jammu and Ladakh regions.

None of the Muslim leaders from the Valley is still prepared to characterise the uprising as fundamentalist, secessionist and communal. The following data would go a long way to warn the masses in the country not to fall prey to the systematic and calculated disinformation campaign let loose by different vested interests. The problem in the Kashmir Valley is not a problem of unemployment, nor is it a problem due to exploitation, corruption and backwardness. In fact, terrorism in Kashmir is not a consequence of economic factors, but of the fundamentalists striving hard to snap the state's relations with India and secede to Pakistan or stay independent with the political order of *Nizam-e-Mustafa*. It is, therefore, a civil war in full swing shaking the very edifice of accession of the state with India. It is a campaign against the *Kafir* (Infidel). It is a movement to set the chain of balkanisation in motion, so that India as a State breaks and the two nation theory is proved correct. It is an attempt to embolden all fissiparous tendencies to work towards the dismemberment of the State. It is the most sinister design ever launched by the enemies of the nation internally and externally. It needs to be dealt with firmly by the State, and the political process alone will not do. The state should make its authority felt. Dragging one's feet along will do more harm than good. The Indian Nation should learn to live as a nation and resist and defeat such a theocratic thrust. It must override all religious, sectarian, fissiparous, regional and communal considerations.

The secessionists are for "Nizam-e-Mustafa". The Muslim youth who have taken to the gun are on a war-path to throw off the shackles of 'Indian domination'. They are fighting a so-called holy war to free themselves from the secular bondage of India. They are against India not because they are unemployed, or because they are poor, or because India did not place unlimited funds at the disposal of the state Government, as alleged. It is not denial of Fundamental Rights that has driven them to such a pass. According to the Islamic canons, rights are allowed to Musalmans only in keeping with the Muslim law; what is 'fundamental' to the secular modern state in terms of rights and duties, is paganism and the law of the infidel in Islam. Hence it is their 'duty' to seek "Azadi" from the rule of such law, and that is what the Kashmiri terrorists are fighting for.

It is not the Kashmiri Pandit - a miniscule minority - who is suffering alone, but every patriot holding fast to his patriotism. In the short run, the nation may be able to afford to neglecting the patriot's suffering, but posterity will not forgive it for not protecting nationhood and safeguarding the life of true patriots.

As for the functioning of the para-military forces, one must bear in mind that they are discharging their duties in absolutely hostile conditions, where they are not sure about their life for a single moment. The local administration is against them. Instances of the involvement of the local police and intelligence with the terrorist are not an exception. The local politicians are out to denigrate and demoralise them. And the Pak ISI is meticulously conducting the whole campaign against India, both from inside and outside the state, from Pakistani soil and from the capital of India.

In comparison with the cruel killings by Pak trained militants, the barbaric and tortuous killings of Jews by Nazis pale into insignificance. Their AK-47s and AK-74s have taken a toll of hundreds of innocent lives. Worse, the most barbaric torture has been resorted to, and victims have had boiling wax poured onto them, they have been tortured with cigarette butts, cuts have been inflicted on their bodies, and they have been hanged from trees in this condition, left there to bleed to death, as examples of how the militants deal with *kafirs* in Kashmir.

KASHMIR'S SECESSION MEANS INDIA'S DISINTEGRATION

By Dina Nath Raina

The concept of our country is that of "Bharat Mata." This concept is not related to any mode of worship. Even the term 'Hindu' has been defined as follows:

आसिधु सिधु पर्यन्तः
यस्य भारत भूमिका ।
मातृ भूः पुण्य भूः चैव,
स वै हिन्दु इति स्मृतः ॥

[This is the land of Bharat where even those who are not of Hind become Hindus; the Hindu keeps one thing constantly in mind, that the motherland is the most sacred of things.]

Thus everything in our country revolves around our motherland. It is not a congregation of many independent states, rather it is one vast country divided into many provinces or states. The present Constitution of India is not the creation of many states. It was not the states of India that adopted our Constitution. It is *we, the people of India who have given to ourselves* this Constitution. All the states, as stated in Article 1 of the Constitution, are an integral and inalienable part of India. Power to secede is absolutely not available to any state or territory. There is no inherent provision even in the Constitution itself. If any state, territory or area secedes in any manner or due to any reason, the whole edifice of our great country will crumble.

Our country is not like the Soviet Union, which came into being as a result of the wars of conquest by imperialist Czars, an internal revolution in the year 1917 and, eventually, through military expansion during World War II. The Republics constituting the Soviet Union have nothing in common, and were not bound by any attributes constituting a nation. Nothing can be more perverse than comparing India with the Soviet Union in this respect. India repre-

sents a well defined geographical unit, organically knit by a several thousand year-long history.

The State of Jammu and Kashmir and Ladakh, commonly referred to as Kashmir, is the head of Mother India. Not only physically but in every way that is sacred and precious to India and fundamental to her very existence. Since pre-historic times the Valley of Kashmir was considered to be the abode of Shiva, manifest as the great lake of Sati, the other form of Shakti. Hindus from the plains of India always aspire to visit the Valley as the ultimate goal of their life. Brahmas engaged in contemplation and study of Vedas continue to come and settle here. Kashmir has been to Indians what Jerusalem and Mecca are to Christians and Muslims. Varanasi and Kashmir are High schools of Hindu conscience. Kashmir has most revered sacred places and pilgrim centres.

This organic unity of India faced serious challenge with the advent of Islam, which carved out a separate communal identity on the basis of religion, which had never been the tradition of this country. In spite of several centuries of interaction and efforts of assimilation, India failed to bring Islam within an orbit of its inclusive tolerant pluralistic life pattern? Ultimately India saw the worst catastrophe, the partition in 1947. Having lost her two limbs India continued to be predominantly Hindu in culture. Bharat is the only country in the world which has been able to withstand the violent, aggressive and fanatical onslaughts of Islam through the ages. The struggle between Bharat and Muslim invaders continued for one thousand years and ultimately resulted in the dissection of our motherland in the year 1947. In spite of this, India embarked upon a new experiment in secularism. Kashmir in a way became a test case for the success of this experiment in India.

As stated earlier, Kashmir is the head of India. Cut off the head, and the remaining body will lose its identity. Kashmir's secession will result not only in Bharat losing her head, but also her *Atma*. India will then be a mass of people living in various disparate states without any soul and common identity. The very idea of belonging to Bharat will appear paradoxical. Everyone will then belong to his or her small territory. The thread of India's unity will be broken.

Pakistan has already launched a proxy war against India in Kashmir. This is a war which Pakistan is fighting on Indian territory with India's men and material. While Pakistan has nothing at stake, India is faced with a threat to its very existence, since, strategically, Kashmir is of utmost importance to us. It is the meeting point of USSR, Pakistan, China and India. We should not forget that when in 1965 we confronted Pakistani aggression, China gave us a 72-hour ultimatum in support of Pakistan.

Kashmir outside India would enable China to take over the entire Ladakh region and make the rest of Kashmir its base for attacking India upto as deep as Madhya Pradesh and Maharashtra, to keep Indian troops engaged in Himachal Pradesh and UP hills and then cut off North Bengal, Assam and the entire North East. These invaders will get ample support from various militant outfits whom they have already started building up and financing. This is not mere imagination but a well documented fact.

In Kashmir, the secessionists have set firm objectives for themselves. They are relentlessly pursuing their target of cutting Kashmir away from the motherland. They would spare nothing to achieve it. Having finished with the Hindus in the Valley, they are now after the life of Government officers, simultaneously raising noises about so called atrocities and reprisals. There are many listeners, who, though born Indian, claim to be neutrals but actually behave as fanatical anti-national elements. Some leaders reluctantly want to retain Kashmir only to ensure continuation of pseudo-secularism India. Jawahar Lal Nehru wrote on 26th July, 1962 : "Anything happening in Kashmir? Its vast Muslim population....."

It is a pity that there is a marked apathy in many parts of the country about the looming disaster. Our history is full of instances in which, while historic battles were being fought in one part of the country, people in other parts stood aloof, thinking that they were far away and safe. What happened? The entire country was enslaved. Our temples were demolished, our scriptures were burnt and weaker sections of our society were converted. Two independent Islamic countries carved out making millions of Hindus and Sikhs homeless. The pseudo-secularists and pseudo-intellectuals will one fine morn-

ing say, what difference does it make if Kashmir is given autonomy or independence? They will never tell us that the partition of India failed to solve the communal issue, and actually whetted the appetite of divisive forces. As adherents of a 'secularism' which has been distorted beyond its meaning and purpose, we are slowly but surely walking towards the goal of our own effacement. This distorted secularism is nothing but a sophisticated post-partition technique of serving the Islamic cause.

However, let us have faith in 80 crore people of this country and take a pledge.

नय्या भंवर में पायेगे,
हम अपना जोर लगायेगे ।
डूबेगे मर जायेगे,
पर कश्मीर बचायेगे ॥

[When we find our boat in the whirlpool, we will fight with all our strength. We will drown, we will die, but we will save Kashmir.]

TEMPLES IN KASHMIR

Desecration & Disinformation

— Dwarkanath Munshi

Mr. B G Verghese appeared twice in quick succession in the *Indian Express*, on May 8 and June 11, 1991 to assert and reaffirm his opinion that temples in Kashmir remain unharmed even when there is strong and overwhelming evidence to the contrary.

Mr. Verghese is an honourable man, a senior journalist and purveyor of the national scene. One would, therefore, have wished that his investigations and intellect had led him to a correct assessment that all the temples there are safe. But, regretfully his conclusions are based on flimsy and questionable grounds. He has gone almost in the same lamentable fashion as the so-called "Human Rights" activists, the PUCL, etc, have done in regard to Kashmir. The facts are different. His assertions are, therefore, misleading and need to be examined in a cool, objective manner and with the help of actualities.

Mr. Verghese has stressed one condition which underpins his investigations and interpretations. It is his list of temples related to the happenings in 1990, whereby he had sought to create a cover which we shall presently see.

That over a hundred temples and other open places of worship and obeisance were desecrated, damaged and vandalised even before the 1990 holocaust can be refuted only by the most ignorant or biased. These hundred and more do not include numberless other places of Hindu worship in Kashmir valley which have been either seized by force or obliterated without a trace. Some of this latter category include open sacred places of worship and sanctity, including even cremation grounds.

The illegal forcible occupation commenced from the day of Independence in 1947. The Administration not only looked the other way but, indeed, promoted the seizure of Government land, common pastures, unprotected land around Hindu places of worship, in cities

and villages alike. All these then came into the possession of the Muslim Auqaf of which Sheikh Abdullah himself was the all-powerful President.

This has been an unbroken process. To understand this we need to take a quick look at our pantheon. As is well known, Hindus in Kashmir as everywhere else, revere and worship all known sources of energy and all manifestations of nature on land or water. Hindus have not only raised temples but have borne in their faith and emotions these manifestations of nature, and often marked them with vermilion and flags and buntings to set them apart as objects and idols of worship and reverence.

This was very pronounced in the Valley of Kashmir, where such pilgrim spots dotted the surrounding hills and mountains, the river banks and streams or even inaccessible caves. The intensity of faith in these places of worship, and sanctity, is not affected by whether they are covered and enclosed or open and exposed.

First Major Onslaught:

It was in early 1986, that the Muslim fundamentalists made the first major and fairly widespread onslaught on the Hindus in the valley, the Kashmiri Pandits. The attack was concentrated in the prosperous town of Anantnag and several small towns and villages of the district such as Luk Bhawan, Fatephora, Wanpuh, Dhanav, Babehara, Akura among many others. These were ravaged and ransacked for a number of days. On the other extreme of the Valley, Baramulla and Sopore, well-known prosperous town in the north, too, came under attack but escaped rather lightly in comparison to the pillaging in the south.

Altogether, 32 places were affected. In these, 24 temples were burnt, 22 were desecrated and looted and 22 idols were broken. Since our reference here is only to temples and other places of Hindu worship, we shall refrain from mentioning destruction and damage of houses, shops, factories etc.

Such was the virulence of the riots that a Study Team, set up by the BJP comprising Shri L K Advani, Shri Kidar Nath Sahani, other

top leaders and MPs, visited all the affected places. They gave their findings to Shri Arun Nehru, the then Minister of Internal Security and placed before him full, authentic facts on the prevailing situation and the risk to the life, property and honour of the Pandits in the Valley.

The Kashmiri Samiti, Delhi, had also sent a Study Team which visited several affected places and published a detailed report, similar in sweep and character.

The findings, summarized to the barest minimum above, were found to be so full of peril for the State and the country's integrity that the Government had no choice but to dismiss the notorious G M Shah Ministry and put it under Governor's rule. We will not go into the political chess games and the sordid mess that followed. But, meanwhile, the Muslim fundamentalists, with the Jamat-i-Islami in the forefront, made the most of it. The rival political factions of Farooq Abdullah and his brother-in-law, Shah, fed their respective factions with arms and money, which is too well known to be repeated. While our inveterate enemy Pakistan strengthened militancy immensely with a unending stream of armaments, petrodollars, trainings and mercenaries which easily crossed the almost open and slovenly-held borders.

1990 Holocaust:

All this resulted in the holocaust of January 1990, which continues even today. The fundamentalist-secessionists concentrated and trained their guns and their fury first on the Kashmiri Pandits. The defenceless, powerless and friendless community had no option but to flee to save themselves.

What the fundamentalists had experimented in 1986, was now blown into full potential. There was nobody to stop them. The State Government had collapsed and had been deserted. The Central Government had neither the understanding nor the will to deal with this insurrection. They would not antagonise the Muslims and risk the fall-out in the rest of India when the elections were looming large on the Indian horizon.

Incidentally, let me mention that Kashmiri Muslim secessionist openly say that they give a hoot about what the Indian Muslims might have to face in the event of Kashmir's secession.

It was also a time when:

1. The V P Singh Government had promised a handsome package to the Imam of Jama Masjid, of which one known content was Rs. 50 crores for the renovation of the mosque. Mr. Singh, who posed as champion of the oppressed, refused again and again to meet a delegation of the miserable displaced people from Kashmir.
2. The late Mr. Rajiv Gandhi refused to recognise the danger in Kashmir and harped only on the recall of the then Governor. He refused to talk of our privations in public.
3. The so called Civil Rights champions bemoaned the denial of the rights of the secessionists and dismissed our agonies and losses in feigned disbelief or studied silence.

Mr. Verghese must have, all the same, read reports and accounts of the barbarity of the secessionists when they raped and then sliced women by saws, or killed by inserting burning cigarettes inside the body or left half-dead persons to be finished by vultures, or burnt humans and cows alive. If these inhuman barbarians could do this to the living, what would they have done to the inanimate objects of worship? The carnage was directed at that time almost exclusively at the Kashmiri Pandits to shatter them completely and drive them out of Kashmir as a pre-requisite to secession. It would only be the naive or the incorrigibly biassed or those who may have benefited somehow from these events who could think or believe or say that the places of worship were left unharmed.

The barbarians vent their fiendish fury at the buildings, and more at the open places of worship, uprooted them and left no trace of them. In such dark and dangerous times who could have reported and registered such crimes?

Thin Cover :

Yct, it is not as simple a matter of what was done "in 1990", as Mr.

Vergheese puts it, to take cover behind the quotation marks. Now, when the valley is inaccessible to civilised people, it is impossible to pinpoint the damages wrought “in 1990”. The basic question is what has happened, say in the last couple of decades. I will give three sharp illustrations which can be verified any time even now.

One is of the ‘Bhairav’ at Chattabal in Srinagar. It was the site of offerings to the local patron-spirit symbolised by a majestic tree standing in attractive surroundings on the banks of the once splendid Jhelum river. Muslims suddenly claimed it for a graveyard. The Government promptly denied Hindus access to their place of worship.

The second is the foothills of Hari Parbat. All along it were many small temples and open spaces bearing idols, rocks, trees, etc, especially in what was called the Devi Aangan, a vast area at the foot of Mata Sharika’s shrine atop the hill. Each of these was the object of the Pandits’ reverence and worship and stood recognised as such from ancient times. These have been obliterated and many now lie beneath residential houses and commercial centres. How can Mr. Vergheese ever see these now?

Define Desecration :

The third is the very recent and the most serious desecration of Khir Bhawani. Mr. Vergheese went and saw, held dialogues and returned to say no harm was done. If a rocket was flung in the direction of the shrine, is it not a desecration unless it would have blown the whole thing up? What is Mr. Vergheese’s definition of desecration? Further, if there was no damage or desecration what did the local Muslims protest about as Mr. Vergheese claims? And he talked to the Pujari there (and at Ganpatyar). What did he expect the beleaguered miserable ones to say, risking as they are their lives out there for religious duty when death stalks them from all sides? They or any other Kashmiri Pandit will not dare to breathe a word which can even remotely displease the extremists, even when none may be actually around. Such is the fear.

Finally, Mr. Vergheese rationalises the attack on Khir Bhawani

on the plea that there are security personnel pickets there. Is he suggesting that it is perfectly constitutional, legal, pardonable for the secessionists to attack these personnel performing an important national duty? Or does one hear it said that it's war?

GENOCIDE OF HINDUS IN KASHMIR

— Vijay Tikkoo

The Valley of Kashmir, once famous as the 'paradise on earth' and renowned for its beautiful mountains, lakes, rivers, springs and flowers has been painted red with the blood of its Hindu minority. Kashmiri Hindus who constituted about 10 per cent of the population in 1941 were reduced to just three per cent in 1981.

After 1947 more than three lakhs Hindus were forced to migrate to safer place in and outside India, where they could earn an honourable living and spend peaceful nights. This exodus was achieved 'peacefully' by means of the systematic policy of economic strangulation, denial of basic human rights and maltreatment in every walk of life at the hands of the brute Muslim majority. The Muslims have predominated J & K Government, local bureaucracy and law and order machinery since 1947.

At the same time these Islamic zealots continued to harp on "Secularism In Kashmir". The Kashmiri Hindus had no option left but to brave these hazards passively out of their love for the 'homeland' as well as for the cause of upholding the national flag and honour in Kashmir, for which their continued presence in Kashmir was a must. But the Islamic fundamentalism preached by Pakistan, Iran and Saudi Arabia and the establishment of nexus between the Kashmiri Muslim politicians, bureaucracy, intellectuals, businessmen and youth with the support of Saudi money, Iranian literature and Pakistani muscle, prepared the ground for a final showdown. In this new gameplan Kashmiri Hindus were regarded as the vanguard of India in Kashmir and were therefore to be uprooted and decimated.

The first organised attack on Kashmiri Hindus was launched in the third week of February 1986 when 56 temples and 150 houses were burnt and razed to ground in a single day in the district of Anantnag-the home of most sacred shrines of the Hindus in India. More than 1500 Hindu houses were looted. In this attack Muslims belonging to Jamat-i-Islami, Muslim United Front, National Confer-

ence and even the Congress (then under state presidentship of the well recognised communalist - Mufti Mohammad Syed) took part. Not a single culprit was apprehended, what to speak of any sort of punishment for the accused.

The Anantnag episode was enacted to test the vulnerability of the Kashmiri Hindus, the power and presence of the Indian State as represented by its security forces and other organs. Seeing that nobody was interested in the security of this frontier State and more so its helpless Hindu minority, the Muslim fundamentalists were emboldened to unfold their new plans.

Operation Topaz of Pakistani dictator Zia-ul-Haq to snatch away Kashmir leading to dismemberment of India was launched in 1988. Under this scheme, Kashmiri Hindus were to be exterminated to achieve the goal of 'Islamisation' of Kashmir and its final merger with Pakistan. Now, open threats in the form of individual letters, posters and advertisements/announcements published in local Urdu newspapers were issued asking Kashmiri Hindus to leave the Valley or face death. Seeing that it did not result in the desired exodus, they decided to instill fear in them by continuously announcing over public address systems that the Hindus should leave at once, or else it would be too late. Then started the process of killings of influential and respected Hindus in a select manner. But who would leave one's home and hearth and above all a place of birth like Kashmir? So very few moved out initially, the majority stayed behind in the hope that things would normalise and the state and Central Governments would enforce law and order.

Towards the end of 1989, armed Muslim terrorists openly began indiscriminate killings of all non-Muslims including Kashmiri Pandits and non-Kashmiri Hindus forcing the entire non-Muslim population to move out of the Valley. They did so to create a pure Islamic State and to take forcible possession of the vacated houses and moveable and immovable properties left behind by the fleeing and panic-stricken Hindus. The Hindus could not take along with them even their valuables, jewellery and other important moveable items. They boarded the first available transport, which could take them across the Banihal Tunnel.

Of the three lakh who have been forced out of the Valley about one and a half lakh are languishing in tattered camps and other rented accommodation in and around Jammu. About 50,000 are scattered in and around Delhi. The remaining are spread over camps in Chandigarh, Amritsar, Jullunder, Agra, Ghaziabad, Faridabad, Simla, Jaipur, Lucknow, Banaras, Bhopal, Madras, Bangalore, Bombay, Calcutta etc. and many have taken temporary shelter with their friends and relatives in the plains.

More than 800 Kashmiri Hindus, about 100 non-Kashmiri Hindus and about a dozen Sikhs have been murdered in the most brutal and gruesome manner. About 150 Kashmiri Muslims have also been murdered because they had acted as a good neighbours to Hindus. The victims were either strangulated or their throats were slit or were cut up limb by limb. In many cases the militants pierced iron rods into the body and literally skinned them alive. The disfigured bodies were left to decompose. There was nobody to cremate the dead or perform their last rites, which in most cases had to be done by the security forces. The dependents of the deceased are living in inhuman conditions at Jammu and elsewhere, on the sale-proceeds of whatever they had been able to bring with them. Hundreds of the displaced Hindus have died in Jammu and other places due to psychological shock and trauma.

A few thousands Kashmiri Hindus are still left in Kashmir, as they do not have the means to shift to safer places. Some isolated families living in far off corners are not able to leave their places under threat of dire consequences by the surrounding Muslim population who are using these helpless Hindus as hostages or showpieces of their secularism.

The vacant houses of Hindus in Kashmir have been looted. About 1500 have been burnt so far. Whereas against (fictitious) claims the Indian Insurance companies have disbursed cover money worth crores of rupees to preferred Kashmiri Muslims, no claims of Hindus, who are the real sufferers, have been settled yet. The schools, other educational and religious institutions owned or run by the Hindus are being blasted or burnt. In short, all traces of 5000-years-old Hindu civilisation in Kashmir have been wiped out by the

armed Muslim terrorists by means of brutal force. This could have been prevented if the Government of India had utilised its security personnel to enforce law and order and protected the life, honour and property of the innocent victims. So where does Indian secularism stand? Does secularism mean the extermination of Hindus?

The greatest irony of the whole tragedy is that this unprecedented genocide of Kashmiri Hindus has gone unnoticed and unrecorded, what to speak of its condemnation in national and international media. It is high time that the peace-loving citizens of India and other countries see for themselves the gruesome manner in which the Hindus have been murdered by the Islamic fanatic. Muslim fundamentalists of Kashmir and their Pakistani mentors are open to the charge of the worst kind of genocide of Hindu minority.

Sample Cases of genocide :

The following pages narrate some telling details of a few gruesome murders. What is being recorded here is just the tip of iceberg. There are hundreds of such cases, some of which have been reported in the press during the past two years. Some were just mentioned as “unidentified” body and in some cases the relations of the deceased are still waiting for their “missing” relatives to return. It still remains a mystery whether all such murders have been reported in the First Information Reports, and whether the local police has taken photographs of these victims as required under law. There are many unanswered questions, answers to which only the state administration and the Government of India can provide.

ARTICLE 370 — THE ROOT CAUSE

By Jagmohan (Ex-Governor, J. & K.)

For them, power is everything, fairness nothing. They have created a land without justice, a landfull of crudities and contradictions.

- Author's diary (August 15, 1986)

One of the strongest roots of Kashmiri separatism and alienation lies in Article 370 of the Constitution of India, which gives special status to the State of Jammu and Kashmir. It is an issue which involves not only historical, constitutional, political, social and economic considerations of far-reaching consequences, but also psychological and emotional ones. A fierce nation-wide controversy has often been raised about it. Its deletion or retention has been advocated with equal vehemence. But one fundamental aspect has always been lost sight of. That pertains to its misuse by vested interests.

While pondering over the need for fundamental reforms during Governor's Rule, I wrote in my diary in August 1986: "Article 370 is nothing but a feeding ground for the parasites at the heart of paradise. It skins the poor. It deceives them with its mirage. It lines the pockets of the 'power elites'. It fans the ego of the new 'sultans'. In essence, it creates a land without justice, a land full of crudities and contradictions. It props up politics of deception, duplicity and demagogy. It breeds the microbes of subversion. It keeps alive the unwholesome legacy of the two-nation theory. It suffocates the very idea of India and fogs the very vision of a great social and cultural crucible from Kashmir to Kanyakumari. It could be an epicentre of a violent earthquake in the valley - an earthquake, the tremors of which would be felt all over the country with unforeseen consequences." Thereafter, I communicated my views to the Union Government and made a number of suggestions to create a new institutional framework in the State. But these were ignored. A great opportunity was missed.

Over the years, Article 370 has become an instrument of exploitation in the hands of the ruling political elites and other vested interests in bureaucracy, business, the judiciary and bar. It has set in a vicious circle. It breeds separatist forces which in turn sustain and strengthen Article 370. Apart from the politicians, the richer classes have found it convenient to amass wealth and not allow healthy financial legislation to come to the state. The provisions of the Wealth Tax, the Urban Land Ceiling Act, the Gift Tax, etc., and other beneficial laws of the Union have not been allowed to operate in the state under cover of Article 370. The common masses are prevented from realising that Article 370 is actually keeping them impoverished and denying them justice and also their due share in the economic advancement.

What were the circumstances under which Article 370 was incorporated in our Constitution? What are its contents? And how, over the years, has dilution of this Article taken place, if at all? It is necessary to deal with these questions before proceeding further. Maharaja Hari Singh sought the help of the Government of India when Pakistan attacked the state on October 24, 1947, in the name of Azad Kashmir forces. On October 26, 1947, he executed an Instrument of Accession by way of which he surrendered the jurisdiction of three subjects - Defence, Foreign Affairs and Communication - to the Union Government. The format of this Instrument of Accession was exactly the same as was executed by other heads of the princely States. On the insistence of the Government of India, it was agreed that the final decision with regard to accession would be taken by the Constituent Assembly of Jammu and Kashmir. For the intervening period, that is, from the time of the execution of the Instrument of Accession to its consideration by the Constituent Assembly of the state, temporary provisions had to be made in the Constitution of India. And this was done by incorporating Article 370.

The sum and substance of Article 370 is that with regard to Jammu and Kashmir, in addition to Defence, Foreign Affairs and Communication the Union Parliament can make laws with regard to the items in the Union and Concurrent Lists but only with the con-

currence of the State Government. This puts the Jammu and Kashmir State on a special footing. While the Union Parliament has unfettered powers to make laws for all the States in respect of items included in the Union and Concurrent Lists of the Constitution, it can do so with regard to Jammu and Kashmir only with the consent of the State Government.

It would be noticed from the contents of Article 370, which is reproduced in Appendix X, that it was transitional in nature. The Constituent Assembly of Jammu and Kashmir ratified the State's accession to India in February 1956. With this ratification, the issue of accession was finally settled but the issues in regard to jurisdiction of Parliament to subjects other than Defence, Foreign Affairs and Communication were kept flexible. The President could, with the concurrence of the State Government, extend provisions of the Indian Constitution to the State of Jammu and Kashmir.

The first order of the President of India, under Article 370, was issued in 1950. The order applied to the State of Jammu and Kashmir those provisions of the Indian Constitution which were related to the three subjects stipulated in the Instrument of Accession. The proposals to extend more items of the Indian Constitution to Jammu and Kashmir were further discussed by the representatives of the Union Government and the State Government. At that time Sheikh Mohammad Abdullah was the Prime Minister of Jammu and Kashmir. Consequent upon the discussions, an understanding was arrived at between the two Governments. This understanding is known as the Delhi Agreement (1952) in pursuance of which the President of India issued the Constitution (Application to Jammu and Kashmir) Order 1954. Under this Order, a number of provisions of the Indian Constitution were extended to the State. This Order was amended from time to time extending more provisions of the Indian Constitution to the State. Particulars of these extensions are given in Appendix XI. Separately, the Constitution of Jammu and Kashmir was amended in 1966 to change the denomination of Sadar-e-Riyasat to that of Governor and of Prime Minister to Chief Minister.

The position, in brief, today is that besides the subjects of provisions of the Indian Constitution stand extended to the State of

Jammu and Kashmir. Important amongst these extensions are Article 356 and the jurisdiction of the Supreme Court, the Election Commission, and the Comptroller and Auditor General.

There is, however, still a vast area which remains under the exclusive jurisdiction of the State Government. It includes a substantial portion of the Concurrent List and also Residuary Powers. Article 352, which enables the President to declare a proclamation of national emergency, is applicable only in a limited way. Article 360 which empowers the President to issue proclamation of financial emergency is also not applicable. Neither can the President suspend the Constitution of the State, nor can he give any direction under Article 365.

The State has a Constitution of its own which is an unfortunate by-product of Article 370. No other State of the Indian Union has a separate Constitution. All other States have a uniform structure; it is laid down in Part IV of the Constitution of India.

The provision of the Jammu and Kashmir Constitution create a number of problems, particularly in regard to the right to hold property, right to citizenship, and right to settlement. The citizens of India do not automatically become the citizens of Jammu and Kashmir. They have no constitutional right of settlement in the State. The Constitution of India recognises only one citizenship. But the citizens of Jammu and Kashmir enjoy double privileges - one as citizen of India and the other as citizen of the State. Those who are not citizens of the State of Jammu and Kashmir are subjected to a number of disabilities. They cannot hold any property in the State. They have no right to vote in the election to the State Assembly or local bodies or panchayats and co-operative societies, etc. What is still more unjust is that if a woman, belonging to Jammu and Kashmir, gets married to a person who is not a citizen of Jammu and Kashmir, gets married to a person who is not a citizen of Jammu and Kashmir, she loses her property; she cannot even inherit property from her parents. These provisions of the Constitution are anachronistic, legally and constitutionally antiquated, create emotional barriers between the State and the Union, and are otherwise incompatible with the fundamental principles of justice and fair play. The

unhealthy position is compounded by the fact that the State has its own flag and its own emblem. On the Government buildings, the National Flag and the State Flag are flown and the Ministers belonging to National Conference usually fly the National Flag as well as the flag of the National Conference.

As indicated in the three opening paragraphs of this Chapter, Article 370 is not in the interest of the common folk of the State. A few examples may be given.

The case of renewal of lease to Nedous Hotel in March 1988 is a typical example of how a small caucus exploits Article 370. In this case, the original lease of Nedous Hotel expired in June 1980. In March 1988, the State Government renewed, retrospectively, the lease for a period of 95 years from June 1980, for an annual rent of Rs. 52,000 which would be doubled during the last 10 years of the lease period. Simultaneously, permission was given to the lessee to sub-lease the property to the Indian Tobacco Company when runs a chain of hotels under the names of Welcomgroup for an annual rent of Rs. 14 lakh which would be doubled in the years to come, making the annual rent in the last decade of the lease period to Rs.30 lakh. In other words, the lessee would get over Rs. 19 crore as rent from the Welcomgroup during the period of the lease and pay to the Government, during the same period, rent of Rs.80 lakh, thereby obtaining a net unmerited gain, at the expense of the State, of Rs. 18.20 crore as an intermediary. If the property, comprising about 113 kanals of land, had been put to auction or allotted on the basis of competitive tenders, the State Government would have got seven crore as lease money.

The case of the hotel at Karal Sangri, now known as Santuar Hotel, is another example of under the protective wall of Article 370. In this case, a five-star hotel has been constructed on the hill-top overlooking the Dal lake.

The case came to my notice when T N Kaul, Ambassador to the USSR, came to see me in mid-1985. He was on holiday, and staying at Chashmashahi Guest House. He told me that the hillock, Karal Sangri, which provided a beautiful view from Chashmashahi, was being ravaged to make a road. I had the matter looked into. I found

that during the Chief Ministership of Sayeed Mir Qasim, some exploratory work for constructing a few government huts at the site was undertaken. But nothing was actually done. When Sheikh Mohammad Abdullah came to power, a portion of the site was quietly purchased by an influential local businessman with the tacit understanding that permission for the construction of a hotel at the site would be given. During Dr. Farooq Abdullah's ministry, a vague sanction of sorts was also obtained from Srinagar Municipality. While the businessman was in search of a resourceful hotelier from outside the State, whom he could virtually sell the plot to with the sanctioned building plan, Dr. Farooq Abdullah's ministry fell. After lying low for some time, the businessman, with the reported help of Muzaffar Shah, son of G M Shah, Chief Minister, got the building plan re-validated. By that time, a suitable party Santuar Hotel had been located and proper understanding arrived at. It was at that stage that the cutting of the hillock started.

Dr. Farooq Abdullah's party, National Conference (F), who were aware of the modus operandi of the businessman, made several complaints to me about the alleged misdoings of Muzaffar Shah. On September 14, 1985, the two former ministers of Dr. Farooq Abdullah's ministry, P L Handoo and Mohammed Shaffi, met me in this regard. So possessed were they of the issue that they virtually forced me to come out of the office and see how a site of natural beauty was being uglified and how the ecology of the Dal Lake was being damaged.

Governor's Rule was imposed in the state on March 7, 1986. On an examination of the files, I detected a number of irregularities, both in regard to the ownership of the land and the so-called sanction. The project was cancelled. I was happy that a grave ecological disaster had been averted. Besides stabbing the landscape, I thought, the hotel would have caused a huge quantity of silt and sewer to flow into the lake. But, soon after the termination of Governor's Rule, I noticed hectic construction activity at the site. On inquiry, I was told that none other than the Chief Minister, Dr. Farooq Abdullah, had himself laid the foundation stone of the hotel complex. Tragically, the person and the party who made the loudest

noises, alleging corruption and environmental damage got the project going, thereby enabling the local businessman and his hotelier-associate to secure huge financial gains at the expense of the State.

The case demonstrates in a classic manner how moneymaking and power-building cliques and coteries rape and ravage the State economy and ecology under cover of thick and thorny bushes of Article 370, and how the tragedy of Kashmir is inbuilt in the politics of deception and economics of exploitation.

If commercial sites are allotted on the basis of auction or competitive tenders open to everyone in the country, innumerable benefits would flow to the State. Land resources would not be cornered by the intermediaries. The State's environment would not be damaged. Black money would be reduced. The corrupt and the crafty would have a smaller base to operate from. Conspiratorial links between the ruling and business elites would be snapped. Since nothing would be required to be done in a surreptitious manner, damage to ecology and environment would be minimised. Capital would come from outside the State. Employment opportunities would increase for the local population. The society would become more open. And the process of development would be quickened. During Governor's Rule in 1986, I put a complex, known as Hari Niwas, for the setting up of a hotel, to open auction, without any restriction regarding residence in the State. This complex belonged to the erstwhile Maharaja. In the early seventies, Dr. Karan Singh sold it to the State Government for Rs.50 lakh. It remained practically unutilised. In the open auction, a bid of Rs 6 crore was received. To prevent the power elites from raising the bogey of Article 370 and misleading the poor masses, I simultaneously announced that the auction proceeds would be utilised for laying sewers in the city. By linking the auction proceeds with the city development scheme, beneficial to the poor of the city, the harmful effect of Article 370 in restricting the resource-base of the state, was demonstrated.

The Urban Land (Ceiling and Regulation) Act, 1976 is application all over India. But it was not extended to Jammu and Kashmir. What has this non-extension to do with the special status of Jammu

and Kashmir? It was primarily to protect the vested interests of the ruling elite that this Act was not extended.

In March 1988, I had the occasion to examine six serious cases of public corruption. In one case, there were allegations against the Revenue Minister and his son-in-law. In the second case, the previous Revenue secretary and the previous Revenue Minister were involved. In the third case, a member of the erstwhile royal family had secured huge monetary benefits through underhand transactions. In the fourth case, manipulation in the records of evacuee property was noticed. In the fifth case, the son of the erstwhile Chief Minister allegedly secured expensive land in the heart of the city. In the sixth case, a top leader of a political party was believed to have secured compensation for the land much in excess of the normal rates. In all these cases two aspects were common: urban lands and political and bureaucratic elites. By cornering valuable lands and speculating upon them, huge unaccounted amounts were collected. This unhealthy activity would have been contained by the extension of Urban Land (Ceiling and Regulation) Act, 1976. But the vested interests saw to it that this did not happen.

Article 370 has also been misused to build a political oligarchy. For instance, the Central legislation to prevent defection in the legislatures was not extended to or adopted in toto in the Jammu and Kashmir State. The local legislation is so designed that it virtually vests the Party Chief with dictatorial powers. In the State law, now in force, it is not the Speaker, but the Party Chief, who decides whether a particular member of the legislature has defected or not. In other words, he is the head of the government as well as the head of the party; he is the one who distributes party tickets; he is the one who nominates ministers; and he is the one who sits in judgement and takes the final decision, in the event of his leadership being questioned either by a minister or by a party members of the legislature. The law was enacted by way of the Constitution of Jammu and Kashmir (Aighteenth Amendment) Act, 1987. It provides: "If any question arises as to whether a member of the House has become subject to disqualification under this schedule, the question shall be referred for the decision of the Leader of the

Legislature Party to which such member belongs and his decision shall be final." It entrenches the personality cult and virtually sanctions constitutional dictatorship of the party leader.

I have already mentioned the case of a woman of Jammu and Kashmir losing her rights if she gets married to an Indian who is not a citizen of the State. By way of illustration, let me cite a recent case. Dr. Rubeena Nasrullah who was a 'permanent resident/citizen of the State' got her MBBS degree and applied for the postgraduate course in the Government Medical College. She had a State subject certificate and submitted it with her application. But she was asked to produce and submitted it with her application. But she was asked to produce "permanent residence certificate after marriage" implying thereby that her status after marriage had changed. She applied to the authorities for the grant of the requisite certificate. She was refused. Why? Because she had married an Indian citizen who was not a citizen/subject of the Jammu and Kashmir State. Dr. Rubeena Nasrullah had to file a writ petition in the High Court under Article 226 "for quashing of the State authorities' communication dated February 6, 1985, directing her to produce 'permanent residence certificate after marriage' and declining to accept her eligibility to seek admission to the postgraduate course on her failure to produce the certificate demanded." Her petition is still pending.

The basic question here is: what is the approach of those who govern the State of Jammu and Kashmir and of the Indian policy-makers who permit such governance under the cloak of Article 370 and its corollary, the State Constitution? A person who is a citizen of India, and also a citizen/permanent resident of Jammu and Kashmir cannot secure admission in the medical college established with the finances of the Union Government merely because she had married an Indian citizen. Can anything be more unjust, more primitive, than this?

This case of displaced persons from West Pakistan is a still worse example of gross injustice. In the wake of partition, a few thousand families from West Pakistan migrated to Jammu and Kashmir and settled there. They are now in the State for over four decades. But these unfortunate persons, who were forced to migrate

due to compulsions of circumstances beyond their control, have been denied elementary human rights. They, their children and grandchildren have no citizenship rights in Jammu and Kashmir. They cannot participate in the elections to the State Assembly or municipality or panchayat. They cannot even secure loans from the State Government or its agencies. Young boys and girls cannot get admission to medical, engineering or agricultural colleges in the State.

Is it not tragic that this is happening in a part of our country - a country that has been taking pride, in season and out of season, in its sense of social, economic and political justice; a country that has been shedding tears about human rights of South Africans and Palestinians? The basic question here is not the number of persons involved, but the national propensity to play the politics of appeasement for narrow gains, and to sacrifice compassion and commitment at the altar of expediency.

In the present-day world, there are four classes of offenders who generally remain unidentified. There is a class which commits offences by invisible manipulation. An example of this class is the top elites who bend the economic system to their sole advantage and cause disease and death by keeping a large section of the people famished. There is another class of offenders who commit offences by planting what may be called environmental time bombs and by injecting poison, not in the body, but in the land, air and sea. There is yet another class of offenders who thrive on the art of disinformation and prevent reality from dawning. There is still another class of offenders who commit offences by omission, which, in essence, is no different from commission. We all know it and yet we are silent. In the case of displaced persons in question and other such cases, the entire country is guilty of omitting to look into inequities and inhumanity hidden in Article 370 and its by-products.

There are a few other basic questions that need to be raised regarding Article 370. What is its rationale, its *raison d'être*? What is so special about Kashmir that his Article is not applicable to other States? If Article 370 is there to protect and preserve the cultural entity of Kashmir, then such a provision should have been made for

all the States. The need for preserving the cultural entity is common to all the States. Could it be said that the cultural personality of Bengal or Kerala or Tamil Nadu need no protection? What then has Kashmir got which other States of India do not have? Is it that it is the only Muslim majority State? Does it not follow that in the continuation of article 370 there is a tacit acceptance of the two-nation theory?

We denounced the two-nation theory, proclaimed to the world that in India religion did not constitute the basis of separation or distinction. Ironically, it is we who are applying the two-nation theory in Kashmir. And we are doing that in the most unfortunate, most suicidal manner. Pakistan, which owes its birth to the two-nation theory, exists, after all, with its own resources. But here in Kashmir, Article 370 and the issue of autonomy are designed to be manipulated in such a way that a virtual Sheikdom or Sultanate, or mini-Pakistan, has been nurtured with Indian money. Unfortunately, we have neither the inclination nor the depth of perception to see through the game. The in-built attitude of the Kashmiri leadership towards India is: "When you are going, what would you leave; and when you are returning, what would you bring?" The relationship is sought only for securing Indian finances and not for building a lasting relationship on truly just, secular and progressive basis. Any Union law or administrative measure, howsoever beneficial to the masses, is spurned. -

The protagonists of Article 370 often argue that its retention is necessary for giving substantial autonomy to the State. But what has desirable autonomy to do with this Article? When other States in the Union ask for greater autonomy, they do not mean separation of identities. They really want decentralisation and devolution of power, so that administrative and development work is done speedily and the quality of service to the people improves. In Jammu and Kashmir the demand for retaining Article 370 with all its pristine purity, that is, without the alleged dilution that has taken place since 1953, stems from a different motivation. It emanates from a clever strategy to stay away from the mainstream, to set up a separate fiefdom, to fly a separate flag, to have a Prime Minister rather than

a Chief Minister, and a Sadar-i-Riyasat instead of a Governor, and to secure greater power and patronage, not for the good of the masses, not for serving the cause of peace and progress or for attaining cultural unity amidst diversity, but for serving the interests of the 'new elites', the 'new sheikhs'.

How recognition of the two-nation theory is implicit in Article 370, and how the legacy of this theory shapes the State's communal psyche, would be evident from the attitude of its leaders towards the family welfare programme. Almost all the local political parties and groups find it expedient to talk against this programme. For instance, G M Shah, Chief of the Awami National Conference and former Chief Minister, recently said: "The official birth control programme is aimed at reducing the State Muslim majority to a minority. The Muslims constituted 80 per cent population of the State in 1947; they have now been reduced to only 54 per cent. In another 10 years' time, the Muslims would be reduced to a minority - 48 per cent of the total population." Such statements, besides being statistically false, seriously undermine the family welfare programme and reflect the inner thinking of the obscurantist and fundamentalist elements. They dub the family welfare programme as un-Islamic, and a conspiracy of 'Hindu India' to reduce the Muslims to an insignificant minority. It is because of this attitude that, during the decade 1971 to 1981, the growth of population in Jammu and Kashmir has been the highest in the country. It is 29.6 as compared to the national average of 25. The achievements have invariably fallen far short of the targets.

And what are the practical aspects of Article 370 and the autonomy syndrome? Is autonomy really feasible in the context of the Kashmir situation? Has it any meaning in practice?

Both for plan and non-plan finances, Jammu and Kashmir is heavily dependent upon the Union Government. Its five-year plans are wholly funded by the centre. A substantial part of its non-plan expenditure is also met by the Union. For instance, in the budget for the year 1988-89, about 74 per cent of its revenue receipts were by way of transfers from the Central Government. While the State got about Rs. 1,003 crore from the central Government as grants* and loans, its own total receipts were about Rs.234 crore. The State's

salary bill for the same year was about Rs.277 crore, that is, more than its own receipts. Had the State been truly autonomous and left to its own resources, it could not find a singly paisa for any plan or development work.

It could not also pay salaries to a good number of its employees. In view of its extremely weak financial position and its narrow economic base, autonomy for Jammu and Kashmir is neither feasible nor desirable.

In the absence of full financial integration with the Union, Jammu and Kashmir would be nothing but a mediaeval autarchy like in the Maharaja's time, when the per capital income was only Rs. 11 and out of that, too, 21 per cent had to be paid as taxes; 93.4 per cent of the population was illiterate; there was only one boys' primary school for every 66 square miles and one girls' primary school for every 467 square miles; and the total annual expenditure on agriculture, public health, industries, roads, irrigation and education was only Rs. 36 lakh. IN 1947-48, the State Budget envisaged a total expenditure of Rs. 4.81 crore. The corresponding figure for the year 1988-89 was Rs. 1,237 crore. In 1947, the per capita State expenditure was Rs. 15. In 1988-89, the per capita State expenditure on plan alone was Rs. 645. These comparisons indicate the enormous benefits which financial integration with the Union has brought to Jammu and Kashmir. During the Seventh Five Year Plan, the State got Union finances to the extent of Rs. 1,838 crore-Rs. 1,400 crore for plan expenditure and Rs. 438 crore to meet non-plan resource gap. In the course of the last 43 years, the Union Government has pumped several thousand crores in Jammu and Kashmir. In the case of this State, the per capita financial assistance from the Centre has been far above the national average. It is getting 2.57 per cent of the total grant disbursed by the Centre, while its population is 0.8 per cent of the country's population. For instance, in the year 1989-90, the per capita central grant for Jammu and Kashmir was Rs. 1122, while it was Rs. 552 for Himachal Pradesh Rs. 425 for Assam, Rs. 109 for Bihar, Rs. 91 for U.P, and Rs. 67 for West Bengal.

Take another issue-the extension of Article 356 of the Constitution of Jammu and Kashmir. This Article enables the President to bring

the State under President's Rule. It is often said that the extension of this Article constitutes encroachment on the State's autonomy. But no one asks a connected question: if there is a breakdown of the constitutional machinery in the State or if the State refuses to comply with any direction concerning Defence, Foreign Affairs or Communication, what will happen in the absence of President's powers under Article 356? Suppose the Governor has the corresponding powers; then does it not mean that the President would have to submit to the decision of the Governor, his own appointee? Again, suppose the Governor is made Sadar-i-Riyasat who is not appointed by the president, but is elected by the State Assembly; then would not granting the final say to the Sadar-i-Riyasat amount to subordinating the Union to the State?

Take another practical problem. Defence is a Union subject, while land acquisition is the subject assigned to the State. If the Union Government wants to establish a cantonment at a particular place, the land for the same would have to be acquired by the State Government. Suppose the State Government refuses to acquire that land. The only remedy available would be to impose Presidential will by invoking provisions of Article 356. In other words, in day-to-day working of the administration, a number of cases would arise in which the needs of the Union would have to be met by the State. And in case of the State's refusal to comply with the requirements of the Union, the will of the Union has to be enforced.

The current wind blowing in East Europe in favour of autonomy is sometimes advanced as an argument for giving greater autonomy to certain regions. But this argument ignores the stage of our social and economic development. To think of greater autonomy before tackling the problems of poverty, backwardness, illiteracy, obscurantism and parochialism, would be like putting the cart before the horse. Let us not imitate and destroy ourselves. Our 'warlords' would not be guided by any higher principles of freedom and human development but by a petty and narrow outlook and cause bloodshed and misery all around. Such false notions of autonomy picked up from alien environments will lead the country to Balkanisation and society to fragmentation.

Those who talk of Kashmir's autonomy tend to ignore the vast and varied socio-cultural phenomena of the State of Jammu and Kashmir. The Kammuites have different aspirations. They are wedded to 'ek vidhan, ek nishan, ek pradhan' (one Constitution, one flag, and one President). Their culture and personality are distinct. The Muslims of Poonch and Rajouri have different cultural traits. So is the position with the people living near the border with Himachal Pradesh. Gujjars and Bakarwals, too, constitute a distinct group. Ladakh is totally different.

If Article 370 is retained or the issue of autonomy is overplayed, then every regional and cultural unit would demand an equivalent of Article 370 or 'autonomy' to counter the domination of the Kashmiris. The claims and counter-claims would be unending and the State's fabric would be further ruptured.

The people of the Jammu region nurse a long-standing grievance that, under cover of Article 370 and the State Constitution, the decisions over the years have been so manipulated by the Valley-leaders that the power structure in the State has permanently tilted in favour of the Kashmir region. In this connection, it is pointed out that for the Lok Sabha, Jammu returns one member for every 1.4 million people, while Kashmir sends one representative for every one million. Jammu's total area is 70 per cent larger than Kashmir's and has 45 per cent of the State's population. But Jammu has only 32 seats, out of 76, in the State Assembly, and Kashmir has 42. While Jammu returns one member for every 90,000, Kashmir returns one for every 73,000. While three new districts were suddenly created in the valley in 1979, none of the three districts recommended by the Wazir Commission (1981-83) has been created in the Jammu region. The distribution of plan funds is also unfair. For instance, about half a million tourists, on an average, come to the valley; while in Jammu, the Vaishno Devi Shrine alone attracts over two million cultural and religious tourists, thereby contributing the great deal to the economic development of the State. Practically nothing is spent by the State toward providing infrastructural facilities to these tourists. Even the road to Katra on which thousands of buses and other vehicles move every day is very narrow. On the other hand,

huge funds-sometimes 90 per cent of the tourism budget-are allocated to the valley. The two current projects, Gulmarg Cable Car and Srinagar Golf Course, would consume Rs. 50 crore. In Jammu, the Dogra Art Gallery, which has rare *objects d'art*, remains in an utter state of neglect. Again, the Jammu region has a total area of 26,293 sq. km. and 3,500 km of roads; the Kashmir region has 15,853 sq. km area and 4,900 km. of roads. Thus, in the case of Jammu, 18 per cent of the area is covered by roads, while in Kashmir the corresponding percentage is 40.

The Ladakhis, too, are highly resentful that the leverage of Article 370 has been placed in the hands of the Kashmiri leadership. They have been complaining that, instead of being made "free sons of free India", they have been thrown "at the mercy of the Kashmiris". They are often heard saying, "If India is going to keep us under the Kashmiri domination, then it is as bad as being under the Chinese." As early as 1949, in an impassioned plea to Prime Minister Nehru for taking Ladakh directly under the care of the Union Government, the Ladakhi Buddhist Association said, "Tibet is the cultural daughter of India, and we of the 'lesser Tiber' seek the bosom of the gracious mother to receive more nourishment for growth to full stature. Will the great mother (India) refuse to take to her arms one of her weakest, forlorn and distressed children?" Unfortunately, such noble sentiments did not evoke any worthwhile response. And, on account of the provisions of Article 370, the valley leadership acquired almost unlimited control over Ladakh, and even those institutional safeguards which were available elsewhere in the country were denied to the Ladakhis. The violent agitation of Ladakhi Buddhists in July-September 1989 was an expression of their strong resentment against what they called the Kashmiri domination and exploitation.

The primary task in Jammu and Kashmir is not the circulation of the fake coin of autonomy and fooling the people in the name of cultural entity, but to eliminate poverty, hunger and disease and carry out balanced development by stressing the commonality of the deprived and the underprivileged. Unless backwardness is eradicated, there would be no real freedom and democracy. Even Ka-

shmir cultura would stagnate. Abrogation of Article 370 would, in fact, help in removing poverty and backwardness, which, in turn, would help in rejuvenating Kashmiri culture and enhancing the cultural personality of the State as a whole. No culture can advance in isolation. it requires cross fertilisation. It requires the 'stimulus of contact'.

Some leaders and analysts continue to say that Article 370 is a matter of faith. But they do not proceed further. They do not ask themselves: what does this faith mean? What is its rationale? Would not bringing the State within the full framework of the Indian Constitution give brighter lustre and sharper teeth to this faith and make it more just and meaningful?

In a similar strain, expressions like 'historical necessity' and 'autonomy' are talked about. What do these terms mean in practice? Does historical necessity mean that you include, on paper, Kashmir in the Indian Union on the one hand at a huge cost and give it back, in practice, on the other hand, on a golden platter? And what does autonomy or the so-called pre-1953 or pre-1947 position imply? Would it not amount to the Kashmiri leadership saying: "You will send and I will spend; you will have no say even if I build a corrupt and callous oligarchy and cause a situation in which Damocles' sword of secession could be kept hanging over your head?"

Can Article 370 be abrogated? If so, how? It has sometimes been argued that it is not constitutionally permissible to abrogate this Article without the approval of the Constituent Assembly of the State. It is said that a plain reading of the Constitution makes the position clear in this regard. The relevant portion of Article 370 reads:

"Notwithstanding anything in the foregoing provisions of the article, the President may, by public notification, declare that this article shall cease to be operative...

"...Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues a notification."

An essential prerequisite of the presidential declaration is the recommendation of the Constituent Assembly. In other words, even

if the Union Government decides to abrogate this Article, it cannot constitutionally do so by itself as this would involve positioning of the State's Constituent Assembly and getting its recommendations. The amending powers under Article 368 of the Constitution would also not help.

On the face of it, the aforesaid argument is impressive. But no provision of the Constitution can be read in isolation. Article 1 is of far more fundamental importance. It reads:

- “1. Name and Territory of the Union. India, that is Bharat, shall be a Union of States.
2. The States and territories thereof shall be as specified in the First Schedule.
3. The territory of India shall comprise: (a) the territories of the States; (b) the Union territories specified in the First Schedule; and (c) such other territories as may be acquired.”

Jammu and Kashmir is the 15th State in Schedule 1 of the Constitution, and Article 1 applies to it in its entirety. On the other hand, Article 370 is transitional. The very heading of part XXI of the Constitution reads: “Temporary, transitional and special provisions.” Thus, at the time when Article 370 was framed, the understanding was that it would stay for a short time and cover the transitional period. Since the State's Constituent Assembly no longer exists, the question of its consent under Article 370 does not arise. Consent of a dead body or a non-existent body has no meaning. The Constitution can, therefore, be amended under Article 368 by the Union Parliament which represents the people of the State also. Thereafter, the aforesaid proviso requiring the recommendation of the Constituent Assembly could be deleted. After this deletion has been carried out, the President can make the necessary declaration and Article 370 would stand abrogated.

Whenever there is any incompatibility between one provision of the Constitution and another, the more fundamental provision would prevail. The Courts, while interpreting the Constitution, would have to give due regard to the changed circumstances, and the overall national objective for which the Constitution was framed. Article 1, as pointed out above, is of basic importance. It relates to

the territorial integrity of the country. No State has any right to secede, unlike the States in the USSR. The territorial and political matters pertaining to the entire country are the concerns of the Union Parliament, and it has the overriding right to ensure that nothing happens which has the effect of undermining the territorial integrity of the country.

The current situation in Kashmir shows that Article 370 has created a separatist psyche and thus threatened the territorial integrity of the Union. The Union Parliament, therefore, must act. And the Courts, when called upon to interpret the Constitution and reconcile the provisions of Article 1, Article 368, and Article 370 must accept the argument in favour of the territorial integrity and not interfere with the Parliament decision to delete Article 370, particularly when this Article is being used as an instrument of injustice, and the fundamental objective of the Court itself is to ensure justice and end unjust situations. In other words, if the Court makes a creative and dynamic interpretation of the Constitution, then it would certainly uphold deletion of Article 370 after its sub-clause has been deleted by the constitutional amendment under Article 368.

Provisions of Article 355 of the Constitution of India are also of crucial significance. This Article casts on the Union of India the duty to protect the States against external aggression as well as internal disturbances. If Article 370 stands in the way of the Union of India in discharging this paramount constitutional duty, it must go. In the present context, when Jammu and Kashmir has become vulnerable to both external aggression and internal rebellion, and Article 370 is playing no small part in enabling the hostile elements to cause internal disturbances and facilitating external aggression, it is incumbent upon the Union Government to take steps to delete this Article to effectuate the duty cast upon it by Article 355. Thus, if Article 370 is read along with Article 1 and Article 355, an amendment of the Constitution under Article 368 to delete the proviso to Article 370 would be perfectly valid, and after the said deletion of the proviso, the President's declaration deleting the entire Article 370 would make the position absolutely clear.

It may also be pointed out that it is possible to take away the

teeth of Article 370 by deleting Article 35A. If this deletion takes place, Articles 19(1)(e) and (g) will come into full play. Articles 19(1)(e) and (g) declare:

“All citizens shall have the right

- (a) to reside and settle in any part of the territory of India; and
- (b) to practise any profession, or to carry on any occupation, trade or business.”

Part III of the Indian Constitution is already applicable to the State of Jammu and Kashmir. With unrestricted application of Articles 19(1)(e) and (g), any Indian can settle in Jammu and Kashmir, and all irrational, unjust and anachronistic provisions of the Jammu and Kashmir Constitution in regard to the rights of settlement and citizenship, which are incompatible with the Indian Constitution, would go.

The defenders of the restrictions regarding State subjects have sometimes pointed out that these restrictions were imposed not by the State Government or by Sheikh Abdullah after 1947, but by the Maharaja on the representation of the Dogra and Pandit Sabhas in 1893. This plea is totally misplaced. We are not being guided by the values, thinking and circumstances of 1893, but by the present-day aspirations and fundamental principles of the Indian Constitution. What is not in the interest of justice must go, whatever be its background. The unfairness of these restrictions were noted as far back as 1931-32, when Bertrand Glancy, Chairman of the Grievances Committee, observed in his report: “The present definition of the State subjects appears to be unduly rigid; domicile in the State for a thousand years cannot, according to this definition, qualify a man. It would seem both unfair and inexpedient to deny the right to franchise to a man who has so far identified himself with local interests as to make his domicile in the State over a consecutive period of five years.”

These restrictions were continued, and given constitutional protection, with less than honest intentions. It was intentionally ‘forgotten’ that the restrictions were primarily imposed by the Maharaja to keep the British away from Kashmir.

In the case of displaced persons about whose plight I have made

brief comments earlier in this chapter, the Supreme Court recognised the injustice that was being done to them but could not provide any relief on account of Article 370 and the provisions of the State Constitution and the laws made thereunder. I reproduce below the relevant portion of the Supreme Court's observations:

“The persons who migrated from West Pakistan to the State of Jammu and Kashmir in the wake of 1947 partition and have settled down in the State of Jammu and Kashmir and who are citizens of India and who also have the right to participate in elections to Parliament, have very anomalous right within the State. They are not entitled to be included in the electoral rolls of the State Assembly, they are not entitled to be elected to a village Panchayat, they are even entitled to purchase any land and they are also not entitled to be appointed to any service under the State Government. All these denials and deprivations are the consequence of the definition of a permanent resident under Section 6 of the Jammu and Kashmir Constitution. It is to be noticed here that these provisions are not open to challenge as inconsistent with the right guaranteed by Part III of the Constitution of India because of the Constitution Order, 1954, issued by the President of India under Article 370(I)(d) of the Constitution by which Article 35(A) was added to the Constitution in relation to the State of Jammu and Kashmir. The net result is that these persons, though citizens of India and entitled to various fundamental rights guaranteed by the Constitution, are not in a position to enjoy many of these rights within the State of Jammu and Kashmir though they are domiciled in that State for over 40 years.

In the circumstances, in view of the peculiar constitutional position obtaining in the State of Jammu and Kashmir, we do not see what possible relief we can give to them. All that we can say is that their position is anomalous and it is up to the legislature of the State of Jammu and Kashmir to take action to amend legislations such as the Jammu and Kashmir Representation of the People Act, and Land Alienation Act, the Village Panchayat Act, etc. so as to make the persons, who have migrated from West Pakistan in 1947 and who have settled in the State of Jammu and Kashmir since then, eligible to be included in the electoral rolls to acquire land, to be elected to

the Panchayat, etc., etc. This can be done by suitably amending the legislations without having to amend the Jammu and Kashmir Constitution. In regard to providing employment opportunities under the State Government, it can be done by the government amending the Jammu and Kashmir Civil Services rules. In regard to admission to higher technical educational institutions also, the government may make these persons eligible by issuing appropriate executive directions, without even having to introduce any legislation. The petitioners have a justifiable grievance. Surely they are entitled to expect to be protected by the State of Jammu and Kashmir.”

The suggestions of the Supreme Court that such unfair laws might be amended by the State legislature, have been ignored. Unfortunately, the underlying motivation of the State rulers is justice but playing petty politics, creating little hegemonies and keeping the poor and the resourceless of different regions in a state of perpetual confusion and conflict.

A parallel is sometimes drawn to restrictions, imposed by the Himachal Pradesh Government on purchase of land in the State by outsiders. This parallel is also misconceived. The Himachal Pradesh law, which was enacted by the Central Government when Himachal Pradesh was a Union Territory, is primarily designed to protect the interests of the poor and ignorant cultivators. It is open to constitutional scrutiny under the Indian Constitution and is subject to fundamental rights. The Courts can strike down any provision which does not qualify under the Indian Constitution and is subject to fundamental rights. The Courts can strike down any provision which does not qualify under the clause of reasonable restrictions. Moreover, the restriction is not absolute. The purchase of agricultural land can be made with the permission of the State Government. In the case Jammu and Kashmir, the bar is absolute and even the Supreme Court cannot intervene, as has been pointed out in the above-quoted judgment.

On August 21, 1962, in reply to Pandit Prem Nath Bazaz's letter concerning Article 370, Jawaharlal Nehru wrote:

“As a matter of fact, much has been done in spite of the Article

in the Constitution which is supposed to give a special status to Kashmir and gradually what little remains will also go. The question is more a sentimental one than anything else. Sentiment is sometimes important but we have to weigh both the sides and I think no change should be made in the matter for the person."

This letter shows that Nehru himself did not rule out future change with regard to Article 370. And so far as sentiments are concerned, it is quite clear by now that they have operated in the opposite direction and strengthened the separatist and subversive psyche which, in turn, have threatened the very unity and integrity of the country. It is time that the seed that has given birth to an unhealthy plant is pulled out from its roots.

Retention of Article 370 has sometimes been justified by saying that it is not a wall but a tunnel. On December 4, 1964, Gulzari Lal Nanda, Union Home Minister, said, "Through this tunnel, a good deal of traffic has already passed; more will pass now." A few days later, M C Chagla, Education Minister, observed, "Through Article 370, the whole of the Indian Constitution could be applied to Jammu and Kashmir."

It may be an ingenious position to take in theory, but it ignores the stark reality that the gates of this tunnel are manned by someone else. And what happens if this tunnel is blocked, as was done after 1975, with the sole exception of the period of Governor's Rule from March 7 to September 6, 1986? Even otherwise, does it make any sense to go through a precariously built tunnel when a straight, firm and wide avenue is available?

An argument has also sometimes been advanced that if Article 370 is abrogated, Kashmir's link with India would stand terminated. This argument is too legalistic to have any meaning in practice. Would India become a colony again if the British Parliament were to amend the Indian Independence Act retrospectively, which it is legally competent to do?

The above argument also ignores Article 1 and other provisions of the Constitution of India. It assumes that, after deletion of Article 370, nothing else would be added by way of rectification or clarification or elaboration. It also assumes that India today is what the

British Parliament wanted it to be, and Kashmir was not a part of India earlier. It gives precedence to the narrow technicality of law over the basic reality that is India from Kashmir to Kanyakumari that has existed for thousands of years in the mind and hearts of its people, the India that its intellect and emotions its philosophy and poetry, its life and literature had given birth to. The Russian Nobel laureate, Solzhenitsyn, has rightly observed, "A society which is based upon the letter of the law and never reaches any higher is taking very scarce advantage of high level of human possibilities. The letter of the law is too cold to have any beneficial influences on the society. Whenever the issue of life is woven in legalist relations, there is an atmosphere of moral mediocrity, paralysing man's noblest impulses." In similar strain, Thomas Jefferson said, "Laws and institutions must go hand in hand with the progress of the human mind... We might as well require a man to wear the coat that fitted him as a boy, as civilized society to remain ever under the regime of their ancestors."

History also tells us that civilisations decline when they begin to deceive themselves, when they begin to confuse technicality of law with intrinsic justice. The legal institutions of a dynamic and progressive society have to adjust to the changing social and economic realities. They must respond to the new urges and aspirations.

It should be evident that Article 370 and its by-product, the separate Constitution of Jammu and Kashmir, must go, not only because it is legally and constitutionally feasible to do so, but also because larger and more basic considerations of our past history and contemporary life require it. This Article and its accompanying paraphernalia need to be abrogated. It serves as an instrument of perpetrating injustices and inequities. It facilitates the growth and continuation of corrupt oligarchies. It fans and feeds the forces of parochialism and obscurantism. It implicitly recognises the two-nation theory. It acts as a breeding ground for separatist emotions. It puts false notions in the minds of the youth, and it creates narrow grooves and narrow loyalties. It gives rise to regional tensions and conflicts, and even the autonomy assumed to be available is not

attainable in practice. The distinct personality and cultural identity of Kashmir can be safeguarded without this Article. It is socially regressive and causes situations in which women lose their rights if they marry non-State subjects and persons saying for over forty years in the State are denied elementary human and democratic rights. And, above all, it does not fit into the reality and requirements of India and its vast and varied span. What India needs today is not petty sovereignties that would sap its spirit and aspirations and turn it into small 'banana-republics' in the hands of 'tin-pot dictators', but a new social, political and cultural crucible in which the age-old traditions of pluralism and tolerance, of truth and rectitude, of fairness and justice, and of compassion and catholicity, are melted, purified and moulded into a vigorous and vibrant set-up which provides real freedom, real democracy, and real resurgence to all.

(Extract from "My Frozen Turbulence in Kashmir")

KASHMIR CALLS

An Appeal to the People of India by Kashmiris in Distress

Dear brothers and sisters,

You have heard about us, about our plight. You have also seen us on TV holding demonstrations in the Capital. Many of you must have read about the conditions in which we had no choice except to flee from the Kashmir Valley.

The choice was forced on us by the Pakistan-led terrorists who have imposed their writ on Kashmir, taken an unending toll of innocent human lives, wrought death and destruction, bombed and blasted residential as well as public buildings, not sparing even schools.

We did not want to migrate. We love our land, our Kashmir, every inch of its bounteous soil which has nourished us all; we love every drop of its cool and clear water, every blade of its green grass. For us, bidding farewell to the soil we have sprung from is too traumatic an experience to be conveyed in words. We wanted to continue living in the land of our forefathers, in the warmth of our homes, among generations-old neighbours and friends. But tragically, as if a cruel fate had dealt us a fatal blow, our natural impulse to remain anchored to the land of our birth, even against overwhelming odds, was drowned in the devastating flood of secessionist violence. Alas, the flood rages on with no effective dykes and dams to see its fury abated. It lashes, unchecked, every hill and dale of the once-serene Valley, its every district and region. It was heart-rending to bid farewell with mournful sighs, with the bitterest of tears each one of us shed in the silence of its majestic mountains, in the silence of our bruised hearts.

We refugees were forced to abandon our homes and hearths, our fields and orchards, our jobs and business enterprises. The armed militants, killed many of our loved ones brutally, in broad day light, without any reason, without our ever having given them the slightest

provocation. History is witness and the muslim community will acknowledge, that we have stood by them at all times of trials and tribulations and contributed our mite to the peace and well-being of our homeland.

Yet, the Muslim militants threatened us, our families, our children through posters that declared that no one was going to protect our lives and property.

They stoned our houses, day in and day out, breaking window panes, hurling abuses and invectives. They forced many of us at gun point to join anti-national demonstrations which they used as cover for firing at security personnel inviting counter fire, thus endangering our very lives.

They yelled at us through loud-speakers fitted in each mosque: "Death to infidels", "Kashmir shall become an "Islamic State, "Those who do not accept this will be pronounced traitors", "Death to Hindus - the agents of India."

How could those openly dubbed "agents of India" continue living in violence-torn Kashmir when the State administration, until the arrival of Mr. Jagmohan on the scene as the new Governor, had withered away completely, so much so that the militants forced (in the fundamentalist style) closure of all cinema halls, video and beauty parlours, wine shops, bars; held an armed parade on Pakistan's National Day in a Srinagar Stadium and defiantly unfurled the Pakistani flag; bombed branches of Indian Banks, Post Offices, Central Government Offices; coerced branches of Indian Banks and other offices to have the word "Indian" erased from their front entrances; received salutes from senior Kashmir Police Officers; imposed at gun-point what came to be called "civil curfew" i.e. total *bandh*, violation of which by some led to bombing of their establishments and to brutal killings of those who dared to defy the 'order'; flew the secessionists' flag atop public and private buildings, even State and Central Offices; ordered switching off of electricity at times of important national telecasts.

Were these conditions conducive to creating confidence among Kashmiri Pandits and Sikh Minorities, threatened with death by armed secessionists, among the secular, moderate, nationalist and

leftist Muslim political workers, some of whom were mercilessly done to death, others barely escaped death after their houses were bombed (and still others keep receiving letters and phone calls threatening that they too will meet the fate of their slain and slaughtered Muslim colleagues)?

No less tormenting than the emotional farewell was our actual departure, our trek to places of safe sanctuary. Our belongings, gathered over long years of hard toil and labour, fondly treasured (by our families), had to be left behind, right down to our warm clothing, blankets and items of daily use. Because packing them caught the ever-watchful eye of the militants prowling around, gun in hand, his finger on the trigger. They would order the migrant back into what was his home and may well turn out to be his grave. After we reached places of safety some of us learnt to our horror that the militants printed the word 'X' on the exteriors of our houses which in the lexicon of Kashmir's brood of terrorists connotes, "This vacant house is ours". In Chattabal (Srinagar) some such houses were set ablaze. The choice before us was painful; if we leave our houses to save our lives, the houses may not remain ours; and if we stayed on in our houses, we may lose our very lives.

Driven out from our own homes, deprived of the warmth of our hearths, uprooted from the land of our birth and history, tradition and culture, to whom were we, the refugees, to turn?...To any place in the State and outside which would ensure the security of life of husband and wife and their new-born baby, of college going boy and working girl, of aged father and disabled mother, of farmer and office employee, of trader and businessman, of doctor and lawyer, of teacher and scholar, of all members of the small Kashmiri Pandit community which, from the dawn of history of Kashmir, had been living there and had become inseparable from its multi-dimensional, multi-splendoured life.

Departing from the land of our birth was tragic. Sadder still is living now far away from it in a tropical climate entirely different from its temperate one, in cramped, rain-soaked camps, in unhygienic conditions, without the barest of facilities and, what is more dreadful to contemplate, with a big question mark hanging over the future of

each one of us, and of the Kashmiri Pandit community as a whole. Shall we ever be able to go back to the land of our birth? Only you, the people of India, have the answer.

The conditions that forced us out of Kashmir were not created overnight. Over the years, the Jamat-i-Islami's hysterical fundamentalist campaign of religious fanaticism and bigotry, of hatred and intolerance, of suppression of the voice of dissent, liberalism, and of reason and enlightenment had been spreading in Kashmir like forest fires. Also no one came forward to douse and put out these fires. These were allowed to spread from city to village, from one village to another, from one field to another, from one house to another. Authorities turned a blind eye to the free flow of an unending stream of inflammatory literature pouring in from Iran, to the free flow of colossal funds from some Middle Eastern States to identifiable source-centres lying at the heart of the fundamentalist movement inside Kashmir. No concerted efforts were ever made, or educative campaigns launched to explain the real motivation behind fundamentalism and thus detect its objective of wrecking Kashmir's age old ethos based on tolerance and good-will, peace and amity.

In the Jamat-i-Islami schools, once banned but later revived under mysterious circumstances, young boys with impressionable minds were raised on the staple diet of religious fanaticism and bigotry. In these schools deliberate efforts were made by the hysterical fundamentalists to stamp out from the young minds, the last lingering traces of the culture of tolerance of their inherent Kashmiri heritage. It was in these schools that the dark medieval mind of the present-day fanatics came to be shaped.

Unbelievable though, it may appear today, the Jamat-i-Islami, long before the militants' violent outbursts, found to its glee that its campaigns were proceeding smoothly, unchallenged as these were both by the administration and mainstream political leadership. Shocking are the proven facts that the Jamat received overt and covert support, tacit and direct encouragement in spreading the network of its schools, in sending incendiary fundamentalist literature to homes in each town, in each village and in each district. Shocking are the well-known facts that two battalions of Kashmir

Armed Police were raised with the Jamat-trained youths forming their core, that the Jamat Cadre found its way into the vital limbs of the administration especially the departments of Education, Co-operatives, Agriculture etc. which have wide public dealings.

A high water mark in the communalisation of Kashmir's public, political and administrative life was reached in 1986 a water-shed in our state's post-1947 history, when riot mongers were let loose under a pre-planned and well-coordinated plan, against the members of the minority community of southern Kashmir. Their houses were looted and pillaged.

Places of worship were scandalously desecrated. The stage for these outrageous acts had already been set by the inflammatory, frenzied sermons of a new-fangled *mullah* of South Kashmir enjoying political patronage, backing and support. Several riot-mongers of 1986 from South Kashmir are today identified as militants of dreaded secessionist-terrorist outfit. And it was from the passions of artificially-engineered communalism of 1986 that the new political formation of the Muslim United Front (MUF) was born. Many MUF cadres are today recognised as gun-toting militants.

The conditions prevailing in the Valley today were not created overnight. It will be absurd to argue that the Government of India was not in the know of what was brewing there. And yet it chose to look the other way even as the Muslim fundamentalists entrenched themselves in every sphere of life in the Valley to declare final war on the Kashmiri Hindus and the Union of India. Shri Jagmohan, as Governor of J&K, who sought to stem the rot and foil the designs of the Islamic zealots, thus had become an anathema to the separatists. But when his administration started taking hard measures, he was recalled ungraciously. We watched in subdued disbelief and helplessness our Government's capitulation to the orchestrated campaign against Jagmohan and were convinced that some sinister elements with influence in the higher echelons of power, were working to ease the way for the separatist demands in the Valley. We were made the first targets of the Muslim terrorists because we symbolised the secular cultural tradition's of Kashmir. And therefore we feel impelled to approach you, our fellow countrymen to

awaken to the situation before it is too late. Failure to take timely action on our part may result in the Valley being lost to the country. The loss of Kashmir would not only badly deface our already truncated motherland, but also have very serious implications on our existence as a nation. It will sound the death knell of secularism in India.

Our present sufferings are the price we are paying for our patriotism and our deep commitment to our cultural heritage.

Our safe return to Kashmir is essential not only for our own peace and happiness but also for the retention of Kashmir as an integral part of India. We must all realize that the struggle for Kashmir is the struggle of every Indian, and not of the Kashmiri alone.

AN APPEAL TO THE NATION BY SAVE KASHMIR FRONT

Fellow Countrymen,

You are aware of outrageous developments in the Kashmir valley for the last two years and longer. About 3 lakh Hindus and even Muslims have been hounded out. They have become refugees in their own land and are barely managing to survive in make-shift camps. Scores of temples have been desecrated, hundreds of place-names changed with the connivance of the State Government, and reign of terror has been let loose by gun-toting fundamentalists. Rape, arson, murder and kidnappings have become the order of the day. The writ of the Union and the State Governments has long ceased to run there.

Confessions made by captured militants have fully confirmed the finding of the intelligence community that terrorist activities are the handiwork of Muslim youth trained, armed and funded by Pakistan. Having failed to grab Kashmir through war in 1947-48 and 1965, Pakistan has now unleashed a proxy war on India through subversion and terrorism. It has received valuable assistance from organisations such as the Jammāt-i-Islami which have promoted fanaticism and revivalism through network of *Madras* and other channels.

The sinister conspiracy aims at nothing less than a second partition of the motherland along religious lines. In fact, Pakistan's President has specifically referred to the question of Kashmir as "an unfinished agenda of Partition". Understandably the people in Ladakh and Jammu regions are anxious not to

become victims of the impending disaster. That is why the Ladakhis are agitating for the Union Territory status and the people in Jammu are demanding integration with the Indian Union.

Even in the face of so brazen a conspiracy by Pakistan and its cohorts in the valley, some self-styled 'human rights' activists are still engaged in a disinformation campaign specifically intended to discredit our security forces which are fighting the forces of subversion in the face of heavy odds. The recent report by the team sent by the Press Council of India has fully exposed the manner in which utterly false charges are fabricated and propagated. The report has been publicised in newspapers and published in the form of a book. But the human rights activists have not yet thought it necessary to explain their conduct in maligning the security forces.

Successive Governments of India, too, have shown criminal negligence by failing to grasp the magnitude of the problem and to evolve an effective approach to overcome it. Indeed, the impression has spread that the Government is only waiting for a 'suitable' time and formula for surrendering to the secessionists, as the recent statement about granting 'greater autonomy' shows.

It saddens us to have to point out that Muslim intellectuals and representative organisations have chosen to remain silent on this issue. They have as much at stake in Kashmir's membership of the Union as any other section of the Indian nation, if not more, and it is time that they stir themselves into action. Pakistan's successful campaign to mislead Muslim countries, as was evident at the recent meeting of the Organisation of Islamic Conference, makes it particularly urgent that Indian Muslim intellectuals and leaders speak out boldly against the bid to divide the country once again.

After a day-long deliberation, we feel impelled to appeal to all our countrymen who already realise the gravity of the situation, to join us in an attempt to make the government rise to the occasion.

We appeal to our fellow citizens to launch a "Save Kashmir" movement all over the country through peaceful rallies, demonstrations and other democratic means and press the following demands:

ONE:

Before the end of the month, the government must make an unequivocal declaration stating that—

- a. Those who have taken up arms against the State are outlaws and would be treated as such.
- b. There will be no negotiations with them, unless they surrender their arms and stop terrorist activities.
- c. There will be no negotiations with the terrorists for the return of innocent individuals who are kidnapped. The failure of the policy of exchange is already patent. Indeed, the government itself has admitted that much.
- d. Should abductions of employees of public sector undertakings and public utilities and others continue, any disruption of civil supplies that occurs as a result will be the responsibility of the terrorists.
- e. No subsidy in any form should be extended to the valley for the present since it is by now clear that a large part of it is going to terrorists.
- f. Their supply routes for money and arms will be effectively closed by the security forces.

TWO:

The local administration must be urgently purged of all subversive elements.

THREE:

Since the civil administration has failed to cope with the forces of terrorism and secessionism in the valley the government should seriously consider whether the time has not come to

call in the army to handle the situation effectively.

FOUR:

Pakistan's massive and fully established involvement in the insurgency in the valley has made nonsense of the Shimla Agreement in both its spirit and letter. The Government of India should, therefore, feel free to adopt whatever measure it regards necessary to meet the threat and not remain fettered by the Line of Control

FIVE:

At the root of the disaster, confronting us in the valley, lies Article 370. It was intended to protect the identity of Kashmir and not to pave the way for a Pakistan-backed reign of terror and secession. It ought to be abrogated without loss of time.

SIX:

Effective steps should be taken to ensure the safe and honourable return of all Kashmiri refugees to their own homes in the valley with full guarantee of the preservation of their culture and dignity. Immediate proper relief should be extended to these hapless citizens of India.

LIST OF SIGNATORIES

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| 1. Sh. Nanaji Deshmukh | Chairman, Deendayal Research Inst. |
| 2. Sh. T.N. Chaturvedi | Former Comptroller and Auditor General of India |
| 3. Sh. A.P. Venkateshwaran | Former Foreign Secretary, India |
| 4. Sh. A.K. Ray | Former Ambassador to Syria |
| 5. Sh. Brijesh Mishra | Former Ambassador to U.N.O. and China etc. |
| 6. Sh. Girilal Jain | Former Editor, Times of India |

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| 7. Sh. Swapan Dasgupta | Associate Editor, The Telegraph, Calcutta |
| 8. Sh. R.N. Kapoor | Vice-Chancellor, Chitrakoot Gramodaya Vishwavidyalaya |
| 9. Dr. D.K. Murty | Former Vice-Chancellor, Agriculture University |
| 10. Sh. S.N. Ghosh | Eminent Environmentalist |
| 11. Dr. Jagdish Settigar | Economist |
| 12. Prof. B.R. Grover | Former Director, Indian Council of Historical Research |
| 13. Dr. S.P. Gupta | Former Director, National Museum, Allahabad |
| 14. Prof. B.R. Chauhan | Former Dean, Faculty of law, H.P.University |
| 15. Prof. S.R. Bhatt | Head, Dept. of Philosophy, Delhi University |
| 16. Prof. M.M. Sankhdher | Head, Dept. of Politics, Delhi University |
| 17. Prof. R.S. Nigam | Former Dean, Faculty of Commerce Delhi University |
| 18. Prof. S.P. Agarwal | Former Dean, Faculty of Mathematics, University of Delhi |
| 19. Sh. Sardendu Mukharji | Reader In History, Delhi University |
| 20. Sh. Devendra Swarup | Vice-Chairman, Deendayal Research Institute. |
| 21. Sh. D.N. Munshi | President, All India Kashmiri Samaj and Convener, Save Kashmir Front |

APPENDIX

Some Gruesome Murders

Case No.1

Sh. Sarwanand Kaul Premi (64 Yrs.). Retired teacher, R/o Soaf Shali Dist. Anantnag.

Sh. Virendra Kaul (Son) 27 Yrs. Central Government Employees, Both Killed on 30.4.1990.

Premi was a well-known Kashmiri poet and a scholar; Even though his family requested him to leave the village in view of the mounting terrorist activities and unabated killings of his community members, he refused, believing in the "secular traditions" of his beloved Kashmir; He was deeply religious and also very liberal. He thought he was respected widely in the area dominated by the Muslims. But this faith was ultimately shattered when on the evening of 29 April, three terrorists entered his house and ordered the entire family to collect in one room. The terrorists ordered that they should collect all their valuables - gold, jewellery, cash, pashmina garments, saris and shawls in the room. The other jewellery and ornaments that the women and men were wearing was torn off their bodies. Packing all these in an emptied suitcase, they asked the frail and soft-spoken Premi to carry the suitcase and follow them. "We mean no harm to him and he will return," the terrorists told the weeping family members. Then fate intervened and Virender Paul, his son, volunteered to accompany his father so that he could lead the old man back in the dark night. "Come-on you too, if you so desire," they told Virender. Both, the father and the son, were herded out of the house.

What followed would put to shame even Hitler's secret agents. When the dead bodies were found after two days, the scene was appalling and nauseating. The place in between the two eyebrows,

where Premi used to apply the sandal wood mark commonly known as "tilak" was found pierced by an iron rod and skin peeled off. The entire body bore the marks of cigarette burns. The limbs were found broken and the eyes of both, father and the son, gouged out. They were later hanged and to be doubly sure shot too.

This, to a man, in whose house a rare manuscript of the holy Quran was found placed with reverence in his prayer room.

Case No.2

Sh. Dina Nath Mujoo (75 Yrs.) Retired Government Employees. R/o Rawalpura. Killed on 7.7.1990.

An educationist, a social worker and deeply religious man, Mujoo lived in his Rawalpura house along with his wife. He refused to leave Kashmir in spite of the pleadings of his son who was a doctor in Delhi. Mujoo believed in the philosophy of J Krishnamurthy who, whenever he came to India, would find Mujoo attending his lectures. Of late, he had been attending the discourses of the world-renowned authority on Kashmir Shaivism, Swami Lakshmanjoo, in his ashram near Nishat.

This, perhaps, proved to be the old man's undoing. On July 7, a couple of terrorists entered his house scaling the wall by using a ladder in the dead of night when the old couple was sleeping. They were, however, shaken out of their slumber and the murderers repeatedly stabbed Mujoo till he breathed his last leaving his old wife soaked in the blood of her husband.

Case No. 3 & 4

Prof, K L Ganjoo (40 Yrs.) R/o Sopre, Lecturer, Agricultural College.

Mrs. K L Ganjoo (W/o) Prof. K L Ganjoo, Teacher. Both killed on 7.5.1990.

Ganjoo, a lecturer at the Agricultural College at Wador near

Sopore, had returned from Nepal after attending a conference along with his wife. Two officials of the college were sent with a jeep to receive him. And receive they did. Dragging him and his wife out of the vehicle, right in the middle of the bridge Sopore, they shot at him. They threw the wounded man into the river Jhelum to die. A young nephew of the couple, who was also with them, was given a choice. Either to jump into the river to which his uncle had been consigned or watch what they were going to do with his aunt. They counted "3" and the boy jumped into the river. The bullet riddled body of Prof. Ganjoo was found some days later on the banks of river Jhelum. His nephew, a non-swimmer, somehow survived and managed to escape. What happened to Prof. Ganjoo's wife is not exactly known, there being conflicting reports about her. According to official reports, police has not been able to trace her out so far. But some newspaper reports say that she was gang raped by the terrorists and then killed in a gruesome manner.

Case No.5

Shri Ashok Kumar, (30 Yrs.) R/o Pulwama.

Ashok Kumar was kidnapped by Jamat-i-Islami militants. The kidnappers broke his limbs and then brought him to the main square of the town. There, he was forced to confess being a member of the CPI(M). He was then asked to beg for mercy which he did. Even then the militants did not let him off. They gouged out of his eyes and shot him dead.

Case No.6

Shri Damodar Saroop Raina (65 Yrs.) Retired Government employee R/o Dambeloo (Frisal Anantnag) killed on 2.6.1990.

The terrorists came to his house in the dead of night. He tried to avoid meeting them. His wife pleaded with them that he was not in the house. But they gate crashed and searched the entire house.

Finding the old man hiding in a corner in the top floor room, they dragged him out, ignoring the heart rending please of his wife. They took no heed of her wailing. She cried for help from the neighbours but except stone faced staring they refused to come to her aid. The old man continues to be untraced so far.

Case No.7

Shri Tej Krishnan Razdan (30 years), Government Employee, R/o. Yachgam, District Budgam, Killed on 12.2.1990.

Razdan was posted somewhere in Punjab. He had gone to Srinagar on leave to see his family. An old colleague of his - a Muslim - who had been working with him while he was in Kashmir - came to pay a visit on the fateful day. Both of them boarded a mini-bus bound for Lal Chowk in Srinagar. When the matador halted at Gao Kadal, Razdan's companion suddenly took out a pistol and shot him in the chest. Not content, he dragged the still breathing Razdan out of the vehicle and ordered other passengers to kick the dying man repeatedly. His body was then dragged through the street like sweepers drag a dead dog. Taken to the nearest mosque, the dead body was put on display for hours before the police came to take it.

Case No. 8

Shri Ashok Kumar Qazi (30 years), Employees in Handicraft Department, R/o. Shashyar, Srinagar, Killed on 24.2.1990.

Three terrorists accosted him on the fateful day in Zaindar Mohalla locality while he was going for shopping. They shot him on the knuckles. He fell down and cried in agony for help. None among the passers-by or the shopkeepers responded! They just looked the other way despite the fact that they knew the man as he belonged to their locality and was an energetic social worker. In their sadistic frenzy, the three murderers started a death dance around the helpless Qazi. They pulled his hair out. They slapped him continuously and

they spat on his face. One of them even urinated on him. Dying and profusely bleeding, the militants did not kill him immediately but enjoyed the writhing and twitching of his body. The siren of a distant police van, however, mercifully ended his agony, as the terrorists in panic, pumped bullets into his stomach and chest leaving his dead body on the frozen road.

Case No. 9

Shri Navin Saproo, (30 years), Central Government Employee, R/o. Habba Kadal, Srinagar. Killed on 27.2.1990

He was returning from his office when near Kanya Kadal, terrorists sprayed him with bullets in broad day-light and in full view of the passersby. He fell down but was still breathing. A Hindu woman, who happened to be there, frantically pleaded with the terrorists to spare the young man's life. She was pushed back. They shot at him over and over again avoiding any vital organ just to prolong his agony. Bleeding profusely, Navin died a painful death. For the terrorists, the sadism was yet come. As the wailing relatives of the young man took away his body in a police van - the terrorists followed in a truck right up to the cremation ground, dancing and singing all the way. The singing and dancing continued till his body was reduced to ashes.

Case No. 10

Shri Bhushan Lal Raina (20 years), Worked in Sher-i-Kashmir Medical Institute, Soura, R/o. Ompora, District Badgam. Killed on 28.4.1990

Saddened by the terrorists' violence in the Valley, Raina had finally decided to leave Kashmir along with his mother. He wanted to leave on April 29, and started packing his belongings a day earlier. While he was busy, a group of terrorists gate-crash into his house. Seeing them, the aged mother of Raina implored them to spare the

life of his son as he was about to be married. "You could kill me instead," she pleaded. But they would not listen to her. With a sharp pointed iron rod, they pierced his skull. They dragged him out and nailed him to a tree after stripping off his clothes. They killed him inch by inch while he begged to be shot.

