

**KASHMIR CRIES
FOR
JUSTICE**

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**EX-CHIEF JUSTICE OF J&K HIGH COURT
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KASHMIR CRIES FOR JUSTICE

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Dedicted to the
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C O N T E N T S

1. Preface
2. Kashmir Problem in Retrospect
3. The Stand of the People of Kashmir
4. Appeal
5. Appendices

PREFACE

The people of Jammu and Kashmir State popularly known as 'Kashmir' have been passing through a fiery trial for a cause they feel to be the most noble. But, few people outside Kashmir really know what they have been fighting for and since how long. Fewer still know the sufferings and misery that the pursuit of their goal has brought them particularly, from December 1989 till date which, indeed, has been the most trying period for them. Their tormenters have yet to understand and appreciate how much just and fair their cause is. Despite several limitations not excluding my own shortcomings, I have prepared this small book and attempted to throw light on these questions so as to invoke the conscience of the right-thinking people all over the world to pool their urgent attention and efforts to help resolve this festering problem consistently with the right of the suffering Kashmiris to a life of honour and dignity.

I thank my young friends, one of whom went through the manuscript and made valuable suggestions to improve it and others for typing the same for me.

Last but not least, I express my gratitude to my lawyer-son, Showkat, who gave me tremendous help and co-operation and without whose co-authorship, I must admit, this book could not have become possible.

Srinagar.
31st July, 1990

Mufti Baha-ud-Din Farooqi

Publishers Note

The Institute of Kashmir Studies is pleased to publish the treatise entitled "Kashmir Cries for Justice" written by Mufti Bahauddin Farooqui, an ex-chief Justice of Jammu and Kashmir High Court and presently Chairman, Basic Rights (Protection) Committee, Srinagar. The topic dealt with by the author, as is evident from the title of the book, pertains to the worsening human rights situation in Kashmir. The treatise lays bare in detail the historical causes at the root of this horrible and bloody situation.

The Institute has earnestly and on priority basis taken up the work of collecting and highlighting the facts about the horrendous atrocities of multifarious nature being systematically heaped daily upon the unfortunate people of Kashmir by the hostile Indian forces. While publishing the daily events connected with the Kashmir Movement and the offensive of the Indian forces against it, in the form of monthly and special reports we invariably record our own estimate of the situation. Besides drawing our own conclusions from the available evidence we put them on record. We consider it our duty to advise solution to the decades old Kashmir Problem underlying the unending tension in the relations between India and Pakistan and the current turmoil in this unfortunate part of the State whose political status as a whole (along with Azad Kashmir) is yet unsettled. It is our firm belief that a final solution to this problem will usher into the Indo-Pakistan subcontinent an era of peace, prosperity and happiness. It is this humanitarian motive which has been impelling us to highlight the Kashmir problem and along with it expose the inhuman face of a callous Administration being run under the direct rule of New Delhi for more than three and a half years now. In this connection we are always willing to publish any material on Kashmir in the form of articles, treatises and books which aim at presenting the Kashmir problem in its true historical perspective with a view to apprising more and more people outside the State of the conspiracy hatched in 1947 by the Indian National Congress with the last dynastic autocrat of the State and, of course, with the

tacit consent and help of Lord Mountbatten, first in the capacity of the last Viceroy of the undivided India and then as the first Governor General of the Dominion of India after the partition of the subcontinent. The treatise written by Mufti Bahauddin does attempt to give the genesis of the Kashmir problem and relates the worst possible human rights situation in this part of Kashmir with the continued refusal of India to make good her promise of giving the Kashmiris their right of self determination. While doing so the learned author has exposed the intransigence and obduracy of all the Indian Governments down from the one led by the first Indian Prime Minister, Jawahar Lal Nehru, who was mainly responsible for the continued imbroglio in Kashmir, as it was he who for several years after creating the problem went around repeating commitments to Kashmiris and to the international community only to brazenly turn a volte face flouting all these commitments and disregarding the UN resolutions agreed to by his country. With the sincere zeal and genuine concern of a human rights activists that he is, the eminent jurist, through several write-ups has recorded the recent events involving tragic and shameful abuse of human rights in Kashmir which he has correctly and naturally so, traced to the continued belligerent denial by the Indian leaders to fulfill the promise of restoring the basic human right of self-determination to millions of Kashmiris.

G.M. Bhat

Founder Trustee Institute of Kashmir Studies

CHAPTER - I

KASHMIR PROBLEM IN RETROSPECT

Nearly forty-two years ago, India annexed the Jammu and Kashmir State (shortly called 'Kashmir') by fraud and force. At the time of its annexation by India, Muslims formed 80% of the population of the State which was essentially a home-land of Muslims. Kashmiris have been always freedom-loving people. They have never accepted hegemony or domination. They have not hesitated to make sacrifices of highest order for maintaining their freedom and independence. They have even fought against Mughals and not without success. But what has always enslaved them is the betrayal of their own people whom they trusted. The origin of the present struggle for freedom which has come to be known as "War of Liberation" is actually related to the year 1931 when the people of Kashmir rose in open revolt against the then prevailing Dogra rule. Perhaps the most humiliating chapter of Kashmir's political history is that covered by Dogra rule. In the year 1846, the British defeated Sikhs and conquered Kashmir with the help of Gulab Singh, one of the treacherous Ministers of Sikh Court. In return for his services, British sold Kashmir to Gulab Singh for a paltry sum of Rupees 7.5 Million. The most ignoble, inhuman and humiliating bargain was concluded by virtue of an agreement called the "Treaty of Amritsar". Gulab Singh and his successors held on to the occupied territory by means of wanton suppression and oppression unknown anywhere in the history of the world. The first signs of people's discontent against Dogra rule surfaced in the year 1929 when some Kashmiris submitted a memorandum to the Viceroy and demanded that he should ask the Kashmir ruler to remove the grievances of the people including the one about the mosques having been converted into stables for polo horses of the Dogra princes and allow them due place in the polity of the State. Instead of bestowing his attention on the memorandum, the Dogra ruler

expelled its signatories and confiscated their properties. But that could not help silence the voice of the people for long, more so, because with every passing day, the oppression became unbearable. They decided to get annihilated in the struggle for freedom rather than die in bondage and humiliation. In 1931, they rose in open revolt against the Dogra rule and commenced a peaceful struggle for establishment of a democratic Government in the state. While the struggle was still on, the British decided to grant independence to the Indian Sub-Continent in 1947. At that time some areas of the Sub-Continent called "British India" were ruled directly by the British and other areas, known as "Princely States," were ruled by local Nawabs or Maharajas, as they were called. There were more than 500 such princely states in the Indian Sub-Continent. The British enjoyed suzerainty over these states which were otherwise independent. Kashmir enjoyed a pride of place among these princely states because of its population, size and beauty. It was one of the biggest States with a population of 4 million and an area of 84847 Sq. miles. The lovers of its natural beauty described Kashmir as "Paradise on Earth".

Consequent upon the grant of independence to the Sub-Continent and the creation of the Dominions of India and Pakistan by the Indian Independence Act 1947, the British paramountcy in the Princely States lapsed and vested in their people with the result that these states practically became independent. However, the Act left it open to them either to accede to India or Pakistan, if they so chose. In the matter of accession, the rulers were to be guided mainly by the wishes of the people economic interests and the geographical proximity of their States. Acting in collusion with congress leadership, the ruler of Kashmir, Maharaja Hari Singh, cleverly manipulated to hoodwink the people and bide for time to present Kashmir as a gift to India against the declared wishes of its people by entering into standstill agreement with Pakistan. Before that, Lord Mountbatten, Mahatma Gandhi and Acharya Kriplani, President of congress, had visited Kashmir to prepare the ground for its accession to India. The people of Kashmir scented the

mischief and continued the on-going freedom movement with added vigour and determination. The Maharaja tried to annihilate the movement by brute force. His troops could not, however, meet the challenge. They were completely routed, particularly, because of timely help that the freedom fighters received from the tribesmen of the frontier region.

The Maharaja felt demoralised and was shaken to the bottom by the fast developing situation in Kashmir which even threatened his own safety and survival. He took no time to realise that he could no longer retain his hold over Kashmir and, accordingly, he fled from Srinagar on 25th of October, 1947 at the dead of night and took refuge at Jammu as a fugitive ruler. On 26th Oct. 1947, Shri V.P. Menon, the then Secretary of States, Government of India appeared at Jammu and obtained the signatures of the fugitive Maharaja on the dotted line for the accession of Kashmir to India promising that India will provide armed help to resurrect his rule in Kashmir. Describing the scene at Delhi after Menon's triumphant return, the authors of "Freedom at Mid-night" have said:-

"V.P. Menon was back in Delhi home late the evening of the same day, 26th October. Alexandra Symon, Britain's Deputy High commissioner, joined him for drink few minutes after his return,. Menon was jubilant. He poured for each a still drink. As they sat down, an enormous smile spread across his face. He raised his glass. Then he pulled a piece of paper from his pocket and waved it gaily towards the English man. The bastard signed the Act of Accession and now that we have got it, we will never let it go"

That "we will never let it go" reflected the true intentions of the Indian Government. To camouflage the same, the Indian Government decided to accept the instrument of accession on the stipulation that the wishes of the people of Kashmir shall be ascertained and respected as soon as normalcy was restored in Kashmir. On 27th Oct. 1947 Lord Mountbatten, the Governor General of India, while

accepting Kashmir's accession to India, wrote back to Maharaja as under:-

“Consistently with the policy that, in case of any State where the issue of accession has been the subject of dispute, the issue of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that as soon law and order had been restored in Kashmir and her soil cleared of the invaders, the question of State's accession should be settled by reference to the people”

At the sametime, India air lifted its troops to Srinagar and deployed the same in other parts of the State to repress the people's struggle for freedom. In a bid to deceive the outside world about the bonafides of their act, which was otherwise illegal and immoral, the Government of India accepted the instrument of accession provisionally on the express undertaking that, as regards the matter of accession, the wishes of the people shall be ascertained and respected as soon as normalcy was restored in the State.

Pakistan openly refused to recognise the alleged accession to India and while declaring the same to be immoral, illegal and fraudulent, declared that the entry of Indian army into the State was a naked aggression against its people, particularly so, when the declared policy of the Congress had been that the question of accession shall be decided in accordance with the wishes of the people and geographical proximity.

Dealing with the matter concerning Kashmir's accession to India, an eminent writer has observed that:-

“the ‘Transfer of Power’ documents made public by the British Government in recent times throw much light on the subject under discussion. As part of their grand designs against Pakistan, the Congress leadership made full use of the services of Lord Mountbatten, who was personally

hostile to Quad-i-Azam and dead set against muslim demand for the establishment of Pakistan. He prevailed upon the rulers of the princely States to accede to Dominion of India and was successful to a great extent. To secure kashmir's accession to India, he took great pains because his friend, Pandit Jawahar Lal Nehru, had a pathological concern for Kashmir. As a first practical step to achieve the objective, the "Congress manoeuvred through the good offices of Mountbatten to secure from the infamous British jurist, Sir Cyril Radcliffe, Chairman of boundary commission, an award in favour of India which, in the words of Quad-i-Azam Mohammed Ali Jinnah was "an unjust, incomprehensible and even perverse award" as a result thereof India was provided with a land link to the State of Jammu and Kashmir".

(Nation, Friday 2nd Feb. 1990)

Unfortunately, the part played by Late Sheikh Mohammad Abdullah, in this sordid game, as everyone has come to realise, was most irresponsible and obnoxious and has proved to be too costly for everybody concerned including the Sheikh himself. He had developed a bias for India and favoured the accession of Kashmir to it due to his personal reasons, particularly, because of his friendship with Pandit Nehru rather than on account of his much proclaimed aversion for two-nation theory. Looking in retrospect, there was actually no love lost between him and Pandit Nehru and other Congress leaders. The Congress wanted Kashmir to become a pocket of their influence and perceived that they could achieve this objective by cultivating Sheikh Abdullah. They pursued this objective and achieved it with their characteristic cunningness and cleverness. In this process, Pandit Nehru had been able to play a significant role. Pandit Nehru had persistently continued glorifying the Sheikh as a Messiah of Secularism and, despite opposition from within the State, had successfully persuaded him to broad-base the Muslim Conference and to keep the doors of the Organisation open to non-muslims, as a result of which the National Conference had come into being in this State with Sheikh

Mohammad Abdullah as its Head. In token of reward, Sheikh had even been given a pride of place in the All India Movement for emancipation of people of other Princely States under the banner of All India States People's Conference, having been installed as its President in the year 1946. No doubt, Sheikh Mohammad Abdullah possessed many qualities but "he had also his share of faults, foibles and weaknesses". His greatest fault was that he was "not given to deep thinking", as a commentator has aptly put it. (Indian Express dated 10th Sept., 1982 under the caption "Lion in the garden of Kashmir").

Another commentator has put it more elaborately and said that :-

"The Sheikh was what he was, not because he chose to be that way. He was primeval, elemental, almost a part of valley's landscapes. Even so, it may be worth our while to remember that a non-ambivalent Sheikh might not have served either India or Kashmir all that well.

Such a Sheikh could have opted for Pakistan in the wake of partition and the communal holo-caust that accompanied it. He held out against Jinnah's attempts to cajole him and frighten him and he ignored for all practical purposes the massacre of the muslims in Jammu not so much because he was committed to secularism and India as because he knew that merger with Pakistan would be the end of Kashmir as a distinct cultural entity."

The same commentator has also said that :-

"Unlike Mr. Nehru, the Sheikh was not democratic at heart. Perhaps he saw himself as a successor to Maharaja Hari Singh, whom he had managed to deprive of his throne. Perhaps he saw himself as a great patriarch who had to protect his people not only from external encroachments

(Pakistan's in one way and India's another) but also from their own waywardness. Apparently, he did not trust his people, atleast not sufficiently to hold a fair and free election in 1951".

(Times of India dated Sept. 10, 82)

Such a Sheikh naturally could not be expected to have either vision or statesmanship or even the desire to forsake his own ambitions for the good of Kashmir and its people. He became a ready collaborator in the hands of the manipulative Congress leadership for furtherance of their evil designs to gain forcible occupation of Kashmir. Soon-after the Indian Army landed in Kashmir, they mounted a powerful offensive on the other-wise successful freedom movement and imposed a reign of terror in Kashmir with the help of the Sheikh and his henchmen. Vast number of people were slaughtered or fled to safer places within or outside Kashmir and, wherever possible, to the neighbouring state of Pakistan. Though still in its infancy, Pakistan Government accepted as a humanitarian duty the task of providing the migrants the means of survival with little help from outside World. Given the manoeuvring under which Kashmir's accession to India was engineered; given the genuineness and righteousness of the freedom struggle of Kashmiris'; given their will to carry the struggle to its logical conclusion, whatsoever the cost; given the suffering imposed on so many people by the Indian Army; and given the well pronounced commitment of the Congress party that, in the matter of accession by the Princely States, geographical contiguity and the wishes of the people shall be the governing considerations, India had entered the conflict with weak and despicable record which made it increasingly embarrassing and difficult for it in the eyes of the world opinion to sustain its military offensive for suppression of Kashmiris and their will for freedom. The position was further accentuated by the freedom fighters re-organising themselves under the banner of "Azad Kashmir Troops" to fight back the terror unleashed by India, and their ability to maintain their hold on the liberated area presently known as 'Azad-Kashmir'.

In an attempt to save their face and camouflage their wanton aggression on the people of Kashmir, the Government of India decided to dole out blame on Pakistan and carry the matter to the Security Council. On January 1, 1948, India referred the dispute to the Security Council and distorted facts to show that Pakistan was the aggressor. Pakistan filed a counter-complaint on 15th January, 1948 and strongly repudiated the allegations made against it. At the United Nations, the matter remained under discussion for nearly 9 months. Ultimately, on 13th August, 1948 and 5th January, 1949, the Security Council adopted two resolutions (Appendix I & II) calling for cessation of hostilities to be followed by a free and fair plebiscite on the question of accession. Both India and Pakistan accepted these resolutions and, as a first consequences, the fighting was stopped on 1st July, 1949.

Thereafter, however, the record of India has consistently been one of volte face and somersaults using every possible pretext to back out of their avowed commitment for plebiscite in Kashmir, mainly because of its expansionist designs in which it has received encouragement from some outside powers, directly or indirectly, in pursuit of their own interests in this region.

The first escape route devised by Pandit Jawaharlal Nehru to frustrate the proposal for plebiscite was to sell out an assurance to the people of Kashmir that they shall be allowed to have full autonomy within the Indian Union with only Defence, Foreign Affairs and Communications being the concern of the Union Government. He also tried to entice them with a further assurance that they could have their own Constitution to reflect their own ideals and aspirations. Pandit Nehru, as the then Prime Minister of India formally affirmed these assurances by his letter dated 18th May, 1949 to the then Prime Minister of Kashmir, Sheikh Mohammad Abdullah. The letter stated that the Constituent Assembly of the State shall be free to accede or not to accede to India on any subject other than those on which the State had already acceded to India by virtue of the Instrument of Accession.

What, however, followed clearly showed that the Government of India was not sincere even about these commitments. To start with, the proposed Article 306-A (subsequently numbered as Article 370) of the Constitution of India governing the relations between the Centre and the State of Jammu and Kashmir was so modelled as to enable Government of India to encroach upon and take away the promised internal autonomy of Kashmir in due course. Sheikh Mohammad Abdullah and his colleagues scented the mischief and tried their best to nip it in the bud but they miserably failed despite the fact that, at one stage, Sheikh Mohammad Abdullah threatened to resign on this issue from the Constituent Assembly of India. The relevant correspondence, which is self-speaking, is reproduced in Appendix III.

Finally what emerged was Art. 370, originally numbered as Art. 306-A in the proposed constitution of India, which defined the so-called special status of Kashmir in India. Art. 370 formally incorporated whatever mischief the Government of India had in mind about Kashmir. As subsequent events have showed, this Article only served as a bridge for India to convert Kashmir into a colony. Theoretically, the only protection now available under this Article is that all those who are not permanent residents of the State cannot purchase land in Kashmir but the manipulations made by India and their agents in the State have nullified even this protection. The interested people are able to get false permanent residency certificates without much difficulty by means, fair or foul. That apart, the State Government has itself frustrated this protection by granting free-hold or lease-hold estates to non-permanent residents for ulterior motives though ostensibly in the name of industrialisation of the State, of which, unfortunately, there is no semblance in the Kashmir valley.

The Government of India proudly says that Art. 370 has enabled Kashmir, unlike other States in India, to have a constitution of its own to preserve its own internal autonomy. But there is hardly any important decision which the State Govern-

ment might have been able to take without prior concurrence of the Central Government though it may not be formally on record. There is not a single piece of legislation of some importance which it could initiate until the Government of India had approved it. Even Sheikh Mohammad Abdullah, the tallest among the National Conference leaders, could not do it. It is a matter of common knowledge that, relying upon Art. 7 of the constitution of India, as applicable to Kashmir, he initiated a piece of legislation called 'Jammu and Kashmir Permanent Residents Resettlement Bill' on his own initiative to enable Permanent Resident migrants to return to the State on the basis of permits for resettlement or permanent return issued by the State Government which was even passed by the State Legislature and assented to by the Governor. But the Government of India raised controversy about it without proper justification and even threatened the State Government with dismissal. The State Government could save its skin only when finally it succumbed to the dictation of the Central Government to refer the Act to the Supreme Court for testing its constitutional validity. The matter continues to remain pending with the Supreme Court, the obvious intention for resorting to this dubious device having been to let the Act remain in cold storage. Looking at the State Constitution the Central Govt. has no role, whatsoever, in the matter of appointment and transfer of judges of Kashmir High Court. The power is exercisable by the President on the recommendations of the State Govt. of course, after consultation with the Chief Justice. But there is not a single instance where the provisions of the State Constitution have been followed in this matter. What is rather worse is that the Central Government expects the judges of Kashmir to accept their dictates in judicial matters. When I say so, I have my own personal experience in mind. Though very sad, it had a happy ending when I decided to resign. Coming to the elections held in Kashmir, who does not know that they were always rigged at the instance of Government of India? The role assumed by the Governor, particularly, during Governor's rule, though that may not be true intention of the State Constitution, is that of an oriental despot much more powerful than the erstwhile Dogra rulers of

Kashmir. So acting, he has never considered himself to be accountable to anyone, not even to the Parliament, leave aside the people of Kashmir. The Governors in other States cannot even dream of exercising similar powers or authority in their states. The way Kashmir Constitution has been distorted and abused by the Central Government shall be able to fill volumes. Still Art 370 and its bye-product, Kashmir Constitution, are projected as if they are the boons especially provided to Kashmir for its benefit.

With his shocking experience about the proposed Art. 306-A (now Art. 370) of the Constitution of India and the way he was pressurised to sign the Delhi agreement of 1952 providing for integration of the State in administrative, financial and various other matters and the inspired campaign that was let loose against him about one Vidhan, one Pridhan and one Nishan (one Constitution, one President and one flag) through Dr. Shyama Prashaq Mukarji and his camp followers in the State under the flag of 'Praja Parishad', Sheikh Abdullah naturally felt dis-illusioned with India. He showed his resentment by making some public speeches giving vent to his feelings, out of which the one made by him at Ranbirsinghpora in early fifties is considered to be "controversial landmark of his political career" The public speech made by him at Ranbirsinghpora, caused much dismay in India for no other reason than that he wanted to state the truth about the divergence in pronouncements and performance of India in relation to Kashmir. Ultimately, Sheikh's bellicosity led him to his arrest on August 9, 1953 on the basis of trumped up allegation by India that he had conspired with United States of America "for declaring Jammu and Kashmir State an independent State". Sheikh, however, had his own explanation. "Talking to ENS the Sheikh denied that he had ever wanted an independent kashmir; I voice my opinion while others do not. I suggested that we have Defence, Foreign Affairs and communication common with India so that there be least interference by the Centre." (Indian Express dated 10th September, 1982).

Sheikh Abdullah spent eleven long years in jail till he was

released in 1964. Meanwhile the Government of India manipulated to let the State Constituent Assembly put its seal of confirmation on Kashmir's accession to India only to dupe the world that the commitment for plebiscite had been met. Recalling the circumstances under which the relevant resolution was passed by the State Constituent Assembly, those who lived through those days cannot easily forget tales about how much care was taken to keep the members, though commonly known as 'nodding goats' free from any outside contamination. The author should not be held guilty of any exaggeration when he says that a respectable member of subordinate judiciary was suspended and persecuted only because he told one of the members that this was momentous decision in which he ought to be guided by the voice of his own conscience more than the money or other benefits offered to him. The resolution however, could not really serve India's' purpose. Because Pakistan took up the matter before the Security Council and, after hearing India and Pakistan the Council adopted a resolution on January, 24, 1957, wherein it was declared that:-

“The Security Council re-affirms the affirmation in its resolution of March, 30, 1951 and declares that convening of the constituent Assembly as recommended by the General Council of All Jammu and Kashmir National Conference and the action that the Assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire state or any part thereof or action by the parties concerned in support of such action by “Assembly” would not constitute a disposition of the State in accordance with above principle”.

In the meanwhile, an interesting development had taken place at the international level. Pakistan had joined military alliance called 'Seato' and 'Cento'. Pandit Jawaharlal Nehru used this development, though wholly irrelevant and un-connected with the issue, as, yet another device to back out of India's commitment for plebiscite on the plea that in the changed circumstances the proposal

shall have to be re-examined. Commenting on this plea an eminent Judge, Jurist and Humanist of India, Mr. Justice V. M. Tarkunde has observed:-

“One of the biggest mistakes committed by Jawaharlal Nehru was to back out of the plebiscite proposal on the wholly irrelevant ground that Pakistan in the meantime had accepted arms and entered into a military pact with the United States. The offer of plebiscite was not in the nature of a concession made by India to Pakistan but was recognition of the right of self-determination of the people of Jammu and Kashmir. The denial of the right of self-determination by India on irrelevant grounds led naturally to a plebiscite movement in Kashmir. It became a secessionist movement and was further strengthened by the subsequent policy of the Government of India which showed that the Government had no confidence in the people of Kashmir. This was evident from the fact that every election in Jammu and Kashmir, except the one in 1977, was rigged at the instance of the Indian Government. This convinced the people of Kashmir that India did not want them to have democratic right of self Government. The situation was made worse by the frequent communal riots which took place in India and in which the minority community suffered the most. This naturally strengthened the anti-India feeling of Kashmiri Muslims. Finally, the coalition between the National Conference and the Congress(I) under the weak leadership of Dr. Farooq Abdullah convinced the people of Kashmir that they cannot remain in India without losing their separate identity. There has thus been a growing disenchantment of the people of Kashmir from India and the position has now been reached when almost the entire population of Kashmir has become anti-Indian.”

(The Radical Humanist March, 1990)

As rightly stated by Mr. Justice V. M. Tarkunde, attempts by the Indian Government to wriggle out of its commitments regarding plebiscite forced the people of Kashmir to revive and re-inforce their struggle for the right of self-determination. Instead of conceding the right with grace, the Indian Government used disgraceful means of force, fraud and money to cripple the movement without much success. On the other hand, the gravity of the matter brought India and Pakistan to a headlong collision in 1965. The hostilities, however, ended with an agreement called 'Tashkant Declaration' under which the two countries resolved to settle all outstanding issues by peaceful means. But rather than initiating steps to settle the Kashmir problem in accordance with the declared commitments of both countries about plebiscite, the Indian government worked on a device to weaken and dismember Pakistan and to maintain their hegemony on Kashmir through sheer might. This resulted in another war between the two countries in 1971 and breakaway of East-Pakistan into Bangladesh. As a result of mediation by friendly countries, the prime Minister of India and President of Pakistan held talks in Simla to negotiate the repatriation of about 90,000 prisoners of war. At the end of the talks, the Prime Minister of India and President of Pakistan signed an agreement on 2nd July, 1972 which has come to be known as 'Simla Agreement'. A detailed reference to this agreement appears separately hereinafter. But this did not, in any way, affect the resolve of Kashmiris' struggle for self-determination which continued unabated under the aegis of various political parties in spite of Sheikh Abdullah having betrayed the movement by formally winding up his party called 'Plebiscite Front', and striking an accord with Indian Government for loaves of power in 1975. On its part, the Indian Government deluded itself into the false hope and belief that the accord would automatically dissipate the movement but that was not bound to be so. The traditional leadership had already lost much of its credibility with the people and the accord served only to put an end to whatever little was left out of it. Kashmiris naturally turned for help towards the younger generation. There has been tremendous response from the youth whose enthusiasm has ever since accelerated the pace

of the movement beyond expectation. but, all along, the Indian Government has felt more concerned to dole out terror than statesmanship to meet the demand symbolised by the movement.

In other areas, too, like development of Kashmir and welfare of its people, the attitude and approach of the Government of India, by no means, has been laudable. They treated kashmiris as aliens who did not merit any attention. To substantiate this point, let me give a few examples:-

(a) PLAN ALLOCATIONS

For purposes of making plan allocations out of General resources, the states of India have been divided into two categories viz, (i) General (ii) Backward. The states in the former category get 30% of the plan assistance as grants and 70% as interest bearing loans. Those in the latter category get 90% as grants and 10% as loans. Kashmir has been placed in the former category while the adjoining state of Himachal Pradesh and other hilly states have been placed in the latter category. It is pertinent to point out that not only is kashmir remotely located and mainly hilly but it lost its main infrastructure in 1947 with the snapping of the rail link with Sialkote and the closure of the Jehlum valley road which used to remain open round the year even in those days, moreover, the forest resources in Jehlum and Chenab valleys which constituted bulk of Kashmiri's revenue earning used to float down the rivers to the markets in Punjab without any transit expenses. The new rail link with Pathankote took many years to come and the Banihal cart road, inspite of huge expense on its development and its maintenance (of course mainly for strategic and military needs), remains blocked for days together at the mere signal of a shower. The riverine links having been lost, the export of the forest and other produce has now to be carried over a long and tortuous road at considerable expense. it is obvious that Kashmir merited a special treatment much more than the States placed in the backward category mentioned above. What to speak of giving such special treatment, Kashmir has not been even placed in the category of backward states.

(b) POWER ALLOCATION FROM CENTRALLY FINANCED POWER PROJECTS

Every Constituent State/Union Territory in India is entitled to a definite share of power from centrally financed power projects located in that particular region. It is surprising to note that Jammu and Kashmir State has not been allowed to draw any share from centrally financed power projects located in the northern region in which it falls. The cumulative direct loss suffered by the State on this account since the various central power projects went into operation in North Region must be running into hundreds of crores of rupees. The indirect loss suffered due to the stunting of the trade and industry for want of adequate power supply would amount to many times this amount.

(c) INVESTMENT IN PUBLIC SECTOR

A glance at the relevant record of the Central Government will show that thousands of crores of rupees have been invested for the development of industries in public sector in various states in India but in Jammu and Kashmir State, the investment on this account is ridiculously low, not exceeding few million rupees in two nominal public sector undertakings styled as I.T.I. and H.M.T. with equally nominal employment potential.

The attitude and approach discernible in the areas mentioned above is manifestly visible in many other areas in Kashmir. As everyone knows, energy and power are the principal factors on which depends the progress and development of any country. But, curiously enough, the Government of India has never made any attempt to evaluate the need, not to speak of generation of energy and power in Kashmir. There is no dearth of water or other sources of energy in Kashmir. But what was lacking, was the political will in Delhi to exploit the same. People outside will be certainly surprised to learn that for years now there is continuous load shedding in Kashmir even during summer months which has often extended over 12 hours out of 24 hours. For 17 long years, the people of Kashmir valley were induced to believe that with the coming up

of Salal Power Project they would have no problem. But when Salal Power Project was actually commissioned, the people of Kashmir were dismayed to hear that they could not be the beneficiaries of the power generated from this project because there was no transmission line powerful enough to connect the Salal Power generating station with Kashmir valley. Can anyone with a grain of common sense believe that the omission was accidental?

As already stated, the only industries that we have in public in Kashmir are two small units-Indian Telephone Industry and HMT Watch Factory. They are not big enough to provide employment to more than few hundred people. Here too, as in other Central Government Institutions and offices, the Muslims have been always treated, in the matter of employment, as second class citizens. The establishment rolls of Central Government offices and institutions located in the State bear ample testimony to the fact that they had no place for Muslims, except, of course, for some inferior places and, those too, few and far between. To get employment elsewhere in the country whether in public sector or the private sector or even in the Government offices including Central Government offices, the Kashmiri Muslims were, from continued experience, rightfully driven to the conclusion, that it was just asking for the moon. The few that could manage to get such employment were either well-connected or enjoyed the blessings and patronage of the politicians who served as agents or proteges of the Central Government in the State. This is also true about deputations for training or service in foreign countries. By way of illustrations, let people examine the deputations for training and advanced studies made to Soviet Russia alone during the last decade and a half and they will come to know the truth about what I have said.

The only employer that the Muslims in Kashmir found was the local Government. Here also, the puppet Governments, who always found themselves at the mercy of their masters in Delhi, could not do justice to Muslims for fear that thereby they might lose their power. Let anyone examine the figures regarding recruitment

for the last 20 years and satisfy himself whether it has ever been commensurate with the proportion of muslims in the State. The same has been true about selection for trainings available in the professional colleges of the State. What is rather intriguing is that, at the time of administrative integration, it was decided that the recruitment in the Indian Administrative Service, Indian Police and other allied services in Kashmir shall be 50% by direct recruitment and 50% by promotion but subsequently the promotion percentage was reduced to 35% and even then, promotions have not been ordered for years together which has naturally resulted in stagnation.

These and other facts clubbed together, apart from disillusioning Kashmiris with India have disastrously affected the economy of Kashmir and created growing unemployment and various other problems for the people of Kashmir and pushed them back to the dark age of autocratic rule. The unemployment of the educated youth, by itself, has touched alarming figures as can be verified from the records of the Employment Exchange and other institutions like the Statistics Department and, even though aware of this situation, the Government of India has never taken care to tackle this problem effectively.

It is said that India has pumped a lot of money, whether as loans, or grants, into Kashmir but of what use it could be when there was no room for development due to the shortage of power and energy and non-availability of dependable means of communication. It has gone into non-productive channels with advantage to none except those who could siphon off some portion out of it. The real position is that the economy of Kashmir is in shambles. For every small thing, it has to depend upon imports from outside the State. Kashmir valley is particularly in bad plight. To this, another contributing factor is the absence of any dependable road connecting the valley with the rest of the World. There is no railhead in Kashmir valley. The only road connecting Kashmir valley with the outside world is the Jammu-Srinagar road better known as Banihal

Cart Road. It is a matter of common knowledge that this road is not an all-weather road. It passes through hilly regions and remains mostly closed due to landslides, whenever, as I have already said, it is hit by simple shower. During the last 42 years, no attempt has been ever made in India to link up the valley with outside world by an alternative and more dependable route. With shortage of power and non-availability of a dependable link road, no industrialist could reasonably think of making any investment in the Kashmir valley which would improve its economy and generate employment for its people. Those who tried it at the local level soon found themselves caught up in a mess. What is rather deplorable is that no one at the helm of affairs in India ever found time during the last 42 years to ponder over this situation and find out a solution to it. Consequently, the people of Kashmir are justified in complaining that India has crippled them and their economy, more by design than by accident.

To sum up, the arrogant, irresponsible and discriminatory attitude of the Government of India has only reinforced the resolve of the people of Kashmir to come together and press their demand for self-determination with courage and determination. Two things have given added dimension to it. Firstly the happenings in Eastern Europe where all the fortifications raised by the communist regimes including the Berlin Wall to maintain their hegemony by force have collapsed one after the other under the pressure of the will of the people who were no longer happy with their system of administration and economy. Secondly, the self-respecting youth of Kashmir have staked everything including their careers, liberty and even their lives to help the people to get rid of the state of helplessness and humiliation that they have been living in under the Indian rule. It is a matter of common knowledge that not all of them are armed. According to the press reports, the number of those who have taken up arms may not be more than five hundred or so. But it is a fact that their presence has lent the movement for self-determination a new colour and complexion and helped to boost up the morale of the people to fight back the terror in which Indian

Government has held them for the last 42 years. The manner in which the elections were rigged in 1987 and the dissenters were roughed up in the wake thereof only served to add fuel to the fire and lent immeasurable strength to the movement. There was hardly any conscientious Kashmiri who did not opt to support the movement thereafter.

Dr. Farooq Abdullah's Ministry used heinous methods not excluding the use of brute force to crush the people. They did not even hesitate to distribute arms to their party workers to deal with the freedom fighters. But all their dirty methods failed to have the desired result. On the other hand, the movement penetrated into every nook and corner of Kashmir with ever-increasing speed and velocity. Un-nerved by the changed situation, the Government of India dismissed Dr. Farooq Abdullah's ministry and imposed Government's rule in the State. They even changed the Governor and sent Jagmohan, reportedly a nominee of Bhartiya Janta Party, to replace General Krishna Rao, as Governor of the State. Thinking perhaps that strong-arm methods could be the only answer to the demand for self-determination, Jagmohan, in concert with his masters in Delhi, did everything possible to hold down the people in continuous repression and terror. The blood of muslims was wantonly shed and not even women or children were spared and, worse still, Kashmir valley remained continuously under curfew for four months with intermittent short relaxations during his regime. Later-on, he even ordered that no vehicle shall ply during relaxation period which rendered such relaxation, if ever allowed, completely useless. During curfew hours illegal searches and raids were made by the military and paramilitary forces ostensibly on the ground of flushing out subversives but what they really would do was horrible. They would take young boys into their custody, carry them to the line of control and kill them there in vast numbers and explain such killings, if ever need arose, by describing them as subversives or suspected subversives who had been crossing to or from the other side of Azad Kashmir when everybody knew that the passes, being snow bound, there was no room for such traffic. Even other inmates

were brow-beaten, manhandled and tortured and sometimes their valuables and cash were also removed during such searches. It will be pertinent to note that Jammu and Kashmir state is the only state where military and paramilitary forces have been invested with powers of search and seizure. This has not been done anywhere in India, not even in Punjab, where the Government was faced with armed turmoil much worse than that in Kashmir.

That apart, there are hundreds of other people who were killed or injured in their houses or shops on the streets without any justification whatsoever. Things had taken bad shape from December 1989 onwards even before Jagmohan took over as Governor. But Jagmohan tried to beat all previous records of fascist regimes of the world in the matter of unleashing terror and oppression on the innocent Kashmiris. The acts of omission and commission committed by and at the instance of Jagmohan are fairly large. However, by way of illustration, a few instances of these acts of omission and commission are given below :-

- i) That he deployed thousands of military and para-military force in Kashmir and caused mass killings of innocent people as a result of indiscriminate firings made by such forces, out of which the incidents of firings at Gaw Kadal, Alamgari Bazar, Zakura, Tengpora (Bye-pass Road), Hawal (near Islamia College, Srinagar) and Handwara have come to be regarded as gruesome tragedies of genocide worse than the tragedy of Jallinwalla Bagh, Amritsar.
- ii) That he made such deployment in total disregard of the provisions of the Constitution of India, as applicable to the State, under which the armed forces and forces subject to the control of union cannot be deployed in aid of civil power in the State.
- iii) That he converted Kashmir into a virtual prison for nearly four months beginning from January 19, 1990 by continued

imposition of curfew with a view to harass and intimidate the Kashmiri people. The relaxation, if ever allowed, was normal. It started at 5. O Clock in the morning when it would be still dark and ended at 9. O Clock which was the usual time for Kashmiris to move out of their houses due to chilling cold outside, making it difficult for the people even to buy minimum supplies to sustain life. Later-on, he made even this nominal relaxation stringent by placing ban on vehicular movement during relaxation hours with the result that the essential commodities could not be transported from one place to the other which inconvenienced the people enormously and, worse still, the sick and even pregnant women were unable to go to the hospitals which resulted in many avoidable deaths of sick, pregnant mothers and infant children.

- iv) That the continued imposition of curfew otherwise also resulted in many deaths due to either starvation or inability to get medicines from the market.
- v) That on account of unjustifiable and indiscriminate firings resorted to by military and para-military forces even during the relaxation periods, the traders could not venture to keep their shops open with the result that all trade and commercial activity in the valley came to a grinding halt and this was deliberately done to cripple the already ailing economy of Kashmir with the object of hastening the death of as many people as possible on account of economic strangulation.
- vi) That in view of the prevailing situation in Kashmir, private transporters were hesitant to transport goods from outside to the Kashmir valley which worsened the stock position in the markets in Kashmir and even the medicines became scarce but the administration made no alternative arrangements which caused a lot of human misery in Kashmir.
- vii) That, on account of imposition of indefinite curfew, even

those medicines which were available could not be purchased as the shops remained closed. Jagmohan's response was a callous indifference except that, as an eye-wash, curfew passes were given to a few chemists in Srinagar city in order to enable them to keep their shops open during curfew hours, but it was not possible to reach these shops during curfew hours without curfew passes. In consequence, thousands of sick men, women, children and old people could not get medicines, resulting in many deaths.

- viii) That the imposition of continuous and indefinite curfew hit the daily wage earners the hardest. Ever-since Jagmohan took over as Governor they were not able to work except for a few days when day curfew was lifted. To alleviate their sufferings a number of local voluntary relief organisations were formed which were not allowed to function by Jagmohan as their members were arrested and mercilessly beaten, causing serious injuries to most of them. Thus, even this relief was denied to the starving daily-wagers.
- ix) That even those who had money could not buy essential commodities as supplies could not be brought to the local markets owing to continuous and indefinite curfew and restrictions on movement of vehicles even during relaxation of curfew. Added to this was the omnipresent threat of indiscriminate firing by Security Forces who hovered like vultures with their fingers on the trigger. Their money got locked up in the banks which remained closed and did not open even during curfew relaxation.
- x) That even when open, the banks either refused to make payments or made small payments on the specious plea that there was shortage of cash in the bank. According to the information received by the author they were doing so under verbal instructions from Jagmohan so that even those who had bank deposits were driven to the brink of starvation.

- xi) That the paramilitary forces were not withdrawn from the main markets even when there was relaxation of curfew. In view of a number of bitter experiences of the people, particularly the one on the 14th of February, 1990, when paramilitary forces opened fire in Hari Singh High Street and on another occasion in Lal Chowk, killed several Muslims including shopkeepers without any rhyme or reason during relaxation period, the shopkeepers preferred to keep their shops closed out of fear for their lives during such periods. The policy was deliberately pursued by Jagmohan to hasten the death of as many innocent people as possible on account of economic strangulation.
- xii) That it is common knowledge that Kashmir is dependent for every small thing for import from outside the State. The only road connecting Kashmir valley with the outside world is 'Banihal Cart Road'. This road was often closed for traffic during Jagmohan's rule on the false plea that there were landslides and each time it was re-opened many days after and last lastly after 14 days only to prevent flow of supplies of food and other essential commodities to Kashmir, particularly those for which the customers are dependent on the open market.
- xiii) That Jagmohan did not make or order arrangements to be made for carrying patients from their houses to the hospital during curfew hours. The result was that most of the people died because they could not get any timely aid from the hospitals. The worst sufferers were pregnant ladies who died or gave birth to still-born babies only because of lack of proper transport arrangements to the hospitals due to curfew restrictions.
- xiv) That a number of patients from even non-curfew bound areas died because they could not be removed to the hospitals which are located in urban areas like the city of Srinagar and

District headquarters which were curfew bound and no arrangements were made by Jagmohan or his administration for the transportation of such patients to the hospitals during curfew hours.

- xv) That the people had set up a voluntary relief organisation under the name and style of 'Hilali-Ahmar' in order to collect donations and provide relief to the poor and needy including, if necessary, to the injured people. The organisation provided such relief irrespective of caste, creed or colour. But Jagmohan banned it as a terrorist organisation and cracked down on its organisers and even confiscated the stocks collected by them. This was done to agonise the common man as much as he could.
- xvi) That the people residing in the vicinity of prominent hospitals in the city of Srinagar and district and sub-district hospitals outside Srinagar, feeling moved by the helpless condition of the in-patients and their attendants on account of non-availability of food during curfew days, managed to setup free kitchens at nearby places for providing cooked food to them free of charges. But even these kitchens were not allowed to be run and the organisers were beaten up by paramilitary forces posted for duty at these hospitals. This was done under the instructions of Jagmohan.
- xvii) That, in order to create a communal divide within and outside the State, Jagmohan planned the exodus of Kashmiri Pandits from Kashmir and even provided them transport during curfew hours to facilitate such exodus.
- xviii) That Jagmohan ordered setting up of relief centres for Kashmir Pandits at various places in the State but he failed to make similar arrangements for those Muslims who had to leave their hearth and home for fear that their young boys might be lifted on suspicion of being Mujahids or that the

ladies in their houses might be molested in the course of surprise raids and searches.

- xix) That Jagmohan visited the houses of some deceased Kashmiri Pandits to sympathise with the provide relief to their survivors but he failed to show similar gesture of good-will to the survivors of similarly situated Muslim victims.
- xx) That Jagmohan sent his representatives around to enquire about the welfare of non-Muslims and to find out if they wanted any security to be provided to them but he did not bother about Muslims who required similar security to guard against the excesses from the security forces.
- xxi) That on account of continued curfew, Government ration depots could not function except very rarely during the months of January, February, March and April, 1990 which made it impossible for most of the people to draw their rations from the depots and drove them to the brink of starvation and even resulted in some avoidable deaths. Jagmohan responded to this predicament of the people with callous indifference, thereby causing a lot of human misery.
- xxii) That in accordance with the orders of Jagmohan, non-muslim Government Employees who have migrated to Jammu or Delhi, get their salaries at those places without doing any work. On the other hand, if a Muslim Government employee could not reach his place of posting due to curfew restrictions or non-availability of transport, he was subjected to harassment and even threatened with disciplinary action on account of the verbal instructions issued in that behalf by Jagmohan.
- xxiii) That Jagmohan has dismissed a number of Muslim officers and staff on the plea that they were collaborating with militants but he did not like to look into one single instance where

a non-muslim officer or staff member was suspected of working hand-in-glove with Shiv Sena to create communal tension in the State.

- xxiv) That as a result of escape of 12 prisoners from Srinagar Jail, 28 muslims were summarily dismissed by Jagmohan without even giving them a chance to give their explanation but no action was taken against those on duty in Samba Police Station where six prisoners escaped within 12 hours of the incident that had taken place in Srinagar Jail. It is said that the officers and staff on duty at Samba were spared only because they were non-muslims.
- xxv) That as a result of the decision of Jagmohan to impose dusk to drawn curfew within 5 K.M. belt on this side of the Line of Actual Control, most of the people living in those areas, all of whom are muslims, had to leave their hearth and home and settle else-where in Kashmir or outside Kashmir. Jagmohan failed to provide any relief to such displaced persons although they were worse hit than Kashmiri Pandit migrants.
- xxvi) That the news sections of Radio Kashmir and Door Darshan Kendra at Srinagar were closed at Srinagar at the instance of Jagmohan to enable himself to have tailored news broadcast from their counterparts at Jammu.
- xxvii) That, allegedly, acting under instructions from Jagmohan, the Insurance Companies delayed the settlement of claims of muslims who had suffered loss on account of damage or destruction of their property in the course of the prevailing situation in the Valley. As against, this, the claims arising out of the fire in Delhi's Saddar Bazar were ordered to be settled within a week.
- xxviii) That on account of indefinite curfew imposed by Jagmohan many small babies lost their lives because they could not get

milk or other baby foods.

- xxiv) That in order to suppress facts and deny the people opportunity to voice their cries and vows, Jagmohan banned the publication of local news-papers and entry of foreign correspondents into Kashmir by illegal and underhand means. To begin with, he ordered the withdrawal of curfew passes of all newsmen including foreign correspondents on the ostensible ground that he was doing so in the interest of their personal safety, the real intention being to suppress true facts about the sufferings inflicted by him on the people of Kashmir. The news about the ingenious method adopted by him, however, leaked out. Under the pressure of public opinion he decided to issue curfew passes to the local newsmen on selective basis hoping that this could be helpful for the suppression of true facts about the situation in Kashmir. However, the constraints so imposed did not work to the satisfaction of Jagmohan as the various news-papers still acted fairly and fearlessly. To wreak fury on these unwanted news-papers Jagmohan banned the publication of the same, even sealed their Printing Presses and threatened others with prosecution without any justification' What is rather worse; no written order was either served on or supplied to them despite demand.
- xxx) That Jagmohan did not even spare the political parties. He has declared almost all the political parties as unlawful despite the fact that most of those parties have been in existence for years together without anyone suspecting their bonafides. So acting, Jagmohan simply wanted to stop any kind of political activity in Kashmir, unmindful of the fact that this was clearly against the letter and spirit of the Constitution.
- xxxi) That Jagmohan deployed armed forces and para-military forces subject to the control of the Union to deal with the situation in Kashmir though he knew and, at any rate, had

reason to believe that he could not do so under law.

- xxxii) That Jagmohan authorised the regular troops and other paramilitary forces to make arrests and to conduct searches and seizures although law does not permit it.
- xxxiii) That during Jagmohan's regime, and allegedly with his blessings, illegal searches and raids were made by military and para-military forces ostensibly on the ground of flushing out militants but what they really did is horrible. They used to drag out young boys, beat them mercilessly and take them into their custody without any warrant of detention. Even other inmates were brow-beaten, manhandled and tortured and sometimes their valuables and cash were removed.
- xxxiv) That in the later days of Jagmohan's rule, these raids and searches became more humiliating and oppressive and, that too, allegedly under verbal instructions of Jagmohan. What was being done was that in the pre-dawn period, the military or para-military forces or both forces together would cordon off the locality where house to house search was desired to be conducted. The inhabitants of the locality would be asked through public address system to come out of their houses and were herded to a vacant place usually one or one and a half Kilometers away from the locality. Taking one person from each house the security forces would enter the houses with the ostensible purpose of searches but they actually looked for books and news-papers and other published or unpublished material in order to make an ideological X-ray and, in some cases, decamped with valuables and money. This process would continue for the whole day till as late as 7 O Clock in the night with the inhabitants herded in the open space without food, water or shelter. After the searches were over, the security forces would pick up young boys of the locality and take them away for interrogation and torture. Those who perished during such torture were left at the

Control Room, hospital or near the locality from where they were taken while those who managed to survive were left with severe injuries, crippling and maiming them for the rest of their lives.

xxxv) That in the district of Kupwara, personnel of the para-military and army would surround a village in the middle of the night and force their way into the houses of the sleeping inmates, drag out all male members, young and old, and mercilessly beat them up before taking them for interrogation and torture in the temporary camps set up in the village for this purpose. Meanwhile the security forces would set themselves upon the women-folk and molest them who could do little to defend their honour, except to cry themselves hoarse which however was lost in the wilderness of the jungles. The security forces have thus spent several days in each village. The men-folk were given electric shocks at their genitals, rendering most of them impotent. Some of them were even branded with hot iron rods while most others were beaten with clubs. A number of persons died during this barbarism, who were later claimed to have died during encounters though their bodies did not bear any bullet marks.

xxxvi) That in Sopore during a search by security forces in May 1990, the people encountered two groups. The first group after entering the houses would conduct a most innocuous and perfunctory search and make the inhabitants sign on the dotted line of the declaration to the effect that the search had been conducted in a proper manner and nothing had been taken away. Immediately thereafter, the second party consisting of men and women armed with clubs and electric wires would enter the house and start beating the inmates indiscriminately without regard to age or sex. The ire of the searching parties were particularly directed against young men and women who received electric shocks. The people were also made to drink gutter water and were forced to shout

'Ram Ram'. As in other places the young men were herded in army trucks and taken for interrogation and torture.

xxxvii) That the pattern and the nature of atrocities committed during such searches by the security forces has been similar all over the Valley. Thousands of young men have been unauthorisedly jailed, tortured, maimed, electrocuted, murdered and made generally useless for the rest of their lives in the course of such interrogation. The kidnaping of Mr. Yousuf Jameel, a highly respected journalist, from his residential house at Srinagar during broad-day light by the Army and the murder of Maulana Farooq and the subsequent attempt of the Government to shift the blame to the Mujahids is illustrative of the machinations of the Security Forces and the Governor and his administration as also the Central Government including Jagmohan and his administration. Commenting editorially on the episode involving kidnaping of Yousuf Jameel, one of the prestigious news-papers of the State, namely (Kashmir Times) has inter-alia said as under :-

"The murky episode involving army and journalist Yousuf Jameel brings into focus the lack of grip of the established authority on agencies dealing with the on-going militancy in Kashmir. It appears that all categories of uniformed people have been authorised to operate as they wish, even without seeking the approval of their respective seniors. The scenario that emerged on Sunday was that of a wholly demolished administrative structure. This was inevitable in the arrangement allegedly evolved by the former Governor under which junior officers from army and para-military forces were authorised to take any action they thought was required in dealing with the militants."

(Kashmir Times dated June, 5th, 1990).

xxxviii) That, as part of his plan to terrorise the local population

and break their spirit, Jagmohan gave instructions to the security forces to open indiscriminate firing on peaceful demonstrators as is evident from the fact that no action has been taken on the cases registered in various police stations in this respect. On the other hand, Jagmohan and his administration have tried to justify these firings and killings on false and frivolous grounds. As a result of indiscriminate and unprovoked firing on peaceful processions, hundreds of people including men, women and children have been killed while several thousand have been seriously injured, maimed and crippled for the rest of their lives. The unprovoked and unjustified firing on peaceful processions at Gaw Kadal on 21st of January, 1990, at Zakura and Bemina Bye-pass on 3rd March, 1990, and at Hawal on 21st May, 1990 in Srinagar District and several other places in Anantnag, Kupwara, Baramulla, Budgam and Pulwama Districts of the Kashmir Valley, resulted in deaths of several thousand people and injuries to many more. Apart from this, there were several unjustified killings of innocent people in other minor incidents throughout the Valley.

xxxix) That security forces entered the houses of people at several places in the Valley and apart from committing other atrocities, molested women and in some cases violated their honour. In this connection the incidents at Channapora, Nawa-kadal and Badasgam bear special mention. On 8th March, 1990 C.R.P.F personnel entered some residential houses at Channapora, Srinagar and beat up male inmates while women were molested and raped. Some of the women could save their honour only by jumping through the windows of the several storeys high houses resulting in serious injuries to them. At Nawakadal, Srinagar on 4th May, 1990 security forces forced their entry into the residential houses of the local inhabitants, beat them up and resorted to indiscriminate firing and molestation of women. As a result a young girl, namely Jala Bano, was killed while her mother was seriously

injured. They also took away two young boys, namely Miraj-ud-din Lone and Ghulam Mohammad Shafiqi and mercilessly beat them to death on Nalla Mar Road near Doma Kadal (See Wadi-Ki-Awaz' Dated 9th May, 1990) At Badasgam, Anantnag, during the intervening night of 17/18th May, 1990 a B.S.F patrolling party stopped a bus carrying a marriage party and resorted to indiscriminate firing killing one Abdullah son of Lassi Malik, resident of Lissar and seriously injuring the bridegroom. The bride and the bride-maid were gang-raped by the BSF personnel and the former was kidnaped. The bus was removed to the District Police Lines, Anantnag with 78 (seventy-eight) bullet hole marks. The local authorities reportedly informed Jagmohan about the occurrence but he treated this report with his usual indifference.

- xi) That in an attempt to legitimise the barbarism unleashed on the people of Kashmir, Jagmohan has either enacted new laws or carried out amendments in the existing laws and, so acting, transgressed not only the bounds of decency, morality and civilised values but also the parameters of the Constitution, to uphold which, he had made a solemn declaration when he entered upon his office. In this connection, mention may be particularly made of J&K Safety Act. Jagmohan has amended it to facilitate the transfer of detainees to places outside the State in order to harass and intimidate them.
- xli) That thousands of people from Kashmir have been booked under the Terrorist and Disruptive Activities Act (Central Act No. XX of 1985). The accused were being tried by the 'Designated Court' at Srinagar, but, in order to persecute the accused and those connected with them, Jagmohan wound up the Court by means of S.R.O, 160 of 1990 and directed that there shall be one single court with headquarters at Jammu to try all the cases whether pending or arising in future under

the Act, least realising that this amounted to total denial of justice promised by the Constitution which he had sworn to uphold in Kashmir.

The blood-soaked soil of Kashmir, the bullet marked shops, houses and streets, the widely scattered grave-yards of the martyrs, the unending cries of the wailing mothers, orphans and widows, the bruised bodies and terrified faces of the hopeless Kashmiris bear a mute testimony to the large-scale barbarism committed by Jajmohan with the tacit consent of the Government of India, on the people of Kashmir, but a glimpse of it can also be found in the cold print which is a contribution to the on-going struggle for self-determination in Kashmir by some Human Rights Organisations and activists of India and press-men from India and abroad who made it convenient to visit Kashmir and see things for themselves during the last few months. The relevant excerpts of their reports are reproduced hereunder :-

- i) Speaking about the happenings in Kashmir, a team of Human Rights activists of India, called "the Committee for Initiative on Kashmir", in its report titled "India's Kashmir War", has said:-

"The National Front Government's plan to check terrorism in Kashmir has, in practice, turned out to be an exercise directed against the vast masses of the Kashmiri common people, who are being denied the fundamental rights guaranteed under the Indian Constitution, and enshrined in the Universal Declaration of Human Rights to which the Indian Government is a signatory.

A four member team on behalf of the Committee for Initiative on Kashmir, during a visit to Jammu and Kashmir from March 12, 1990, obtained detailed information from large number of sources, including victims, eye-witnesses as well as senior

Government officials, about indiscriminate killings, arbitrary arrests, unlawful searches, unprovoked assaults on peaceful demonstrations and a complete dislocation of normal life due to imposition of indefinite curfew for months together with rare breaks of a few hours. The team found, in the course of investigation, that these abuses have been carried out by the official law enforcement personnel, the CRPF (Central Reserve Force), the BSF (Border Security Force) and in certain cases, by the Indian Army. That these cases of blatant violation of human rights were not ISOLATED INSTANCES OF aberrations, but, operative extensions of an official policy was evident to the team members when they met senior administrators who justified such actions on the ground that they were necessary to contain 'terrorism'.

While the team condemns as a matter of principle any form of 'terrorism' (in the sense of the use of violence and intimidation by a handful of decision-makers whether among the rulers or the forces of opposition), it believes that such terroristic actions do not absolve the Indian State of its responsibility to respect and protect fundamental human rights of the rest of the citizens in any part of the Indian Union. The findings of the team reveal that the representatives of the Indian State in Kashmir both the Civil administration and the para-military forces have failed so far to contain "terrorism" and are instead trying to compensate for that failure by wreaking vengeance on the innocent masses of the Valley. The team's talks with officials (in-charge of tackling terrorism) indicated that they suffered from the paranoid feeling that the entire population of the Valley are pro-Pakistani "Terrorists". Dictated by such suspicious feelings, operations to maintain law and order have invariably led to the alienation of the common people who are subjected to humiliation, discrimination and firings by the security forces. As a result, ironically, the Government's plan to suppress 'terrorism' is ending up in a situation where the hitherto non-committed masses are being

pushed to a position where they feel that 'independence' from New Delhi as demanded by the assortment of secessionist militant groups is the only way of escape from State repression. This feeling was eloquently summed up by a Kashmiri government officer: "Till January 19, I was against the militants, Today, I am for them."

MAJOR INCIDENTS

The date January, 19,1990, when Jagmohan took over as Governor of Jammu and Kashmir, is regarded as a watershed by many Kashmiris. It is not as if there were no police firings or curfew before Jagmohan's arrival. During Farooq Abdullah's Chief Ministership, there were many occasions when in anti-terrorist operations, unarmed and peaceful people became targets of the security forces, following attacks on them by the militants. On January 9, for instance 17 people were killed in police firing. Imposition of curfew at frequent intervals was also becoming a regular feature.

But Jagmohan's return to Jammu as Governor, signaled the unleashing of state repression on a massive scale. Wide-spread searches and raids by the security forces have brought about untold misery and sufferings for the common people. Since his taking over there have been at-least three major incidents of firings on unarmed demonstrators leading to death and injuries to hundreds including women and children.

Jagmonah's first day in office was marked by raids and searches conducted by Security forces (with the ostensible objective of flushing out terrorists) in the Haba Kadal area of Srinagar from the mid-night of January 19, till the morning of January 20. About 488 young people both Muslims and Hindus were dragged out from their houses, mercilessly beaten and taken away. It is significant that the local civil authorities of Srinagar were never consulted before the raids were conducted. The CRPF and other para-military forces which carried out the raids were on their own, unaccompanied by the local police. The Divisional Commissioner of Srinagar later told protesting demonstrators that he had no knowl-

edge of raids and searches.

On January 20, when a group of people were proceeding to express solidarity with others who had gathered outside the Divisional Commissioner's office to protest against the atrocities of the para-military forces, they were tear-gassed. The same night January 20, curfew was clamped down on the city.

On the 21st, a 20,000 strong procession, including people from the city's outskirts, passed through the streets of Srinagar, defying curfew and protesting against the illegal searches and arrests. When the procession reached Basant Bagh in the Gaw Kadal area, the para-military forces started firing upon them. According to the local police, at-least 60 dead bodies were recovered from the spot and taken to the Police Control Room, while unofficial sources claim that more than 200 were killed. We met a survivor whose experience on that day, as narrated to us, indicated not only the ruthlessness of the para-military forces, but also their anti-muslim bias. The survivor, Farooq Ahmed Wani, is an Assistant Executive Engineer in the Public Health (Engineering) Water Supply Department of the J&K Government. Listen to his experience in his own words :-

“My house is in the Rajbagh area. On the day of the incident 21st I was told by a water tanker driver that, due to curfew, water tankers were not being allowed to move about and reach water to the citizens. I contacted the Superintending Engineer, who told me to go to the police and collect curfew passes for the water tankers and distribute them to the drivers. I went with my curfew pass and identity card. When I reached Jehangir Chowk (near the High Court complex), I saw a procession coming from the other side of the Amira-Kadal Bridge. A CRPF man asked me to go away, and when I showed him my curfew pass and told him that I was on my way to the Police Control Room, he snatched away my curfew pass and tore it. I then decided to go to my sister's

house in Budshah Chowk. I joined the women who were marching in the procession, hoping that I would be safe in their company. As we were just about to cross the Gaw Kadal Bridge, there were two shots. Then the Security forces opened fire. I saw several people in army uniform behind me. I wanted to jump into the river to save myself, but fell down on the road. When I started getting up, I saw small boys being shot and falling down in the river. I remained lying for sometime till I saw a para-military officer coming, when I lifted my head, I saw him pumping bullets into the bodies of the injured who were lying on the road. A boy who was trying to hide, was killed under the platform of the bridge. As I lifted my head, a CRPF man shouted. 'He is still alive'. I pleaded: "I am a Government Officer. Please don't shoot". "The Officer shouted abuses at me and said "Islam Mangta hai? "(Do you want Islam?)" and fired at me. My back and my hands were injured as I turned to run. I fell down. When the officer left, a few JKAP (Jammu & Kashmir Police) men came and watched me. They were, however, soon chased away by the para-military men. Another para-military officer moved upto me and shouted, "Tum Sala Zinda Hai - Mara Nahi Hai?" (you are still alive-not yet dead?) and aimed his sten-gun at my chest. At this stage, the officer who had earlier fired at me, came and dissuaded the other officer saying "Don't waste bullets on him. I have pumped enough bullets, and he will die soon". He left after kicking my back. Soon after this a truck was brought and all of us-both the dead and the injured-were piled into it. As I was dragging myself up, the officer came over and shouted at me; "you are not yet dead?" The other officer said, "He will die soon". I kept on pleading to a constable: "Save me". The truck had many bed rools. There were 30/35 dead bodies. As there was no space more, the officer ordered the driver: " Baki Ko Nale Mein Phenk Do" "(Throw away the rest into the river)". A tarpulin cover was thrown over us, and two security forces people sat upon it. After some time we stopped at a place where we heard voices

speaking Kashmiri. One of the injured among us cried out. The tarpaulin cover was lifted, and we saw a Kashmiri constable, who discovering us alive, said "My God! there are living bodies here". Those of us who were still alive, pleaded, "please save us". The doctor on duty in the Police Control Room identified three other people who were still alive, put us in the ambulance and rushed us to the Bone and Joint Hospital. We later heard that the Head Constable who saw us - the living piled up with the dead in the truck-had later suffered a heart-attack."

Farooq Ahmed Wani showed us his arms and back, where six bullets were pumped in. He has been released from hospital after operation. But there are other victims of the January 21st firing who are still recuperating in the Bone and Joint Hospital in Srinagar whom we interviewed during our trip. Kasim Rashid (32) who is lying in the hospital with his legs in plaster, told us that as he was coming out from his home in Srinagar, the CRPF fired at him and received two shots in his legs. He was then beaten up for hours by the CRPF Jawans. When he tried to complain to a CRPF Officer about the misbehavior of the Jawans, the officer put a revolver at his head and asked him to say that he was injured in "Cross-firing". He was later thrown at the gate of the hospital.

Doctors at the Bone and Joint Hospital told us that Kasim's case was not an isolated one. They were getting daily 300 cases at the OPD after January 20 as against the earlier number of 30 per day. Dr. Najib, Medical Officer in the Hospital told us that the Hospital staff who were used to treat normal bone injuries were not quite equipped to treat injuries caused by high velocity bullets. It were victims of such bullet injuries who were being brought to the hospital now. "They are like mass casualties", He said. Dr. Najib added that many among the injured were left unattended for hours in the streets and lost a lot of blood before they reached the hospital. Due to the curfew, many could not reach the hospital.

The second major incident occurred on January 22 when people came out in large number from all parts of the Valley and congregated at Srinagar to protest against the killings of the previous day. The procession was allowed to proceed till it reached Alamgari Bazar in the Hawal area of the town. Here the demonstrators were trapped between a CRPF force in the front and another behind. They were fired upon by the CRPF and according to unofficial sources about 100 people were killed. The injured were taken to the nearby Sher-i-Kashmir Institute of Medical Sciences in Soura by the people who complained that the para-military forces tried to prevent them from moving the injured to the hospital. One of those killed was 32 years old Ajalal Hassan, a well-known Kashmiri Research Scholar, author of four books, including one on Gandhi's non-violence. We interviewed one among the injured, 24 years old Mehraj-ud-Din Najar, at the Bone and Joint Hospital. He was shot at Tankipora where the CRPF fired upon demonstrators, protesting against searches and raids. We learnt that the CRPF also fired upon local policemen, killing one in the Tankipora area, as a result of which the JKAP personnel raised protest slogans in the police lines and many of them deserted their spots.

Although all through February police firings and pitched battles with anti-Indian Militants continued, there was a brief respite from curfew during which time huge processions came out on the streets protesting against the Indian Government's deployment of Security forces. Almost every day surging crowds demonstrated before the the office of the U.N. Military Observers Group in Srinagar to submit a plethora of memoranda demanding the implementation of the U.N. Resolution providing for pelbicite in Jammu and Kashmir.

The third major incident took place on March 1 when a record number of people- 1.5 million according to our sources- converged in the streets of Srinagar demanding independence' At three different places - Zakura, Tangpora- Bemina Bye-Pass and Shalimar - the Indian para-Military forces opened fire on people,

killing and injuring large number. The injured, whom we interviewed in the hospital, claimed that their procession was peaceful and that the firings were un-provoked. At Tengpora, the demonstrators were returning home in buses when the military forces stopped them and asked them to disembark. As they were climbing down they were shot dead. One of the survivors, Mr. Aslam (30) gave us an eye-witness account of how army vehicles stopped their bus, brushed aside all pleadings by the passengers and fired indiscriminately, Aslam escaped death by tilting to one side and got injured in his left ankle. He saw scores of people with bullet injuries in their throats and blood gushing out.

Following wide-spread protests against the killings of bus passengers at Tengpora, the army conducted an inquiry into the incident under the directions of the Government. The report of the inquiry sought to justify the killings on the ground that the people had pelted stones at an army vehicle carrying school children of military personnel. Local people whom we interviewed dismissed the inquiry report as blatantly false since all the schools in the valley were closed at the time of winter holidays. Besides, there was no army school any-where near the spot where the firing took place. Incidentally the J&K Government issued an order on February 20th asking schools, colleges and other educational institutions to remain closed till March 15. Surprisingly enough, the Government has now ordered for registration of cases against the erring military personnel involved in the incident at Tengpora.

The same day, army Jawans opened fire on a procession of 10,000 to 15,000 people at Zakura crossing, killing and injuring several people. Bashir Ahmed (22), one of the injured, told us that army vehicles forced their way into the procession and fired from sub-machine guns. His right lower arm around the elbow was shattered.

According to an FIR filed by the Srinagar City S.S.P., M. A. Chowdhury, four army vehicles came towards the procession as it

was passing through the Zakura crossing. A police constable, Abdul Rehman (No. 1497/S) advised the army people to stop or change their route. They did not comply and forced their way into the procession which, according to the FIR, was 'peaceful. An army personnel snatched away a flag from the hands of an old man at the front of the procession. The army personnel then started to fire indiscriminately, killing two on the spot. Others from among the army people also started firing, about 100 rounds were fired in all, resulting in innumerable deaths. (FIR filed at Zakura Police Station on March 1, 1990, in the presence of Mr. M. A. Abbas, Dy. Commissioner, Srinagar - ARC-Police No. 89 899204 Register No. 2 Roznamcha, March 1, 1990. Thana Police Chowki, Zakura.)

From our investigations into these major incidents, we found that the para-military forces and the army Jawans had no excuse of self-defence (as normally given when dealing with riotous mobs) when they fired indiscriminately upon what were crowds of unarmed demonstrators. A savage thirst for blood seemed to have gripped the CRPF, as is evident from the calculated manner in which they went about pumping bullets into bodies of injured people in the Gaw Kadal area on January 21st. The brutalities perpetrated by the army jawans on March 1, call for serious disciplinary action against them. Attempts by the army authorities to justify their killings of bus passengers at Tengpora on that day, by inventing a false story, are a further blot on the country's defence forces who are required to be a highly disciplined cadre dedicated to the task of protecting our people. We urge the Government to institute judicial enquiries into the three major incidents and punish the personnel of the para-military forces and the army who were responsible for the killings.

While the major incidents described above, accounted for the largest number of casualties, there have been innumerable cases of daily raids on houses, assaults on peaceful demonstrations (often resulting in deaths and injuries), firings on innocent by-standers, indiscriminate arrests and harassment of ordinary citizens at the

hands of security forces. We are giving a few instances.

On March 7, 1990, at Channapora, following firing by militants on the CRPF, the latter raided the houses in the locality. We visited the area on March 14 and interviewed the victims-mainly women who were molested and raped by the para-military forces. Noora (24), wife of Abdul Rehman told us that she was working in the kitchen in the morning that day when she heard sounds of firing out-side. She claims that some twenty CRPF personnel walked in, dragged her out and raped her. She added that her sister-in-law (Zaina) was also raped. She saw two girls, Gulshan (14) and Fatima (16) molested by the CRPF. An elderly lady, Ayesha, wife of Samad Ganai told us that when the CRPF assaulted her son, her daughter-in-law Maymoona tried to rescue him. The CRPF threw her down but she managed to escape by getting up and jumping out of the first floor window. The male members of the affected families in Channapora told us that they had sent away their women-folk to places outside the area to escape humiliation by the CRPF personnel who still come to the locality every day harassing the inhabitants. At least 15 families had left their homes. We were told that one of the residents, Abdul Majid had been taken away by the CRPF alongwith his father Ghulam Mohammad Sheikh. Their whereabouts are not known till now. The residents took us around the locality and invited us to their houses where we saw house-hold goods destroyed by the CRPF-broken TV sets, radios, glass utensils and mirrors strewn all over the place.

On March 14, when our team was present in Srinagar, curfew was lifted for a few hours in the morning. We saw women, some with their faces veiled by "burka", others with 'Chadar' on their heads, coming out in procession on the streets. They were members of a women's organisation called "Dukhtaran-i-Millat" carrying banners demanding 'independence' and withdrawal of Indian Security forces from Kashmir. The immediate reason for their demonstration that day-- they told us later - was to protest against the CRPF atrocities on women in Channapora on March 7. We found

the demonstration peaceful. But when they were moving towards United Nations Office, the para-military forces teargassed them. They ran helter-skelter and took refuge in a mosque, the para-military forces beat them and smashed up the furniture in the mosque. Incidentally, as the women were marching towards the UN office, we heard the police announcing over loud-speakers that the curfew was being re-imposed even before it was due.

It is not only peaceful demonstrators who are being attacked by the para-military forces. We found that even doctors going around in the normal course of their duties, are not spared. During our visit to Sher-i-Kashmir Institute of Medical Sciences on March 14, senior doctors narrated their experience at the hands of the para-military forces. Body searches have become a regular affair. On March 2, as the doctors were coming to the hospital in an ambulance Van, they were stopped by the para-military forces who pointed guns at their heads. Although they showed their curfew passes and identity cards, Dr. Shugra Kaul and Dr Vijay Tiku, were humiliated to such an extent that they had stopped coming to the hospital to escape humiliating body searches. Within the hospital complex, doctors and attendants are searched every time they move out to collect medical equipment from the stores, packets of sterilized linen wrappers, among other things, are the main targets of the para-military personnel who on suspicion that they contain explosives, force them open thus exposing them to contamination.

At the Bone and Joint Hospital, a nurse complained to us that she and her colleagues were insulted by CRPF patients in the hospital, apart from being searched by the para-military forces when outside. This perhaps explains why the staff in the hospitals in the valley refuse to take patients from among the Indian para-military forces.

It is the common patient who suffers the most due to the harassment of the para-military forces. We are told about people taken seriously ill and pregnant women being turned back from the

hospitals by the security forces who man the roads leading to the hospitals. The height of cruelty was demonstrated by the para-military forces on January 22, when doctors of the Institute of Medical Sciences sent four Ambulance Vans to a neighbouring locality where firing had taken place, to collect the injured victims. All the four drivers who went to the spot, came back as patients after having been severely beaten up by the para-military forces, refused them to take the injured people to the hospital.

We also came to know about arrests of young people, whose whereabouts are not known. Seventeen among those arrested earlier have been transferred to jails in Bhilwara in Rajasthan.

We found that the daily lot of the ordinary citizens of the valley, the raids and searches, the threat to their lives even when they come out when curfew is lifted has hardened their attitude towards the Indian Government in general and the para-military forces and the army jawans in particular. They regard the latter as an occupation force. We could understand their mood when we heard a pathetic story about a woman with a sick child on her way to the hospital, who was stopped by the para-military forces and asked to go back. They were reported to have shouted at her "Let the child die. There will be one militant less."

The Curfew

Barring a few days in February, when curfew was lifted in Srinagar and people demonstrated in an atmosphere which they described as a brief 'glasnost' the valley had remained under long periods of curfew since January 20. Even when the administration relaxed curfew, people felt that it was a cruel joke played with them, since the curfew was relaxed for a few hours only in the morning from 5 A.M. They found it difficult to come out to shop in the cold mornings. Besides, in many areas, the para-military forces were the first to buy off entire supplies from the shops, leaving very little for the local consumers.

What is even more disturbing is the disruption in the supply of essential commodities because of the curfew. Banks have remained closed for a long period leading to a virtual stoppage in whole-sale trade. Even when they open, they refuse to release more than Rs. 1000/- per person, making it difficult for businessmen to operate. The worst to be hit is the supply of medicines and medical goods. We met representative of Ranbaxy and Sandoz. The former told us that the Indian Airlines were not accepting consignments for Srinagar as a result of which stocks of medicines were not arriving in the city. The latter complained that although the Union Railways Minister, George Fernandez, during his last visit to Srinagar assured him that medicines will be sent immediately ('tatkai'), nothing had come till the date of our departure from Srinagar (March 15).

Hospitals, as a result, are facing a crisis. Drugs, Anesthetic gases like Nitrous-oxide (Necessary in Surgical operations) which are not manufactured in Jammu and Kashmir and are imported from outside, are in short supply. although Oxygen is locally manufactured, the local factory has remained closed since January.

The deserted streets of curfew bound Srinagar with only gun-toting para-military forces moving around, make it look like a city under siege. Almost every establishment is closed-- Government offices, Indian Airlines Offices, Post and Telegraphs Offices (we are told that about 12,000 telegrams were lying undelivered), shops and markets. There is virtual break-down in the administration throughout the entire Kashmir valley. People either do not or cannot attend offices or their works in the field out of fear of harassment by the Security forces. All development works and projects are dormant. Contractors have abandoned the sites and labour, most of which is from outside the State, had fled either to Jammu or to their home States. Doctors at the Sher-i-Kashmir Institute of Medical Sciences complained to us that the officer manning the Treasury had disappeared and the Governor had pleaded his helplessness when a deputation of the Doctors went to him for the release of funds.

Even the law and order administration is severely limited in its movement. Senior officers move around only under heavy security cover. Many senior officers are actually confined to their offices or residences. The newly appointed Special Commissioner in Anantnag is reported to have admitted that he virtually is a prisoner in the Dak Bungalow.

A leading citizen of Srinagar wriily commented to us "The only visible sign of the presence of the Indian Administration in the Valley is the ubiquitous movement of the CRPF, BSF and Army Jawans".

(ii) Another team representing various Human rights Organisations in India, headed by Mr. Justice V. M. Tarkunde, an eminent jurist and humanist of India and including, among other distinguished persons, the former Chief Justice of Delhi High Court, Mr. Rajinder Sachhar, in their report dated 25.4.1990, have said:-

"The people's Union for civil Liberties (PUCL), the citizens of Democracy, the Radical Humanist Association and the Many Extra Abhdyan had appointed a joint team to visit Kashmir to have a first-hand assessment of the situation there. The team comprised of S/ Shri V. M. Tarkunde, Rajinder Sachhar, Amrik Singh, Balraj Puri, Inder Mohan, Rajan Dwiveds, N. D. Pancholi and T. S. Ahuja. The first visit was from 9th to 13th March and second from 28th March to 3rd of April, 1990. Both Srinagar and Jammu were visited as also a few outlying towns.

Our team members were able to meet cross sections of people in large numbers where-ever we went.

The team members covered certain areas together and also in groups of two and three according to their arrivals in Jammu, Srinagar and Anantnag.

Groups of individuals from all walks of life such as lawyers,

businessmen, retired officers, Government employees, Journalists, Intellectuals and other well known citizens met us on their own initiative. Simultaneously, we visited quite a number of areas with their cooperation. The places where we went included Gaw Kadal, Zakura, Sonawar, Pir Bagh, Nadar Gund, Channapora, Basant Bagh, Chota Bazar, Zaina Kadal, Zero Bridge Mosque, Rajbagh Mosque, Batamaloo, Khrew, Bone and Joint Hospital at Barzalla, S.M.H.S. Hospital, Institute of Medical Sciences at Soura, Shah Hamdan Mosque and Id-gah. Everywhere large crowds varying between 350 to 5000 in number awaited us. They included women, adults and youth. We were also able to visit homes of Kashmiri Pandits and a few Sikh families who had decided to stay in the valley. One-third of non-muslim population is still in Srinagar. Shri Balraj Puri and Shri Inder Mohan met Shri Jagmohan, Governor of Jammu and Kashmir. Other team members met CRPF Chief of the valley. The team members had requested the officers of the Advisers to the Governor for arranging a meeting of the team members with the said Advisers but there was no response inspite of repeated reminders.

ATROCITIES BY THE SECURITY FORCES

A large number of excesses were brought to our notice. Some of them were heart-rending.

In Anantnag which was visited by one member of the team, it was alleged that an injured person was brought to the door-step of a doctor for medical attention. Neither was the injured person allowed to enter the clinic nor was the Doctor allowed to come out attend to him with the result that he died.

On 29.3.90 at about 8.30 A.M. (at a time when curfew was not in force) security forces fired upon a Three Wheeler and a Matador Van without any provocation. This led to several deaths including that of pregnant woman and her eight-year old son. We visited the injured husband in the hospital and got the full story from him.

On 31.3.90 a group of students in the age group of 11-12 years assembled at the house of a teacher in Vicharnag locality of Srinagar to receive coaching from him. The teacher was a non-muslim and all the students except one were also non-muslims. There was an incident in the vicinity and the CRPF men burst into the teacher's house. The CRPF men asked for the identity of the pupils with their names. Only the muslim-boy was shot and killed.

Again on 1.4.90 after a CRPF jawan of the 77th Battalion was killed, some of them sought revenge on uninvolved persons far away from where the incident had occurred. At 7.30 AM on 1.4.90 (when curfew had been relaxed), a CRPF ambulance fired in the locality of Nowpora injuring five persons including two women. Subsequently one woman died. The other persons included three boys aged 15 to 17. The persons who tried to take the injured to the hospital, were beaten and arrested. One of them Mr. Latif Ahmed showed us the marks of beating all over his body, which he had received for helping the injured. We reached the scene of the incident within three hours of the happening. We also found a 25-year old person, Fida Hussain, with a bullet in his thigh but afraid to go to the hospital on account of being arrested or killed by the army. We ourselves took him to the hospital where we saw many people lying with bullet injuries.

On the same day when we were returning from Nowpora to go to other area of such incidents we were stopped on the way in Gojwara, Tulwara Mohalla where barely 15 minutes earlier the Jawans of 77 Battalion had gone berserk, entered various houses and had beaten and man-handled the local people. We saw several persons lying in the houses with fresh injuries and were told that besides beating them, their cash was also looted by the security forces. The 69th Battalion attached to that area did not even know what was happening. However, it did interfere later and prevented further violence on the local people.

The reports of such incidents were pouring in and we were

asked to visit several places in order to see the continuous rampage going on. But due to paucity of time it was not possible for us to visit each and every place.

We met several injured persons in the hospitals. Ghulam Kadir from Bijbehara, a 20 year old person, while he was closing his shop during curfew relaxation at 8.30 A.M. on 24.3.90, was fired upon by the security forces injuring his right hand. Shri Bashir Ahmed, from the same place, a gardener in the State Govt. Gardens and Parks Department was shot on 26.2.90 at the main market. Nazir Ahmed was lying with an amputated leg as a result of bullet injuries. He, a student of 9th class, was going to join a peaceful procession to be held at Charari Sharief, about 35 KM from Pampur in a truck along with 40 persons on 22.2.90. There was no curfew at that time. He told us that he along with others was asked to get down by the security forces on the way, and despite "our pleas of being innocent, we were fired upon." Three persons, Farukh Ahmed (driver), Manzur Ahmed and Ghulam Mustafa died on spot. Five boys were injured.

Mr. Shahzada Mahmood from Saharanpur working as a hawker in Gurgari Mohalla, Srinagar nearly for the last 15 years told us that he was shot at 9.30 P.M. in the waist by the CRPF without any provocation or warning.

The victims of Anantnag were lying injured in the emergency ward. We also saw victims of mini-bus shooting. Shri Shakil Ahmed, a second year student of S.P. College had bullet injury in his thigh.

In fact the hospitals were full of injured persons and we were pressed by numerous relatives and friends of the said injured ones to come to the relevant bed and listen to the story of horror perpetrated by the security forces on them.

However, we were told that neither any compensation was provided to any of victims of the firing by the para-military forces, nor the Government had taken any care to investigate such inci-

dents and reasons for such injuries. Nor any compensation was given to the families of those Muslims who were killed in firings by the security forces.

When some of these incidents were brought to the notice of Senior officers, in certain cases they were acknowledged and in several other cases they did not even know about these. There appears to be no system whereby individuals who suffer can lodge complaints and seek redress.

Instances regarding molestation of women in Channpora were brought to the notice of the team members. M. Balraj Puri and Inder Mohan were moved by the feelings of the family members and neighbours who were showing full respect and consideration to the girls.

It is not possible to list all the cases which were brought to our notice. But the broad pattern is clear. The militants stage stray incidents and security forces retaliate. In this process large number of innocent people get manhandled, beaten up, molested and killed. In some cases the victims were caught in cross-fire and in many more cases they were totally uninvolved and there was no cross-firing. This leads to alienate people further. The muslims allege that they are being killed and destroyed because they are muslims.

Every-where the people gave heart-rending accounts of how security forces were gunning down the innocent muslims in the valley. During seven or eight days when the curfew had been relaxed, unprecedented huge processions, peaceful and disciplined, were blocked by para-military forces at particular points by putting heavy vehicles on both ends. They resorted to merciless firing at random and killed many innocent persons. These accounts were given to us by the participants in all such localities where processions had been taken out and processionists were brutally attacked by the security forces.

UNPARALLELED CURFEW

For more than three and a half months now, except for a break of a few days, Srinagar city and other major towns have been under curfew by and large. It is used to be relaxed at very odd hours i.e. between 5.0 Clock to 8 or 9. O Clock in the morning. From 7th April to 19th April, 1990 there was practically no relaxation at all, the result being that the civil life was totally disrupted. Shops hardly open; banks, schools, courts etc., remain closed and no mail is delivered, nor are the Government treasuries functioning. Traders cannot transport the essential commodities and medical drugs due to curfew. The people in the valley neither have money in cash nor the opportunity to be able to purchase anything. Mobility of people in the valley is almost at a stand-still. Even during the curfew relaxation period for a few hours since 20th April, 90 vehicles are not permitted to ply on the roads. The people are not allowed even to carry their sick brothers to the hospitals in most of the cases. Wherever we went, slogans used to be raised "we want anti-people curfew raj to be ended. What to say of our day-to-day necessities of life, we cannot purchase, even white shroud for our dead victims." We do not find any Government machinery involved in the supply of medicines or essential commodities to the people to mitigate the rigours of curfew. In fact we found many persons reluctant to come out of their houses during curfew relaxation hours as they feared unprovoked firing on unarmed people by the security forces. People in the valley say: "There is more terrorism in Punjab than in Kashmir and a large number of people are killed there in comparison to Kashmir, but the Government there does not impose such a continuous curfew, whereas here the Government is imposing this continuous curfew because they want to punish the entire population and wish to starve them."

Jagmohan in his Press Conference on 2nd, April is reported to have said that the present continuous curfew is imposed in order to provide safety to the people from the militants. Nothing can be farther from the truth. Rightly or wrongly the militants have become heroes of the Kashmiri Muslims and the people have no reason to

be afraid of them. The continuous curfew has been imposed in order to prevent the people from coming together for organizing peaceful processions and demonstrations, and also to tame them by reducing them to starvation level. The people bitterly resent the curfew and look upon it as a method of keeping them in virtual house-arrest.

Without meaning any disrespect to Jagmohan it is a fact (which he too must realise) that today he is the most despised person in the valley. All the journalists, eminent or otherwise, who have been showering high praises upon Jagmohan for his "well deserved popularity" in the valley are totally cut off from reality". (emphasis supplied)

iii) In the National Weekly 'Current' (May 26th, - June 1, 1990) Published from Bombay, it has been said :-

"At Anantnagh, a lady, Naseema complained: "my brother Mohd. shafi Bhat was taken away by the security forces 30 days back. So far we know nothing about him. We do not even know whether he is alive. How can he be a terrorist? He is a Junior Engineer in the Rural Development Department."

Barbaric

Lineman Ghulam Hussain complained : The local DIG Virana Aвали and S.P, Ashok Bhan are barbaric. Their men misbehave with our women folk but they take no action. They say we deserve such treatment."

Commented Abdul Gani: "The way security forces raid our villages, loot our houses and mess up our house-hold goods has to be seen to be believed. Such behaviour only generates hatred for the Government. How long can we tolerate such barbarism? If they find a militant and nab him, we don't mind. When they are unable to do that they harass us; is it justified?"

iv) In "Mid-way" dated May 2nd, 1990 published from Delhi Mr. Mani Shanker (In Guest Column) has said:-

"----- It is upon this valley - and this people - that the Governor and his administration have launched a war of attrition. For there is nothing sophisticated or selective about their hunt to flush out the terrorists. Everyone in the valley -- man, woman or child, of every faith and every political persuasion - is indiscriminately the target of continuous curfews of Draconian dragnet and swinging security operations. The administration seems animated by the quite mistaken belief that if they smother, smash and starve the valley into submission, the people will yield up the terrorists in their midst and, exhausted by the severity of the security onslaught, return like lambs to the strait and narrow...."

There is a little or no food in Srinagar. Infants are going without milk. Life saving drugs are virtually unavailable. Since December 15, 1989 that is, for the last 4 months-curfew has been almost continuous, lifted only for a few brief hours early on cold, wintry mornings and reimposed before the commencement of normal working day. Inevitably, the economy has collapsed. With no one able to go out to work, manufacturing activity is at a stand-still, whether it be of the exquisite crafts for which the valley is justly renowned or in the large factories. Shops open, only to be quickly shuttered again. The banking system has folded up. The Post Offices neither despatch nor deliver letters. Telephones are on the blink. Neither cargo nor Passengers can be booked. The Export trade has dried up. And no tourists- the holiday makers on whom the livelihood of lakhs of Kashmiris depends- are anywhere in sight.

The Governor does not answer, but his administration's actions speak for themselves: Yes, without Kashmiris. And yes, without too many muslims. For, of the 6 new Directors General of Police appointed, none are muslims; of the 19 new Inspectors General of Police appointed, only two are muslims; none of the Dy. Commissioners in the valley is a Kashmiri; nor are any of the Heads

of the Departments in the Secretariat.

The "dismantling and rebuilding" of the administration in Kashmir is a chimera; it cannot be done, it must not even be attempted. At best, the bad may be weeded out and the general administrative ethos revamped. But because the concept of "dismantling and rebuilding" is bruited about from one high, and because it emanates primarily from the Governor himself, every Kashmiri is made to feel a second class citizen in his own state. This never happened under Farooq-- or, indeed, under any of his predecessors. It is the inevitable consequences of the B.J.P finding the right agent to by-pass to vacuous Central Government and begin at the beginning; the building of the Hindu Rashtra from the crown of India, top down,"----

v) In a Special Report, appearing in a national journal 'Sunday' (25-31 March, 1990), published in India, it has been said:-

"At the Sher-i-Kashmir Medical Institute in Srinagar's Soura area, a mob gathers mysteriously despite the curfew. A Human Rights Team has come to the Valley to prepare a report. Feeling let down by an unsympathetic administration, the people are willing to talk to anybody who will listen.

The Institute's doctors are disgusted and upset that there has been no attempt yet to establish the number of people dead or wounded in the incidents that have taunted two months of Jagmohan's rule. On the week-end 20-21 Jan., the doctors estimate that at least 450 injured were brought to the hospital. The canteen tables were turned into make-shift beds and the mobs outside forced the doctors to carry patients into the hospital from the road. "That day I went to the theatre," recalls Dr. Rashid Chak, a young neuro-surgeon. Dr. Zahoor Fazili adds that 70-80 percent of the injuries were head wounds; "they aimed to kill," he alleges. There were at least 30 deaths in the hospital that night.

That 1 March, incident, which official reports describe as a shoot out by unknown person on a bus-load of army children, was also "a total massacre." "This story seems improbable because all schools were closed," points out a doctor. Before they knew it, the hospital's wards were over-flowing with patients. Some of them are still at the hospital, a mute testimony to the events that have come to be referred to as 'Jallainwalla Bagh.' Abdul Rehman, a 19-year old, has a gaping hole where his left eye once was. Twenty year old Abdul Rahim Lone jumped off a bus that was being fired at and will be in hospital for many more weeks. Mohammad Yousuf, a farmer from Bijbehara, was hit on the head with butt of a gun.

Heart-rending scenes abound in the hospital. Mohammad Ismail Butt from Bandipora was knocked down by a passing military truck and spent 20 days at Soura. Ishrat, a 9-year old boy, was hit in the groin; he is lucky to be able to limp around. "We will make a militant of him before we discharge him," declares the rosy-cheeked nurse, half seriously. No Government official has cared to record the number of dead or injured, let alone visit the hospital, complain the patients.

In the new, squalid suburb of Channapora, there is a strange hush--a lull after the crying and breast-beating that the whole valley is reverberating with. On 8th March, International Women's day, a truck load of CRPF personnel descended upon a group of huts, looted all the money they could lay their hands on, smashed television and radio sets and raped at least eight women. "It is absolutely bogus," denies Jagmohan's Adviser J.A. Qureshi, as he plots his next move to contain the "mischief-mongers" as he calls the militants. He brushes aside evidence of a Video cassette taken hours after the assault, which records the women's horrifying experiences.

Most of the women have fled the area. Many of the men in their families were injured in the attack, which lasted three hours, from 8.30 to 11.30 A.M. One girl, Amina, has filed a First Information Report; the others did not dare. The incident went

largely unreported in the press, but the incredible network of the Mashjir loud-speakers spread the sorry word. "Let the Government condemn Channapora and institute an inquiry into the incident, if they mean justice," says a young teacher in Jawahar Nagar. "There may be one soldier to 40 of us, but you have put him here not to protect us, but to kill us, Shame."

vi) In 'Patriot' dated March 2, 1990 under the caption 'Kashmir: A time for Treason', Mr. Baljit Malik has, inter-alia, said:-

"But right now, it is not Amritsar that is being consumed by flames. At least not any more than has become normal for it. Right now it is Kashmir that is burning. It is Kashmiris who are being battered and massacred by the Security forces. Do we have any tears for the Kashmiris? Or are our tears reserved for those with stakes in perpetuating Indo-Pakistan enmity?"

vii) In one of the National Dailies from Delhi under the caption "Jagmohan's choice was wrong: Rajiv," Shree Rajiv Gandhi, former Prime Minister of India, has said:-

"Congress-I President Rajiv Gandhi has in a communication to President R. Venkataraman, described as "Scandalous" that the Prime Minister should have selected a person of such "rabid communalist opinion" as Mr. Jagmohan to hold the office of Governor of a crucial State at such a sensitive time.

In a telegram to Mr. Venkataraman he has said that the responsibility "for this disaster rests squarely with Mr. V. P. Singh.

Mr. Gandhi has brought to his notice an interview which Mr. Jagmohan is purported to have given to a weekly news magazine in which he is alleged to have condemned "every Muslim in Kashmir" as a "Militant" and accused all of them as wanting secession from India. According to the interview, he has further accused the Muslims of having adopted an approach of killing of every

Hindu in the valley and, in revenge, threatened to eliminate them first. Communalism permeated every word the Governor had uttered, Mr. Gandhi has complained. Mr. Gandhi further stated in his letter that Mr. Jagmohan had described the Hindus as more intelligent and capable than the Muslims and revealed the condition of his mind in declaring that he did not think even economic and academic opportunities on a par with the Hindus would bring the Muslims upto the Hindu level.

Accusing Prime Minister V.P. Singh of selecting Mr. Jagmohan for the gubernatorial post, he said it was scandalous that he should have selected a man of such rabid communalist opinions to hold such high office in such a crucial state at such a sensitive time. The appointment was made despite the vociferous protests of the elected Chief Minister of Jammu and Kashmir. The Prime Minister had also backed the Governor's strategy of alienating the people of Kashmir, acquiesced in the dismissal of the democratically constituted state Assembly and brought about an unprecedented deterioration in the condition of the valley.

Mr. Gandhi has also said that it is Mr. V.P.Singh's politics of managing contradictions; that is temporising, compromising and accommodating with every variety of communalism-majority or minority that has brought us to this terrible pass.

He has further said that the responsibility for this disaster rested with Mr. Singh. The Governor was only carrying out the policies of the Government. It was not enough that Mr. Jagmohan be dismissed forthwith. It was indispensable that the Prime Minister be called to account for foisting such a Governor on the helpless people of Kashmir unleashing unprecedented violence on the valley, destroying its communal harmony, besmirching the fair name of India in the world and dragging us to the brink of a war."

viii) In Far Eastern Economic Review dated 24th May, 1990 under the caption "The Deep Chasm Between Kashmiri Muslims and

India" Mr. James Clad, President of Foreign Correspondents for South Asia, has said:-

"Since January day in and day out, a terrible cycle of repression has been savaging one of South Asia's beautiful places. New Delhi seems to hope that a measured but relentless use of force will keep the Kashmir valley within the Indian Union. The trouble is virtually no Kashmiri Muslim any longer wishes to remain in India.

On 9th May, Security forces reacted to several grenades thrown in the Lal Chowk market area in Srinagar by indiscriminately firing automatic weapons. Firing continued sporadically for several hours. Visits to local hospitals showed at least eight people died in the violence. Even after the authorities relaxed the curfew later in the day, inhabitants walked past sandbagged control points with hands held high; the soldier's rifles were trained on them.

Even on days without curfew "normality" is deceptive "says a senior Police Officer. There is a sharp divide between outside security forces numbering nearly 150,000 men and the 17,000 local Jammu and Kashmir Police men. The two forces hate one another. Indian troops believe some Kashmiri police collaborate with the separatist groups, the largest of which is the Jammu and Kashmir Liberation Front (JKLF), originally a secular movement of middle class students, whose appeal has spread to the less educated, rural people. Each day results in new block-by-block searches, often by regular army units in full battle dress.

At the hospitals, exhausted staff deal with traumatic injuries. Records at the city's largest hospital show 415 people entering since January 1 with bullet wounds. Kashmiri Hindus were numerous in medical and other service jobs. Most of them have left the valley. The largest hospital has lost 40% of its staff. "It is terrorism," said a senior surgeon speaking of the security forces, "they go absolutely amok".

Dr. Mir Nazir Ahmad, Superintendent of the Gynaecological hospital, described the bedlam erupting in his hospital when shooting occurred nearly on 9th May and casualties started to come in, including a peddler caught in the crossfire. "I could see that he had started sinking. We have no surgical theatre here. I sent him in an ambulance but they (the para-military forces) would not let the vehicle through to the main hospital. "Many ambulances do have bullet holes and large dents said to be caused by rifle butts."

Physicians claim that two of their colleagues, Dr. Yasin Malik and Dr. Salim, have in recent weeks been detained and beaten. Gul Javid Mohammad, a 70-year old retired Director of Statistics and Planning is in hospital with a chest wound. Soldiers burst into his home and rushed up the stairs. He recalled; "I opened the door and thought, who is this man standing in front of me with a gun and then he shot at me."

That abuses are being committed by India's array of forces is beyond question. Interviews with public servants and private citizens reveal some more truths unpalatable to India.

First, the hatred for India by Muslim Kashmiris is almost universal, Kashmiris want freedom from India, but do not want to join Pakistan. Secondly New Delhi's answer to such sentiments is, at present, to apply brute force against the population. This said, it is important to distinguish between the action and the type of atrocities seen, for example, in East Pakistan in 1971, or in contemporary state-sponsored terrorism in Sri Lanka.

Fervent claims that extra-judicial executions have occurred could not be substantiated during the visit by this correspondent. Governor Jagmohan stoutly denied the killings. but the former State Chief Justice, Mufti Bahau-din Farooqi said that Jagmohan applied "genocide and oppression" in Kashmir. Unpopularity does not faze Jagmohan one bit, however. He frequently compares himself to "a nursing orderly, but here to inject bitter but necessary

medicine". He listed his accomplishments to the REVIEW, compared to former Chief Minister Farooq Abdullah's administration which, he said, had ceased to function last year. Now, power, water, roads were supplied and maintained. Schools and colleges have reopened.

On 7th May, he moved nearly 3,000 reluctant Civil servants to Srinagar from Jammu for the Summer months, a routine move in earlier years but now a major logistics challenge. The bureaucrats live in fortified barracks, are fed at a central depot and are bused to work down streets completely cleared of other traffic. Maintaining a visible state Government apparatus means such to Jaggmohan and to new Delhi. It has a symbolic effect. Running through interviews with Jaggmohan and other Indian leaders in the theme that the State Government had virtually collapsed by last October, sending signs of weakness to the separatists and to Pakistan.

Jaggmohan also said trials would soon begin of militants accused of killing various officials including the Vice-Chancellor of Kashmir University and of the alleged master-minds behind the kidnapping of the daughter of Home Minister, Mufti Mohammad Sayeed.

Acting with uncommon speed, the Supreme Court of India repeatedly has stayed orders from the Srinagar High Court whose latest ruling, still pending, requires Jaggmohan to list all people detained after 6th April. The Governor says the court has trespassed into issues of State Security, where it had no business. He says there are no more than 450-500 people in detention; he explains that **the security forces sweep up lots of 150-200 people at a time but release all of them after a short interrogation.**

"I won't say that there is no internal disgruntlement", he said. "But we cannot remove our forces from the scene because of the danger of militant attack." He denied any wide-spread ill-

discipline by security forces but, in the same breath, noted that “they are under heavy stress.”

He defined his regime by saying: “The local people now see a functioning Government.” He also claimed the knock-on effect from civil servants wages was helping the local economy, devastated by the complete disruption of tourism, Kashmir’s mainstay.

Elections remain the promised goal. The Governor said it would take five to six months to eliminate the militants and their associates. Only then does he see elections going ahead though “none of the people would like to come back to the electoral process.”

In the curfew gripped villages West of Srinagar this and other claims seem pretty far from reality. In Khojabagh, near Baramulla, only 10 percent of a local Primary school’s students have come back to class in May. Just as well, 20 of 75 teachers have vanished. Villagers described nighmarish searches, wives being dragged down stairs, beatings and disappearance of relatives for upto two weeks for interrogation.

Harsh though it may be, the tough Government actions seem to have the JKLF and lesser groups on the back out, the intelligence services have made a dent into the separatist leadership. Retaliatory action against Indian forces, other than random attacks, seems rare than a few months ago. The militant leaders have gone underground. yet at other levels of struggle, the partnership of the people remains obvious: a commercial shut-down called by the JKLF on 7th May was totally successful.

Jagmohan’s severe clampdown seeks more than just the temporary emasculation of a movement; it also aims to make Kashmiris realise that their political options will never include separation from India. New Delhi’s severity results from the strategic and symbolic place of Kashmir in the Indian federation; it

is far more than alienation of just 4 million of India's 830 million people. All of India's political parties see India's only muslim majority State as a litmus test of India's Secularism.

In this climate of palpable fear and near total alienation from India, national politicians speak of restarting the political process. Yet the Government's tactics may ensure that this can never happen or atleast, that a return of the status-quo ante is impossible.

ix) In "Time" dated May 14, 1990 under the caption "Sing a Song of freedom", Mr. Edward W. Desmond, has said "-

"For the Indian soldiers and policemen in the streets, Srinagar is enemy territory. At every major crossing, they huddle around sandbag bunkers, taking shelter against the rage around them. They never know when a young man might dash up, whip back his cloak and blast away with an AK-47 rifle, to disappear seconds later in a warren of back alleys. He may kill or wound a soldier or two, and his shots will no doubt trigger a ricocheting over-reaction. The locals call it "Cross-firing": angry soldiers giving chase, shooting at anything that moves, spilling their fury-and playing into the hands of the militants' efforts to spark atrocities, which in turn generate recruits for the case.

Given the frequency of such confrontation, it is no surprise that the troops look nervous and twitchy at their posts around a picturesque city fallen into gloom. They train their rifles or Stenguns at every car approaching on empty, curfew-bound streets. They check the car and indulge in a bit of informal interrogation. "What time does your watch say?" It should not be half an hour behind that might mean the person joined the rebels' call to adopt Pakistan Standard time. "Will you have a drink with us? One should not say no; that might be a sign of Islamic fundamentalism. If one does not pass the test, the results can be violent. An orthopedic specialist in the city has seen 35 broken arms, several broken noses, more than 200 broken or bruised ribs-- all said to have been inflicted

by Indian Security forces since January.”

“The best recruiter for the rebels, however, is the curfew. The Government has imposed one for more than three months; in April it clamped down a curfew for a solid 15 days - 24 hours every day in most of the valley. It was supposed to freeze 2.5 million town-dwelling Kashmiris in place where the security forces cordoned off hot spots with armored vehicles and heavily armed men, then conducted house-to-house, room-to-room, closet-to-closet searches. Though the soldiers were not widely accused of abuses - like incidents of rape and theft alleged against para-military forces who had conducted earlier searches - they did not have light touch. Today, if a visitor happens to go into a place recently combed by troops, there is an instant mob scene, with a dozen offers to see someone, “beaten by the army” and complaints about the press’s failure to “tell the world about our cause and suffering here”.

One man, a prosperous merchant in Kashmir’s craft export trade, was held at gunpoint on the lawns of his home in Srinagar while soldiers entered his house, frisked his wife- an extraordinary violation of honour in India, most of all among Muslims- and grilled him on his political beliefs. An old copy of a foreign news-magazine with a picture of Pakistani Prime Minister Benazir Bhutto on the cover nearly got him hauled off interrogation, but he managed to explain it away. His neighbour was less fortunate. He was taken away because he was flying a green Islamic flag on his house; four days later he returned, badly bruised after hours of interrogations and beatings by soldiers. **Says a senior local policeman: “The army was told to teach these people a lesson”.**

The curfew strangles life in the valley. When it is on, men simply sit in their houses or on street corners or in small parks, out of sight of the security men on the main roads. They cannot go to work because of the curfew, but there is no work anyway. The 300 million tourism industry of Kashmir, once touted as “Paradise on Earth” is dead. Government offices, shops and the few existing

industries are shuttered under the curfew. Banks are also closed most of the time though a few like the State Bank of India, open when the curfew lifts, and long lines form outside under the watchful eyes of soldiers in bunkers manning machine guns.

Markets are open only when the curfew is lifted, and even the supplies are low owing to the disruption of commodities - Vegetables, mutton, and medicines- that come by road from the South. But people adapt. One new business in these hard times is the sale of beef. Cow slaughter was banned in the State long ago in deference to the Hindu reverence for the cow, and the majority of muslims were content to eat mutton. But now there is no mutton, and butchers have started slaughtering cows. Asked why he was breaking the law, one butcher grumbled. " There is no Government anyway."

x) In 'Financial Times, London' dated 11.5.90 under the caption "A soldier came knocking at the old man's door", Mr. David Housego has said :-

"In a hospital room in down-town Srinagar, an old man yesterday recounted how he narrowly escaped death in one of those incidents that helps explain the bitterness that has developed against the Indian security forces attempting to regain control from Kashmiri separatists.

Mr. Ghulam Mohammad, 70, is a retired Director of Statistics in the State Government and thus a respected figure in the local community. On Wednesday, he heard firing in the streets close to his house in the Lal Chowk district. With his wife, he took shelter on the first floor of his house which adjoins a mosque.

Then came the noise of the smashing of glass and wood as his window and front door were broken in. Foot-steps climbed the stairs, there was a knock at the door and he opened the door to find

a soldier holding an automatic weapon.

He stepped back and saw the man pointing his gun at him. He says, "I thought to myself, what is he doing at such close a range, 1 1/2 yards. Then that man shot at me."

The bullet passed through this breast bone, close to the heart and out through his shoulder blade. His wife, Raja, 50, says she sought the help of security forces who were outside to get his husband to hospital.

They told her to get back, otherwise she would be shot as well. It took two hours before a member of the local police provided a vehicle.

Altogether eight bystanders were killed and 16 injured in what officials described euphemistically as "Wednesday's "Cross-firing" - One of the worst such incidents in recent weeks. It began when Kashmiri Muslim nationalists threw hand grenades at a security post manned by the para-military forces, in the Lal Chowk area. With curfew now lifted during the day-time, the streets were crowded.

The other grenades were thrown nearby in what seemed a crude and amateurish attack by the Jammu and Kashmir Liberation Front.

Members of the Border Security Force panicked and opened fire indiscriminately, according to local residents. Police claim their commanders ordered them to stop but the firing continued.

In a nearby bed in the hospital, Mrs. Jana Assad Khan lay with two bullet wounds in her chest. Hearing firing, she had rushed from her house to find her son, who earlier this year had a leg amputated after the bone had been smashed by a bullet in another incident. Her husband stood by, sobbing."

xi) In 'Financial Times, London' dated 15th May, 1990 under the caption "Military crushes Kashmir Faith in Secularism." Mr. David Housego, interalia, says :-

"India's democratic traditions have suffered the damage that comes from using force to cow a segment of its own people - an operation that at the same time brings the armed forces into disrepute.

Secularism - the belief that different creeds can live together and which has been the corner-stone of India's identity as a nation - has been lost to sight with the departure of Hindu minority who dominated hospitals, education, banks, insurance and the distribution of pharmaceuticals. Kashmiri Muslims increasingly feel that their religion itself has become an offence.

Industry has come to a halt. In what is normally the height of the tourist season - with the snow-lined ridges and intense green of the valley drawing Indians in their millions up from the suffocating heat of the plains - the hotels and houseboats are empty. The endless rows of handicraft shops remain closed.

The traumatised face of Baboo Imtiaz Ahmed, 19, a young man of almost film-star looks with a great hock of black hair, recounts how, during interrogation by para-military forces, he was suspended from a rotating ceiling fan.

In the back-yards in the Khawja Bazar area of old Srinagar, he displayed four cigarette burns on his arms and legs and deep bruising on his back from being trodden on.

The painful stammer of a 50-year old villager, Ghulam Mohammad Dar, released after 18 days of interrogation, told to his village of Fatehpur, near Baramulla, how he had been hung from a tree and beaten with clubs. In the same crowded room others showed the marks of chains on their legs.

At the Idgah in Srinagar- the open field where Muslims celebrate the Eid festival - on one side a rough martyrs grave has been dug for militants and others who have recently been killed. A young man shouts in a characteristic mixture of bravado and desperation: "everyone here is prepared to die. We have only two choices, to die or to be liberated"

An old man sobs in court lane in Srinagar. He lost his two sons in cross-fire the day before.

Among the most distraught are the doctors. At the SMHS Hospital, doctors say that most of the wounded brought in have had to be treated for head, neck and chest injuries - suggesting that the para-military forces have fired high.

At the Lalla Ded Maternity Hospital - the largest in Kashmir - Dr. Mir Nazir Ahmed, the Chief Medical Superintendent, describes the last five months as a nightmare. He says that he has had to manage with only 20% of his skilled staff. "Most of the staff is Hindu", He said. "They have left, packed up and gone without even telling me."

Medicines have been in short supply, blood banks have run out of stock because of the continuing curfew and most of the complicated cases have been referred to the hospital because of the loss of staff at smaller clinics.

xii) In 'New York Times' (International) dated 15th, 1990, under the caption "Amid Kashmir 'Paradise' A Deadly Muslim Separatist Conflict", it has been said :-

"India bars International Human Rights Organisation from visiting Kashmir where all foreigners must register with the police on entering the valley. But several Indian teams of concerned citizens have visited the valley and written very critical reports.

In Srinagar, Mufti Bahu-din- Farooqi, a former Chief Justice of the Jammu and Kashmir High Court, and his son, Showkat Ahmed Farooqi, a lawyer, have begun documenting allegations of human and civil rights violations against Kashmiris.

Talking about their work in an interview at Justice Farooqi's home, they lay focus on both the State Administration and on the array of Federal forces deployed here; the Indian Army, the paramilitary Central Reserve Police Force, National Security Guards and various intelligence agencies.

Troops in Srinagar alone have commandeered at least 15 hotels as well as Guest Houses and Private Homes.

Justice Farooqi said that armed forces were sent to Kashmir in contravention of Jammu and Kashmir's Special status in the Indian Constitution.

Between 11,000 and 15,000 have been detained without trial, according to the members of the Kashmir Bar Association, who also say that bodies of some have been dumped along the Pakistan border to be labeled as "infiltrators".

Reporters visiting the Kashmir valley are inevitably introduced to victims of torture. Sometimes these are local policemen, who say they are distrusted by Indian forces, who doubt their loyalty. A state Police Constable in Baramulla said he was picked up, wearing civilian clothes, at a bus stop by federal troops.

"I showed them my police identity card," he said. The colonel said, "This has no value in my eyes." Refusing to implicate a Kashmir Police Officer in the terrorist movement, he said, he was subjected to electric shock.

"They also put hot irons on my back and thighs," he said. When I asked for water, they threw petrol mixed with chillis on my wounds."

“On the fourth day, they threw me in a truck and told the driver to dump me at the side of the road and back over me,” he said.

He lifts his shirt, and loosens his hospital trousers to show dozens of branding-iron burns on his body.

Kashmiris also charge Indian forces with theft-an allegation also made in Northern Sri Lanka when Indians were stationed there from 1987 until early this year.

A woman in her mid-78's said 82 soldiers of Border Security Forces entered the home where she lives with her son and his family. It was just mid-night. There was no warning.

“They came in our room where we were sleeping. I had 33,700 rupees (about \$ 2,000). They took Rs. 26,000.

After they left, we discovered they had also stolen our radio, a watch, shoes, slippers, water glasses, a flash-light and a nut cracker.”

Surgeons and other medical staff of one of Srinagar's largest hospitals crowded into a consulting room, all offering accounts of torture cases they have seen, including a man whose rectum had been torn by insertion of a dirty bamboo pole.

“Whenever the medical profession has extended a hand to victims of violence in our society, there have been problems,” a doctor said. The security forces have entered hospitals, beaten patients, hit doctors, entered operating theatres, smashed instruments. Ambulances have been attacked, curfew passes are confiscated. A number of people have died, unable to reach hospital.”

Doctors say there are shortages medicines for diabetics, cardiac patients, ulcer treatments, hypertension and cancer. They charge

that Indian Airlines won't accept shipments of drugs from New Delhi, 600 miles away. The airline says it is curtailing cargo shipments for security reasons."

xiii) In 'The Independent' dated 6th June 1990 Mr. Raymund Whitaker, after visiting Kupwara (Kashmir), has said:-

"The men of Haihama Payerpora, a picturesque farming community of some 1,000 souls on the rim of the Kashmir valley, fled into the parlour of their Sarpanch or headman, Rustam ali Khan, and sat cross-legged around the walls. Some had difficulty in walking, and one had clearly lost his senses. They had returned the day before from 15 days in Indian army detention.

One by one they lifted their clothes to show massive bruises, burns from electrodes and heated rods, cuts and rope sores. Their torture seems limited only the ingenuity of their captors-one man, whose feet were bandaged upto the ankles, said a bed of coal had been covered with corrugated iron and a deep layer of sand, which slowed their progress when the prisoners were forced to run across it.

The army comes to Haihama Payerpora almost every day. Kupwara district is right on the 1948 cease-fire line dividing Kashmir, and what was a small military depot, a hundred yards from the village, has swollen into a camp holding more than 500 men. India claims that the militants fighting against New Delhi's 42-years reign in Jammu and Kashmir are receiving assistance from the Pakistani side of the line.

One morning in mid-May the troops arrived at the village in force. They seized Mr. Khan, a 75-year old Indian army veteran, and administered electric shocks to him and his wife's brother. In all 15 men were taken, but only 14 come back. Mr. Khan's brother-in-law, Altaf Ali was beaten to death in custody.

The group, a mixture of village elders and younger men who might be tempted to support the militants, was held for eight days at military barrack in Kupwara town, then taken 50 miles away to a large camp near the airport at Srinagar, the capital of Indian Kashmir. For the whole time they were bound and blindfolded; many who contracted dysentery from the dirty water had to be dragged to the latrines. They were released at Kupwara, without shoes for the three-mile walk home.

“We were never charged,” said Mr. Khan, “The soldiers simply told us that if we didn’t stop supporting the militants, we would get more of the same. They also warned us to stay away from the mosque.”

Life back in the village was scarcely any better. The army had cut off their drinking water, and women were molested if they went to the stream. The villagers were not allowed to tend their rice, paddies which need a great deal of attention during the planting season. Government distribution of essential supplies was stopped and even burials were prevented. “If this goes on, we will have to leave,” said the headman. “We complained to the local administrator, but he said he could do nothing. He is afraid of the troops.”

Since the campaign against Indian control of Kashmir exploded late last year, New Delhi has imposed direct rule and brought in an estimated 150,000 troops and para-militaries, ostensibly to prevent the militants terrorizing the Muslims majority among the valley’s six million inhabitants into supporting their demand that Kashmir become independent or part of Pakistan.

The two-hour journey from Srinagar to Kupwara is on a bone-jarring road over-looked by snowy peaks and surrounded by the rich green of newly planted rice. The homes are solidly built in modern materials to withstand Kashmir’s fierce winter but traditional carved shutters in cedar wood are still added.

Sopore, the apple-growing capital of the valley, is surrounded by verdant orchards, and also by military check points. At every one, bus passengers disembark and submit to a lingering search. The only vehicles moving freely are the army convoys, the Border Security Force and the combined Reserved Police Force.

In Kupwara, it is hard to escape the conclusion that the security forces, who are overwhelmingly Hindus and Sikhs, see it as their duty to beat an alien population into submission.

We had gone to the district to look for the home village of refugees in Pakistani Kashmir a few days earlier. They had told appalling stories of rape, robberies and young men being shot when, we stopped in Kupwara to ask direction, it turned out that the village was the three mile wide military zone along the cross-fire line, but there were plenty of similar accounts closer to home.

Mr. Khan insisted that he and his village should be named—others were less brave. As we drove through a forst settlement a few miles away, weeping villagers brought out an unconscious man. All his knuckles were badly burnt. The army and the security forces had camped there for four days during which time the 30-year old man, Abdul, had been subjected to repeated electric shocks. The security forces would not let them take him to hospital, people said. The last time a doctor had tried to come to the area, he was beaten up. At this point an old man rushed out to show the villagers back to their homes, shouting: " We don't want any more trouble here."

Everyone also was only too eager to air complaints of harassment, threats of rape of a 16-years-old girl led away and never seen again, of a man taken from his plough and beaten to death. One village School had 400 pupils on roll, but only 20 had turned up that day. Parents were keeping children at home for fear of the army, according to the teacher. 'The inhabitants of Kupwara town said 14 unidentified men had been buried in the local symmetry since the beginning of the year. They had been dumped in various parts of the

district, their faces burnt with acid to make them unrecognizable. "You must tell people what is happening here," said one man.

Trouble appeared to be brewing when a member of the Jammu and Kashmir Police approached the car and leaned through the window, but he said, "Some of us have been beaten up too. Even we are not safe".

xiv) In a memorandum submitted by the doctors of Medical Institute, Soura, Srinagar to the Governor, they inter-alia, complained:-

"The Institute has been subjected to a number of siege and search operations by the security forces on the following dates:-

- i) Sunday, April 8, 1990
- ii) Tuesday, April 10, 1990
- iii) Sunday, April 15, 1990

The security forces comprising of regular army, BSF, CRPF, JKAP and other Commando groups raided the Institute in large numbers and carried out massive siege and search operations. These lasted from a few to about 14 hours on different occasions. During these raids the wards, Operation Theatres, medical and surgical intensive care units, emergency, private ward block (under construction), doctors, offices, library, blood bank, laboratories, basement area comprising of central stores, Pharmacy, Photography unit, purchase section, kitchen boiler house, laundry and linen services and the residential quarters of the doctors, nurses, para-medical staff, were thoroughly searched. During this operation the security forces harassed a number of doctors, nurses, other para-medical staff, patients and their attendants who were subjected to unpleasant questioning.

It is with pain that we record the following facts of maltreatment of patients by the security forces:-

- a) The Patients suffering from dreaded diseases like cancer with severe and intractable pain (Mrs. Sheikh Parveena, 45 yrs. Female, MRD 67719 and Mrs. Lone Zeba, 60 yrs. Female, MRD 67628) were rolled over & over in their beds. This considerably increased their pain and difficulty. Masks worn by many of them to prevent life threatening infection were removed.
- b) The unpleasant behaviour of the security forces caused exacerbation of chest pain in a few patients (Mr. Bazaz Abdul Ahad, 70 yrs. Male, MRD 68276) suffering from heart ailment in cardiac intensive care unit and ward.
- c) A patient suffering from a kind of blood cancer (Polycythaemia Rubra Vera), with thrombotic vascular disease leading to gangrene of his right toes was severely harassed. His gangrenous toes were taken as frost bite by security forces doctor. He was accused to have sustained the "frost bite", at the border. This patient (Mr. Ghulam Mohd. 25 yrs male, MRD No. 67945) has been attending this hospital for the last five years regularly.
- d) A young patient (Mr. Abdul Rahim 35 yrs. male, MRD 68381) suffering from a completely treatable disease----live abscess with metabolic and hypotension was on life saving intravenous (i/v) line to maintain his vital functions. In the process of his thorough search the security forces rolled him over and over causing the disconnection of his vital i/v line. The doctor on duty was prevented by security forces to restart the i/v line for about 45 minutes as he was being interrogated regarding another patient discharged from the same ward 24 hours before. Repeated requests made by the said doctor fell on deaf ears. As a result the patient, deprived of the life support, bade farewell to this world due to an irreversible cardiac arrest.

These operations produced a show of heavily armed person-

nel in the Institute Campus which is unprecedented in the functioning of hospital.

In addition the faculty of the Institute feel deeply concerned about the constant imposition of curfew since January 1990, particularly, its repercussions on the patients with various life threatening illnesses. It is inferred that these patients must have faced serious outcome without reaching the hospital. The hospitals cannot run their routine surgical operations for patients with treatable disease and those with cancer. Drugs, particularly, the life saving drugs, are also in short supply in the market causing adverse effects on the patient-care''.

Forced by world-wide condemnation of wanton acts of genocide and oppression perpetrated by and at the instance of Jagmohan on the people of Kashmir, Government of India did ease him out of the Governorship of the state but only as a face-saving device. He was replaced by Mr. G.C. Saxena, a former chief of the Research and Analysis wing (RAW), the highest intelligence agency of the Govt. of India, only to utilise his professional expertise to continue with the execution of policies and schemes of repression of his predecessor in a more subtle and sophisticated manner. There is now a growing emphasis on tactical changes rather than on any set pattern or practice. Instead of attempting to uphold and maintain rule of law and human dignity, these tactical changes have defied and defaced the same beyond recognition. Much fictional though it might seem to be, the reality is that there is a rule of jungle prevailing in Kashmir which has no respect for civility or civilised values. A seven member team of Indian Peoples Front, led by Front President, Mr. Nagbushan Patnaik and including, among others, Mr. Rameshwar Prasad, Member of the Parliament, recently'' visited several areas in Srinagar city and in the adjoining districts of Baramulla, Anantnagh and Kupwara and talked to hundreds of people from different walks of life'' and, at the end of their visit, issued a `Press Release' on 21.6.90 in which they said that:-

“Everywhere we went we saw tell-tale signs of ruthless state repression. Everybody we met greeted us with agonizing accounts of the harrowing experience they have undergone in the 127 day long reign of terror of Jagmohan from 19th Jan. to 25th May. We have no words to condemn this fascist brutality. We are now still more convinced that the former Governor-cum-present Rajya MP must immediately be put to trial for all his criminal acts in Kashmir. This is important not only for the purpose of resumption of the political process in the State, but also for preservation of the very sanctity of all our democratic institutions and values.

We are highly disturbed to find that there has hardly been any change in the Government’s Kashmir policy and its execution under the new Governor. The old scenario of incessant curfew, ruthless raids, torturous interrogations, molestation and rape of women, illegal detentions, custodial deaths and ‘encounter’ killings continue unabated. And with no let-up in repression, there can be and is absolutely no move towards any restoration of the political process. We call upon the V.P. Singh Govt. at the Centre to abandon the strategy of state terror and to initiate sincere attempts towards a political solution of the Kashmir question. The curfew-detention-encounter Raj must stop and all sections of the Kashmiri people must be provided with a congenial political environment where they can express their real feelings and aspirations and the Government of India must give a patient hearing to the popular Kashmir voice.

We have observed that the present unrest in Kashmir valley is backed by tremendous popular sanction and involvement and it is entirely wrong to dismiss it as a handiwork of a group of subversives, aided and abetted by Pakistan. It is also mischievous to take a communal view of the movement. The over-whelming majority of the Kashmiri people we met appeared quite resolute to maintain the essentially secular character of the upsurge even in the face of serious communal provocations from different quarters.

We sincerely appreciate the genuine grievances and aspirations of the Kashmiri people and fully sympathise with them in their present struggle against the mighty Indian state which bared its ugly, brutal face in a no-holds-barred bid to crush the popular unrest. As a part of our revolutionary-democratic commitment we have always opposed the Indian Government's coercive measures on the Kashmiri people and will continue to do all we can to mobilise the democratic opinion in India against state terrorism and for a negotiated political solution."

Things have become worse still ever since the above report appeared in the press. The latest happenings at Sopore, Chak-Kawoosa, Wadwan (Badgam), Pampore, Magam, Pinglana, Pulwama, and in several areas of Srinagar city sufficiently bring out that the security forces and even the armed forces now lay more emphasis on humiliation and merciless beating of innocent people; molestation and rape of women; desecration of mosques and burial grounds; and, what is rather a very dangerous trend, on large-scale destruction of property by putting shops, houses and buildings on fire and preventing fire fighting squads from extinguishing the fire.

To add to injury, the new Governor has promulgated two black laws, namely, "J&K Disturbed Areas Act, 1990" and "Armed Forces Special Powers Ordinance, 1990" to legitimize the excesses being committed on the people of Kashmir. These laws are not only immoral but also illegal and unconstitutional. However, these things hardly matter with the Government of India so long as the said laws serve their purpose to hold on to the territories of Kashmir. The excesses being committed by them make one forget the Cruelties of the Miharkula of eastern history. Commenting on the present situation in Kashmir. Mr. Inder Mohan, a renowned journalist and Human Rights Activist of India, in his, 'Press-release' dated 13th July, 1990, has conveyed the same thing in these words:-

'Press Release'

"The brutal inhuman atrocities committed in villages such as Wattgam, Adina near Magam, in Sopore and Baramulla and prior to that on 6th and 8th July in Pampore, Pinglana and the adjoining villages and Pulwama proper can neither be described nor condemned in words.

The Security forces instead of providing security to innocent people, are resorting to large scale arson, loot, wholesale destruction of villages, even burning the injured still alive, mass humiliation of women, making human beings drink dirty drain water and what not. Scores of young men have been forcibly lifted away and their family members are feeling agonized regarding their whereabouts.

The Government in its wisdom or lack of it has been alleging that militants have been destroying the villages which have been their hide-outs. How on earth can militants ever resort to devastation of their own hide-outs, if they be so or torture their own people? The Government through its self-contradictory and absurd statement cannot justify its brutalities against the people. Let the Governor Mr. G.C. Saxena, his advisors and above all the most rootless Home Minister Mufti Mohd. Sayeed, see the writing on the wall. The people of Kashmir are solidly determined than ever before and they can never be subjugated into submission. They are participating in a well organised movement. They will fight for their fundamental, social, economic, political and human rights till they succeed."

Srinagar,
Dated,, July, 13, 1990

(INDER MOHAN)
HUMAN RIGHTS ACTIVIST

CHAPTER II

THE STAND OF PEOPLE OF KASHMIR

To the people of Kashmir, the Kashmir problem is a human problem concerning their future. They want Kashmir to be a land of their dreams, ideals and aspirations. To their mind, the right of self-determination is an inherent and inalienable right, the exercise whereof has been denied to them ever since Mughals invaded and conquered Kashmir in 1579 A.D. Those were the times when might was the only measure of right. However, as the yoke of tyranny became too unbearable, Kashmiris started showing signs of shedding fear in 1931 rising in open revolt against the ill-gotten and suppressive Dogra Rule. The Dogra Rulers had no mandate from the people. Like Mughals, Afghans and Sikhs, they were merely intruders, trespassers and usurpers who had no legal and moral right to govern Kashmir and its people. Kashmiris were no chattel, who could be sold to Gulab Singh, as Britishers had done. Therefore, the Dogra rule was un-authorized, illegitimate and immoral from its inception. At any rate, under the incessant pressure of public turmoil, they lost control over the State and ceased to exercise any civil or military authority over it, after the last despot in their line of succession, Maharaja Hari Singh, fled from Kashmir in October, 1947 for his own safety and survival. Accordingly, he had no legal or moral authority to execute the instrument of accession and link up the destiny of the people of Kashmir with India. Kashmiris firmly believe that the act of the Maharaja in executing the instrument of accession linking up Kashmir with India was a still-born act because, as already emphasized, Dogra rule was illegitimate from the beginning and, if at all it had acquired any legitimacy, that had become extinct by Maharaja's own conduct of abdication under public pressure.

The case of Government of India is that the fugitive

Maharaja appealed for armed help and they assented to it on the condition that he execute an instrument of Kashmir's accession to India. The fugitive Maharaja signed and executed an instrument of accession on 26th October, 1947 and on the basis of this document they airlifted their troops to Srinagar on 27th of October, 1947 and deployed them to other parts of the State. In these circumstances, the questions that immediately arise are as follows :-

- 1) Was it not immoral on the part of India to provide armed help to the fugitive Maharaja even if he had really asked for it?
- 2) Was it not a fraud on the people of Kashmir on the part of India to ask the fugitive Maharaja to sign and execute an instrument of accession for Kashmir's accession to India as a consideration for providing the desired help to him?
- 3) Can the instrument of accession be considered legally valid and binding, even otherwise, on the people of Kashmir in the given circumstances?

The first question inevitably raises the point as to what was the prevailing situation in Kashmir when the Maharaja asked for armed help from India? The case of Kashmiris is that they had risen in revolt against the tyrannical Dogra rule in 1931 and successfully achieved their objective in 1947 when Hari Singh, the last symbol of their authority, had abdicated under public pressure and fled from Kashmir for the purpose of his own safety and survival. During this long struggle, covering a period of 16 years, thousand of Kashmiris had sacrificed everything dear to them not excluding their liberty and lives to deliver Kashmir from the illegitimate and tyrannical Dogra Rule. India claimed the have wrested independence from the British in similar circumstances. It claimed and still claims itself to be a democratic country having the highest record for all civilized values including justice, liberty and human dignity. If that be so, was it really just and fair on the part of India to give armed help to the 'fleeing despot' to enable him to crack-down on

the people of Kashmir in order to resurrect his family rule which, India knew, had been ill-gotten and illegitimate and, at any rate, had ceased to exist as a result of long and hard struggle by the people of Kashmir? Could the help extended by the triesmen to the freedom fighters of Kashmir justify India's rehabilitating the 'fleeing despot' when it has been actively helping the freedom movements in the world? Didn't Mahatma Gandhi dedicate his energy to the emancipation of South African People? Therefore, even if the 'fleeing despot' had requested for armed help, was it not immoral and unethical on the part of India to provide such help to him? Did it not amount to naked aggression against the people of Kashmir?

Even assuming for a moment that there was some justification for India providing the desired help to the fugitive Maharaja on the contention usually put forward by it, though untenably so, that Pakistan had invaded, where lay the necessity to secure instrument of accession from the fugitive Maharaja as a precondition for providing the required help that he wanted? Has India not provided such help to Sri Lanka and Maldives without any precondition and, subsequently, even withdrawn their forces after normalcy was restored in those countries. The irresistible conclusion is that India resorted to this cunning and fraudulent tactics under a pre-conceived plan to annex Kashmir against he will of the people.

Considering the circumstances under which the instrument of accession was executed, it should not be difficult to conclude that it was secured from the 'fleeing despot' on the dotted line in full exploitation of his desperation and helplessness. It was indeed a bargain between unequals, the Maharaja having had no option except to comply with the dictates of the Indian Government if he wanted to receive the desired help. This, by itself, renders the instrument of accession void and illegal and could not bind the Maharaja himself, not to speak of the people of Kashmir. That accession to India by the 'fleeing despot' could not be a voluntary

initiative on his part is even borne out by the following observations made by a foreign author 'Stanly Wolpert' in his book 'JINNAH OF PAKISTAN' Page 335.

The Hindu Maharaja of Kashmir, Hari Singh, refused to join either dominion, fearing he would be dethroned by Jinnah for religious reason, yet "Hating Nehru with a bitter hatred" because of his socialist proclivities, and democratic demands".

There is yet another point which, though not stated above, deserves a mention here. With the lapsing of British paramountcy the sovereignty of the State vested in its people. They could be the sole arbiters of their political fate and future. On these premises also Kashmir's accession to India by the 'fleeing despot', were it even voluntary, could not be treated as legally valid, lacking, as it did, the prior sanction of the people.

In the light of the position explained above, the case of the Kashmiris is that the instrument of accession executed by the fugitive Maharaja for Kashmir's accession to India was immoral, unethical, fraudulent, legally invalid and unconstitutional and, therefore, not at all binding on them. It necessarily follows that the deployment of forces in Kashmir on the basis on this document constituted a naked aggression against the people of Kashmir and they are entitled to ask for their immediate withdrawal.

Even if we look at the matter from the declared stand-point of India, the accession made by the fugitive Maharaja was at best of a provisional nature and subject to final ratification by the people of Kashmir through a fair and impartial plebiscite. This fact is sufficiently borne out by the supporting evidence as mentioned below :-

While accepting the instrument of accession executed by the fugitive Maharaja of Kashmir's accession to India, the Governor

General of India made it clear on 27th Oct. 1947 that :-

“In consistence with their policy that, in case of any state where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the state, it is my Government’s wish that, as soon as law and order have been restored in Kashmir and her soil cleared of the invader, the question of the State’s accession should be settled by a reference to the people.”

*(Mountbatten to Maharaja Hari Singh :
27th October, 1947).*

Contemporaneously, the Prime Minister of India informed the Prime Minister of Pakistan that :-

“I should like to make it clear that the question of aiding Kashmir in this emergency is not designed in any way to influence the state to accede to India. Our view which we have repeatedly made public is that the question of accession in any disputed territory or state must be decided in accordance with the wishes of the people and we adhere to this view. (Telegram No. 402-Prime-2227 dated 27th October, 1947 to Prime Minister of Pakistan, repeating telegram addressed to Prime Minister of United Kingdom)”.

Even before Security Council, speaking through its representative, Mr. Gopaldaswami Ayaner, India repeated its aforementioned stand saying that :-

“The question of the future status of Kashmir vis-a-vis her neighbours and the world at large and a further question, namely, whether she would withdraw from her accession to India and either accede to Pakistan or remain Independent, with a right to claim admission as a Member of United Nations - all this we have recognised to be a matter for

unfettered decision by the people of Kashmir, after normal life is restored to them. In accepting the accession they (the Government of India) refused to take advantage of the immediate peril in which the state found itself and informed the ruler that the accession should finally be settled by a plebiscite being conducted, if necessary, under international auspices" (27th Meeting of the Security Council 15, January, 1948: official records; P.P 29-30)

Again on 23rd of February, 1948, Shri Gopaldaswami declared before the Security Council that :

"As the Security Council is aware, the Govt. of India is fully committed to the view that after peace is restored and all people belonging to the state have returned there, a free plebiscite should be taken and the people should decide whether they wish to remain with India, go over to Pakistan or remain Independent if they choose to do so."

Similar assurances were repeatedly given by Pandit Nehru and his Government to the people of Kashmir. In a broadcast from New Delhi on 2nd November 1947, Jawaharlal Nehru, the then Prime Minister of India said:

"We have declared that the fate of Kashmir is ultimately to be decided by the people. This pledge we have given and the Maharaja has supported it, not only to the people of Kashmir but to the world. We will not and cannot back out of it. We are prepared, when peace and law and order have been established to have referendum held under international auspices like United Nations."

In a white paper issued on Kashmir by the Govt. of India in 1948, it was stated that :

"The question of accession is to be decided finally in a free

plebiscite: On this there is no dispute. There will be no victimization of any native of the state, whatever his political view may be and no Kashmiri will be deprived of his right to vote."

A still more emphatic and categorical assurance was given by Pandit Nehru to the people of Kashmir in January, 1952 saying that

:

"Kashmir is not the property of either India or Pakistan. It belongs to the Kashmiri people. When Kashmir acceded to India, we made it clear to the leaders of the Kashmiri people that we would ultimately abide by the verdict of their plebiscite, if they tell us to walk out, I would have no hesitation in quitting Kashmir."

"We have taken the (Kashmir) issue to the United Nations and given our word of honour for peaceful solution. As a great nation we cannot go back on it. We have left the question for final solution to the people of Kashmir and we are determined to abide by their decision." (Amrita Bazar Patrika, Calcutta, January 2, 1952).

These pronouncements and commitments were so clear and unambiguous that the people of Kashmir took the Govt. of India for their word and opted to wait for the redemption of their pledges. This was even acknowledged by the Security Council while debating the issue in 1964, in the summing up of the proceedings by the President of the Council as reproduced below :-

"The people of Jammu and Kashmir laid down their arms and stopped their struggle for liberation because the United Nations, Government of India and Pakistan assured them that the object they were crusading and battling for was undoubtedly their right and they would have their right through the peaceful means of plebiscite".

It is a different matter that, in course of time, the Govt. of India began to come out in its true colours by consolidating its grip on Kashmir in flagrant violation of its pronounced commitments. Instead of taking steps to have the promised Plebiscite, Indian Government directed its energies towards gradual integration of Kashmir with India and even when Sheikh Abdullah reacted to this volte-face, he was put behind the bars for eleven long years on the basis of a trumped up allegation that he had been conspiring with the United States of America for achievement of an Independent Kashmir.

These developments naturally disillusioned the people about the true intentions of the Government of India and provoked them to reinvigorate their resolve to fight for their legitimate right of self-determination. India tried to crush the movement with force and fraud. Kashmiris, thousands in number, were victimized, imprisoned and subjected to most inhuman treatment. Even children and women were not spared. All these repressive measures, however, failed to kill the movement. Instead it gradually gave it further impetus and now a stage has been reached when there is a mass upsurge in Kashmir and everyone, young or old, woman or child has staked everything dear to him/her not excluding his/her life and liberty to achieve the goal. The universal demand of the people is that they should be allowed to exercise their right of self-determination by means of a free and impartial plebiscite. They are sure that no one who cares for the basic rights of the people can ignore the demand of 12 million Kashmiris, or close his eyes to this just struggle for self-determination based on the pledges given by India itself.

The most tragic part of the Kashmir problem is that India has, over the time, tried to project it only as a territorial dispute between India and Pakistan so as to confuse world opinion while strengthening its colonial grip over Kashmir. But, in truth and reality, it is a human problem of 12 million Kashmiris living on two sides of the control line. They have been separated by artificial

barriers; on the ground level by what is called the 'Line of Control' and, at the legal level by what is styled as "Jammu and Kashmir Egress and Ingress Control Act". To both these arrangements, Kashmiris are not a party. They cannot meet their kith and kin on either side, a right which could not have been denied to them even within the frame-work of the Indian Constitution itself. To this ample testimony is borne out by Article 7 of the said Constitution which, in its application to the State, provides as follows :-

"Rights of citizenship of certain migrants to Pakistan. Notwithstanding anything in Article 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan, shall not be deemed to be a citizen of India: Provided that nothing in this Article shall apply to a person, who, after having migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purpose of C1. (b) of Article 6 be deemed to have migrated to the territory of India after the Nineteenth of July, 1948:

Provided further that nothing in this Article shall apply to a permanent resident of the state of Jammu and Kashmir who, after having so migrated to the territory now included in Pakistan, returns to the territory of that state under a permit for resettlement in that state or permanent return issued by or under the authority of any law made by the legislature of that state, and every such person shall be deemed to be a citizen of India."

Based on this Article the State Government initiated legislation for the return of migrant permanent residents of the state, if they so choose, on the basis of the permits for resettlement or permanent return issued by the State Government. The Act styled as 'Jammu and Kashmir Resettlement of Permanent Residents Act' was passed by the State Legislature and received the assent of the

Governor. But everyone who has followed the developments in India after this Act was passed knows fully well that neither the Government of India nor even the Indian people looked kindly to it and launched a slanderous campaign against the State Government. The Government of India became so furious that they were about to dismiss the State Government, unless the latter compromised to refer the matter regarding testing of its Constitutional validity to the Supreme Court, where it has been lying ever since in cold storage. Still India has the audacity to claim that Azad Kashmir is legally and Constitutionally an integral part of India and if at all there is any dispute about Kashmir it pertains to that area. Kashmiris strongly repudiate the claim that Kashmir problem is a territorial dispute between India and Pakistan and should any attempt be made to solve the dispute on that absurd premise, that will only complicate rather than resolve the issue because no such solution will be acceptable to the twelve million Kashmiris.

Curiously enough, during his visit to Pakistan in connection with SAARC Conference, the then Prime Minister of India, Shri Rajiv Gandhi stated that eversince India made its commitment about plebiscite, several elections have taken place in the State, purporting to convey that was the end of the matter.

Apart from the fact that elections, even if held most fairly and impartially, could by no stretch of imagination be treated as substitute for a plebiscite, it is a matter of common knowledge that even these so-called elections, whenever held, were all rigged at the instance of Govt. of India to prop up puppet regimes in this state for furthering their own nefarious designs. By way of proof, among other indictments, that such elections in the State have invited, it may be enough to quote here the observations of Mr. Justice V.M. Tarkunde, an eminent Judge, Jurist and Humanist of India as under :-

“Every election in Kashmir except the one in 1977 was rigged at the instance of Indian Government.” Radical Humanist (March, 1990)

Kashmiris strongly maintain that the contention put forward by Shri Rajiv Gandhi and like-minded people in India is devoid of any reason or logic and cannot justifiably be a ground for depriving them of the promised plebiscite.

The latest position taken by the Government of India is that in view of the Simla Agreement entered into by the President of Pakistan and Prime Minister of India on 2nd July, 1972 following the India-Pakistan War of 1971, the question of holding the promised plebiscite in Kashmir does not arise. For facility of reference, the said agreement is reproduced below :-

“The Government of Pakistan and the Government of India resolved that the two countries put an end to the conflict and confrontation that have hitherto marred their relations and work for the promotion of friendly and harmonious relationship and the establishment of durable peace in the Sub-Continent, so that both countries may henceforth devote their resources and energies to the pressing task of advancing the welfare of their peoples.

“In order to achieve this objective, the Government of Pakistan and Government of India have agreed as follows :-

- i) That the principles and purposes of the charter of the United Nations shall govern the relations between the two countries.
- ii) That the two countries are resolved to settle the differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them. Pending the final settlement of any of the problems between the two countries, neither side shall unilaterally alter the situation and both shall prevent the organisation, assistance, and encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations:

- iii) That the pre-requisite for reconciliation, good neighborliness and durable peace between them is a commitment by both the countries to peaceful co-existence, respect for each other's territorial integrity and sovereignty and non-interference in each other's internal affairs, on the basis of equality and mutual benefit;
- iv) That the basic issues and causes of conflict which have bedeviled the relations between the two countries for the last 25 years shall be resolved by peaceful means;
- v) That they shall always respect each other's national unity, territorial integrity, political independence and sovereign equality;
- vi) That in accordance with the Charter of the United Nations they will refrain from the threat or use of force against the territorial integrity or political independence of each other.

Both Governments will take all steps within their power to prevent hostile propaganda directed against each other. Both countries will encourage the dissemination of such information as would promote the development of friendly relations between the.

In order progressively to restore and normalise relations between the two countries step by step it was agreed that :

- i) Steps shall be taken to resume communication, postal, telegraphic, sea, land including border posts and air links including over-flights.
- ii) Appropriate steps shall be taken to promote travel facilities for the nationals of the other country.
- iii) Trade and cooperation in economic and other agreed fields will be resumed as far as possible.

iv) Exchange in the fields of Science and Culture will be promoted.

In this connection delegation from the two countries will meet from time to time to work out the necessary details.

In order to initiate the process of the establishment of durable peace, both the Governments agree that :

- i) Pakistan and Indian forces shall be withdrawn to their sides of the International Border.
- ii) In Jammu and Kashmir the Line of Control resulting from the cease-fire of December 17, 1971 shall be respected by both sides without prejudice to the recognised position of either side. Neither side shall seek to alter it unilaterally irrespective of mutual differences and legal interpretation. Both sides further undertake to refrain from threat or the use of force in violation of this line.
- iii) The withdrawals shall commence upon entry into force of this agreement and shall be completed within a period of 30 days thereof.

This agreement will be subject to ratification by both countries in accordance with their respective Constitutional procedures, and will come into force with effect from the date on which the instruments of ratification are exchanged.

Both Governments agree that their respective heads will meet again at a mutually convenient time in the future and that, in the meanwhile, the representatives of the two sides will meet to discuss further the modalities and arrangements for the establishment of durable peace and normalization of relations including the question of repatriation of prisoners of war and civilian internees, a final settlement of Jammu and Kashmir and the resumption of diplomatic relations."

It will be readily noticed that the stand taken by India even within the frame work of this agreement is based solely on a distorted and fallacious interpretation of its contents and in total disregard of the facts forming the background of this agreement. This matter has been ably analysed by Mr. Justice Naseem Hassan Shah, an eminent Judge of Pakistan in its proper perspective in his article published in Nation (March 3, 1990), the relevant portion of which is reproduced below :-

“In the agreement that was reached at Simla between two leaders on July 2, 1972, the problem of Kashmir was discussed in some detail. In relation to the situation resulting from the fighting that had taken place, it was agreed that “Pakistan and Indian forces shall be withdrawn to their side of the International Border. In Jammu and Kashmir, the Line of Control resulting from the cease-fire of December 17, 1971 shall be respected by both sides without prejudice to the recognised position of either side.” But as regards the question as to how these outstanding problems existing between them are to be tackled, it was, inter-alia, provided that the principles and purposes of the charter of the United Nations should be the governing rule. Now since the parties agreed to be governed by the principles and purposes of the U.N. Charter in their relations, the resolutions adopted by United Nations with regard to Kashmir problem which are manifestly in conformity with its charter, as they provide for the exercise of the right of self-determination to the people of Jammu and Kashmir, are applicable in this matter. It is, no doubt, correct that it was also agreed in the said agreement that the two countries will solve their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed between them. But apart from this general statement of principle no details are spelled out in the aforesaid agreement.

Now even if the problem of Kashmir is to be resolved between

the two Governments only through bilateral negotiations the question is as to what is the basis on which the two Governments should proceed in these bilateral negotiations? In this connection, it must be borne in mind that both India and Pakistan had given a solemn pledge to the people of Jammu and Kashmir that they need not continue their armed conflict and should stop fighting as their wishes with regard to the question of accession will be respected and they will be allowed to decide their own future in a free and unfettered plebiscite. It is this promise given by both the states of India and Pakistan to the people of Kashmir which was later incorporated in the mutually accepted U.N. Resolution of August 13, 1948 and January 5, 1949. In these circumstances when Pakistan says that the Kashmir dispute should be settled on the basis of U.N. Resolutions of 13th August, 1948 and 5th January, 1949, it is merely saying "Let the principles and purposes underlying the Charter of the United Nations be applied to the resolution of the dispute" and this is exactly provided for in the Simla Agreement, namely that the principles and the Charter of the United Nations shall govern the relations between the two countries. Therefore it is wrong to allege that Pakistan is repudiating the Simla Agreement by asking for settlement of Kashmir dispute on the basis of U.N. Resolutions of August 13, 1948 and January 5, 1949".

Therefore, properly construed, the Simla Agreement, on its terms, does not really preclude Kashmiris from asking for the promised plebiscite to determine their future. Needless to add that they were not parties to this agreement and, therefore, it could not in anyway be binding upon them.

Going a little further. let us examine whether any interpretation of the Simla Agreement which excludes plebiscite as a solution to the Kashmir problem is valid and tenable even within the frame work of the Constitution of India. In this connection, it would be appropriate to refer to Article 253 of the Constitution of India, which, in its application to Jammu and Kashmir State, reads as follows :-

“253 Notwithstanding anything in the foregoing provisions of the chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body :

Provided that, after the commencement of the Constitution (Applications to Jammu and Kashmir) Order, 1954, no decision affecting the disposition of the State of the Jammu and Kashmir shall be made by the Government of India without the consent of the Government of the State”.

It hardly needs to be emphasized that the above proviso was incorporated to Article 253 in its application to the Jammu and Kashmir State solely to guarantee the assurance given by Government of India to the people of Kashmir as also to the United Nations that the future of the State shall be decided by its people by means of a free and impartial plebiscite. The words used in proviso leave absolutely no room for doubt that in the matter of the future of Kashmir the over-riding consideration shall be the will of the Government of the State. It hardly needs to be emphasized here that in a democratic set up the Government means the duly elected Government which carries the mandate of the people ascertained in a fair and impartial manner and in the context of this proviso with a special mandate for this specific purpose and, properly understood, this in essence would itself amount to a free and impartial plebiscite.

It should thus be abundantly clear that if the Simla Agreement is interpreted as meaning that the future of Kashmir shall be determined otherwise than through an impartial plebiscite, it would be ultra vires of Article 253 of the Indian Constitution and, therefore, invalid and unconstitutional and would not bind the Kashmiris even assuming that the accession of Kashmir to India were valid.

Looking at the Kashmir issue from whatever angle we may, the fact remains that Kashmiris have yet to be given the assured opportunity of exercising their right of self-determination and they will steadily persist with their struggle until they achieve this cherished goal.

CHAPTER III

APPEAL

Kashmiris appeal to all the nations and people of Democratic World to appreciate their feelings and sentiments and the righteousness of their cause. Kashmir's only demand is that they should be allowed to exercise their right of self-determination by means of a free and fair plebiscite as promised by India to them and to the United Nations. Over and over again, since their freedom struggle started in 1931, thousands of Kashmiris have made untold sacrifices including those of life and liberty to be masters of their fate and future of their State. They fought for it against Dogra rule and when that goal was within their reach, India intervened only to enslave them. For forty-two years India has proved itself to be a colonial power having no regard for the solemn pledges made by it at home or at the international level to concede the right of self-determination to the people of Kashmir. Says Bertrand Russel, "when one observes that the high idealism of Indian Government in international matters breaks down completely when confronted with the question of Kashmir, it is difficult to avoid a feeling of despair. (New hopes for a changing world, pages 145, 146)." Naturally Kashmiris could not resist being taken over by this feeling of despair and rise in revolt against India's domination. Presently there is a mass upsurge in Kashmir, spearheaded by younger generation, to wrest their right of self-determination from India. India has let loose a reign of terror to crush the movement. Thousands of Kashmiris have been victimized, persecuted, imprisoned, injured or killed for the last seven months or so. Almost the entire state is in a state of seige. Kashmir valley has been under curfew continuously for the last more than four months which has cause untold human misery. The people of Kashmir venture to ask whether this is not sufficient to provoke the conscience of the nations and peoples of the world to raise their united voice in support of Kashmir in this

hour of their trials and tribulations. The innocent blood being shed by the Indian Government and its agents in Kashmir cries for justice and fairly. Kashmiris implore to the whole world, particularly, the super-powers and our brethren in the Islamic countries to persuade India to respect its own commitments with grace and dignity and allow them to determine their future by means of a free and impartial plebiscite.

'APPENDICES'.

Appendix - 1

RESOLUTION OF THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN DATED AUGUST 13, 1948:

The United Nations Commission for India and Pakistan, having given careful consideration to the points of view expressed by the representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and being of the opinion that the prompt cessation of hostilities and the correction of conditions, the continuance of which is likely to endanger international peace and security, are essential to implementation of its endeavours to assist the Government of India and Pakistan in effecting a final settlement of the situation, resolves to submit simultaneously to the Governments of India and Pakistan the following proposals :-

PART - I

.CEASE-FIRE ORDER:

- A) The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.
- B) The High Commands of the Indian and Pakistan forces agreed to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.

.(For the purpose of those proposals forces under their control shall be considered to include all forces, organised and un-organised,

fighting or participating in hostilities on their respective sides).

- C) The Commanders-in-Chief of the forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.
- D) In its discretion and as the Commission may find practicable, the Commission will appoint military observers who, under the authority of the commission and with the co-operation of both commands, will supervise observance of the cease-fire order.
- E) The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

PART - II

TRUCE AGREEMENT

Simultaneously with the acceptance of the proposals for the immediate cessation of hostilities as outlined in Part-I, both Governments accept the following principles as the basis for the formulation of a truce agreement, the details of which shall be worked out in discussions between their representatives and the commission.

'A'

1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agree to withdraw its troops from the State.
2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir

or tribesmen and Pakistani nationals not normally resident their in who have entered the State for the purpose of fighting.

3. Pending a final solution, the territory evacuated by Pakistani troops will be administered by the local authorities under the surveillance of the commission.

'B'

1. When the commission shall have notified the Government of India that the tribesmen and Pakistani nationals referred to in Part-II, A, 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that state in stages to be agreed upon with the commission.
2. Pending acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire the minimum strength of its forces which in agreement with the commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observes stationed where it deems necessary.
3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law and order will be safeguarded and all human and political rights will be guaranteed.

1. Upon signature, the full text of the truce agreement or a communique containing the principles thereof agreed upon between the two Governments and the Commission, will be made public.

PART- III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agreed to enter into consultations with the commission to determine fair and equitable conditions whereby such free expression will be assured.

APPENDIX-II

RESOLUTION OF THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN DATED JANUARY 5, 1949:

The United Nations Commission for India and Pakistan, having received from the Governments of India and Pakistan, in communications dated 23rd December and 25th December 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's Resolution of 13 August 1948

:

1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic methods of a free and impartial plebiscite;
2. A plebiscite will be held when it shall be found by the

Commission that the cease-fire and truce arrangements set forth in Part-I and II of the Commission's resolution of 13 August, 1948 have been carried out and arrangements for the plebiscite have been completed.

3.
 - a) The Secretary General of the United Nations will, in agreement with the Commission, nominate a plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to this office by the Government of Jammu and Kashmir.
 - b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organising and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.
 - c) The plebiscite Administrator shall have authority to appoint such staff of assistants and observers as he may require.
4.
 - a) After implementation of Part-I and II of the Commission's resolution of 13th August 1948, and when the commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, the final disposal of the Indian and State armed forces, such disposal to be with due regard to the Security of the State and the freedom of the Plebiscite.
 - b) As regards the territory referred to in A.2 of Part-II of the Resolution of 13th August, 1948, final disposal of the armed forces in the territory will be determined by the commission and the Plebiscite Administrator in consultation with the local authorities.
5. All civil and military authorities within the State and the principal political elements of the State will be required to co-

operate with the Plebiscite Administrator in the preparation for the holding of the Plebiscite.

6.
 - a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan. The Commission shall operate under the direction of Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.
 - b) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in the Plebiscite;
 - c) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit;
 - d) All political prisoners are released;
 - e) Minorities in all parts of the State are accorded adequate protection; and
 - f) There is no victimization.
8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the commission may in its discretion call upon the Plebiscite Administrator to carry out on its

behalf any of the responsibilities with which it has been entrusted;

9. At the conclusion of the Plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the plebiscite has or has not been free and impartial;
10. Upon the signatures of the truce agreement the details of the foregoing proposals will be elaborated in the consultation envisaged in Part-III of the Commission's resolution of 13th August 1948. The Plebiscite Administrator will be fully associated in these consultations;

Commends the Government of India and Pakistan for their prompt action in ordering a cease-fire to take effect from one minute before mid-night of 1st January 1949, pursuant to the agreement arrived at as provided for by the commission's resolution of 13th August, 1948; and

Resolves to return in the immediate future to the sub-continent to discharge the responsibilities imposed upon it by the resolution of 13th August 1948 and by the foregoing principles.

.APPENDIX-III

(Correspondence regarding draft Art 306-A subsequently numbered as Art 370 of Constitution of India)

COPY OF D.O. LETTER DATED OCTOBER 12, 1949 FROM SHEIKH MOHAMMAD ABDULLAH, PRIME MINISTER OF JAMMU & KASHMIR. TO SHRI N. GOPALASOWMI AYYANGER, MINISTER OF TRANSPORT AND RAILWAYS, GOVERNMENT OF INDIA.

The enclosed draft Article 306-A which was handed over by you to Mr. Beg, was placed by me before the Working Committee of the National Conference. After close and careful consideration, the Working Committee has arrived at the conclusion that this draft is unacceptable to it. The National Conference has always taken its stand on the principle that it is for the Constituent Assembly of the State to frame the Constitution of the State and it is the considered view of the Working Committee that any deviation from this stand will be disastrous to the cause which it has set before itself. I have always given this assurance to the people of the State that they are the masters of their destiny and if the forces opposed to the National Conference get a chance of demonstrating to the people that the assurance given by me in this respect cannot be fully implemented, the National Conference is bound to suffer a serious set-back in the public estimation and the damage thus done to the cause, in the opinion of the Working Committee, will be irreparable. I am glad to say that this aspect of the question was duly taken note of by the Government of India in the discussions which were held at Sardar Patel's residence on 15th and 16th of May 1949 between the Representative of the Governments of India and Kashmir in which Pandit Ji, Sardar Patel, Maulana Sahib and you were present. After careful consideration it was decided there that it was the settled policy of the Government of India, which had on many occasions been affirmed by Pandit Ji and Sardar Patel, that the Constitution of the Jammu and Kashmir State is a matter for the

determination by the people of the State represented in a constituent Assembly convened for the purpose and that it was for the Assembly to determine if in any matter other than the three specified subjects namely, Foreign Affairs, Defence and Communications, the State will accede to India or not, (Vide Pandit Ji's secret letter dated 18th May, 1949, copy enclosed for ready reference). This letter, in which the decision of the Government of India was conveyed to me, had been duly placed by me before the Working Committee and it has felt reassured to note its contents. The same assurance was repeated by Pandit Ji before the Congress Party meeting on the eve of his departure to U.S.A. The Draft Article 306-A, however, does not implement the decision of the Government of India conveyed in Pandit Ji's letter which the Working Committee rightly considers the sheet-anchor of their policy in this respect. A brief note summarizing the objections to the draft Article and showing how it militates against the decision of the Government of India in the matter is enclosed. I am afraid if the present draft remains unaltered, it will strengthen the hands of the opponents, who will turn it to their advantage and their propaganda concerning this matter is bound to create not only a serious internal situation but also adversely affect the opinion of the outside world including the United Nations which is at present seized of the Kashmir dispute.

2. After careful and anxious consideration, the Working Committee finds itself unable to go beyond what is contained in paragraph 4 of Pandit Ji's letter dated 18th May 1949 in the matter of accession and consequent applicability of the provisions of the Constitution framed by the Constituent Assembly of India to the State. In these circumstances, I enclose an alternative draft Article 306-A for your consideration which in the view of the Working Committee adequately reflects the stand taken by it, and approved by the Government of India.

**COPY OF THE NOTE FORMING ANNEXURE TO AFORESAID
D.O. LETTER DATED OCTOBER 12, 1949 REGARDING OBJEC-
TIONS OF THE GOVERNMENT OF JAMMU & KASHMIR TO
DRAFT ARTICLE - 306-A**

1. In preamble, the stress is laid on the purely temporary Character of the Article 306-A and it does not embody the guarantee given by the Prime Minister of India to the Kashmir Prime Minister in his letter of 18th May, 1949 to the effect that the Constituent Assembly of the State shall be free to accede or not accede to India on any subject other than those on which the State had already acceded to India by virtue of the Instrument of Accession executed by it. The preamble clearly suggested that Article 306-A is only a short lived article and all that the Constituent Assembly of the State has to do is to terminate this Article and thus make all the provisions of the constitution apply to it. This nullifies the purposes for which the State Constituent Assembly is to be convened. As it is within the province of the Constituent Assembly of the State to frame the Constitution of the State, of course, to the limitation placed on it, by virtue of the State having already acceded to India with regard to three specified subjects namely, Defence, Foreign Affairs and Communication, it may or may not apply to the State those provisions in the Constitution which the termination of Article 306-A would automatically apply to the State. This contingency has to be specifically guarded against so that the power of the State Constituent Assembly in this respect may not in any way be curtailed.

2. Clauses (a) and (c) of Article 306-A are allied. It is not clear how the matter contained in clause (b) has been placed between clauses (a) and (c). This, however, is a purely drafting matter.

3. So far as clauses (a) and (c) are concerned, the idea appears to be that all the relevant provisions in the Constitution shall apply to the State unless they are expressly barred by Article 306-A. This being so, it is not clear why parts II to IV of the Constitution have

been omitted in clause (c). The omission would mean that all these parts would be applicable to the State, as they stand, without any modification or exception, from the moment that the constitution comes into force. Part-II defines citizenship of India and in Part-III consisting of Fundamental Rights Articles 8,9,10, 13(d) to (g) deserve special mention. If these provisions apply to the State forthwith, all citizens of India, will be able to come to the State, acquire and hold property in the State and practice any profession or carry on any occupation or trade or business in the State and any law which the State may pass taking away or abridging these rights shall be void. Needless to say that all these and similar other provisions in other parts of the Constitution including those in parts X to XVII, especially such articles as 226, 227, 275, 278 etc. go far beyond the matters regarding which the State has at present acceded to India and the application of any of such provisions to the State would cripple the powers of the Constituent Assembly of the State and thus defeat the very purpose for which it would be convened. In view of the special circumstances, the internal autonomy of the State has got to be kept intact and any device to make it ineffective is bound to cause incalculable harm politically and could not be acceptable to the National Conference in any shape or form. Of course the State could have no objection to the applicability of such provisions of Constitution to it, as are declared by the President in consultation with the Government of State, to be direct consequence of its accession to India in regard to the matters specified in the Instrument of Accession. The preamble and clause (c) as drafted are, therefore, unacceptable.

4. There is no objection to the retention of clause (a) and clause (b) (i) with a slight amendments, namely, substitution of "in" for "after" in the clause. Sub-Clause (ii) of clause (b) is open to the same objection as clause (c) and is not, therefore, acceptable.

5. In Article 306-A the words, "Government of the State" require clarification. The words, "The Government of the State" would, according to Section 4 of the Jammu and Kashmir Constitution Act

of 1896, mean as follows :-

:"The territories for the time being vested in His Highness are governed by and in the name of His Highness, and all rights, authority or jurisdiction which appertain or are incidental to the Government of such territories are exercisable by His Highness, except in so far as may be otherwise directed by His Highness."

There does not appear to be any definition of the Government of the State in the Constitution. In view of the Section 4 of the Jammu and Kashmir Constitution Act, it is necessary that the phrase "Government of the State" should have an Explanation appended to Article 306-A which should ensure that the Government of the State in this Article actually **means the Council of Ministers as at present constituted.**

COPY OF DO.O. LETTER DATED OCTOBER 15,1949 FROM SHRI N. GOPALSWAMI AYYANGER, MINISTER OF TRANSPORT AND RAILWAYS, GOVERNMENT OF INDIA, TO SHEIKH MOHAMMAD ABDULLAH, PRIME MINISTER OF JAMMU & KASHMIR.

Our discussion this morning, as I indicated to you, left me even more distressed than I have been since I received your last letter from Srinagar.

But this personal reaction of mine is irrelevant when I feel weighted with the responsibility of finding a solution for the difficulties that, after Pandit Ji left for America and within the last few days, have been created, from my point of view, without adequate excuse.

In spite of this personal feeling, I am an anxious and keen now as ever I have been to see that you are not given any cause for genuine or even imagined grievance in regard to the policy that

Government of India follows in relation to Kashmir. I have therefore, since you left me this morning, tried to find a way out of the present situation in regard to article 306-A.

I enclose a draft of Article 306-A with the language of it re-adjusted so as to meet practically all your main points.

I do not wish to write a thesis on the changes that I have made. You will be able to recognise them easily. If you wish to have any further elucidation in the matter, I would request you to come over and discuss it frankly with me.

I do hope you will appreciate the gesture I am making. If you are agreeable to this new draft being substituted for the one of which the Drafting Committee has already given notice, I shall ask the Drafting Committee to give notice of this draft in substitution of the other one. Personally, I should like you to move this draft yourself in the House. We shall be there to support you, and I hope the debate would be maintained at such a high level that a report, when cabled to America, will have effect on the discussions of the Kashmir problem, that may there be going on, will be of the maximum help to Pandit Ji.

I am looking forward to your rising to the occasion.

COPY OF D.O. LETTER FROM SHEIKH MOHD. ABDULLAH TO SHRI N. GOPALSWAMY AYYANGER, MINISTER OF TRANSPORT AND RAILWAYS GOVT. OF INDIA NEW DELHI.

Your letter dated 15th October, 1949 was delivered to me last night.

2. I am sorry to find that my letter dated 12th October, 1949 and the discussion that I had with you yesterday morning have distressed you and that, according to you, after Pandit Ji left for America, the difficulties have been created without adequate ex-

cuse. I can assure you that there is nothing further from my intention than to cause any pain to you or to create any difficulty. I am no less anxious than your self to find out the solution of the genuine difficulties which the draft article 306-A has created for the Jammu and Kashmir Government and the National Conference.

3. I and my colleagues have given anxious consideration to the new draft sent by you with your letter last night. We have carefully weighed its pros and cons, and our reaction is that it does not remove difficulties which were pointed out in detail in my last letter and the note forming its enclosure and further in the discussions with you and the other representatives of the Government of India. In our considered view the draft which I sent with my last letter fully reflects our and the Government of India's commitments (vide Pandit Ji's letter dated May 18th 1949) in the matter and consistently with the stand which the National Conference and Pandit Ji have taken in this respect, it is not possible for us to go beyond it. As I stressed in my last letter any departure from this stand, would imperil the position of our party both inside and outside the State. But in order to accommodate your point of view to the maximum extent possible, I am enclosing a fresh draft prepared by me and my colleagues last night and I hope you and the Drafting Committee will find it acceptable. Even this draft considerably restricts the powers of the Constitution Assembly of the State, in-as-much as in certain matters, it, subject to the ratification by the Constituent Assembly, clothes the Government of the State with powers which rightly appertain to the Constituent Assembly and would on that ground cause great dissatisfaction in the State both inside and outside our party, not to speak of its repercussions in those parts of our territory lying at present beyond the cease-fire line and in foreign countries. This draft in our opinion goes far beyond the pledge given to us by the Govt. of India in Pandit Ji's letter, but in response to the appeal made by you in the last two paragraphs of your letter, I sent this draft in the hope that it will resolve the controversy and avoid the creation of a situation which may be unfortunate in the present international setting. I want, however, to

make it clear that in no case is it possible for us to go beyond our new draft. In case even this draft is not acceptable to the Drafting Committee, I would suggest that you kindly take steps to ensure the postponement of the consideration by the Constituent Assembly of the proposed Article 306-A to some date after the return of Pandit Ji, so that in his absence no unpleasant situation may develop which may in any way cause embarrassment to him while he is in U.S.A.

Copy of D.O. letter dated 17.10.1949 from Sheikh Mohammad Abdullah to the address of Shri N. Gopaldaswami Ayyanger, Minister of Transport and Railway, New Delhi with a copy to Hon'ble Moulana Abul Kalam Azad Minister for Education Government of India New Delhi.

The events that took place this morning on the Constituent Assembly have deeply distressed me and my three colleagues, representing Kashmir in the Constituent Assembly.

2. In my letter of 12th October, 1949, I had told you that the draft article 306-A handed over by you to Mr. Beg was not acceptable to us, as it failed to implement the pledges given to us by Pandit Ji on behalf of the Government of India and was totally opposed to the stand taken by the National Conference in this matter right from the beginning and approved by Pandit Ji and Sardar Patel in a number of public speeches and we submitted our alternative draft, which restricted the power of Parliament to make laws for the State and the application of the provision of the Constitution in relation to the State in matters, which were not directly related to the three subjects specified in the Instrument of Accession, in accordance with the assurances given to us by Pandit Ji. After that the position was discussed several times with your by my representatives and, during the night of the 15th of October, I received another draft from you alongwith the letter of that date. In my reply, on the 16th morning, I informed you that if was not possible to accept your revised draft and in order to accommodate your view point to the maximum extent possible, I submitted another draft to you which,

as I stated in my letter dated 15th October, went far beyond the sphere in respect of which we have acceded to India. I clearly told you in that letter that it was not possible for me to go beyond this draft and requested you to accept it. You further discussed the matter with my representatives, and another draft, prepared by you in consultation with them, was sent to me by you through them. Yesterday afternoon this draft was finalized, and, on the assurance given by you to Mr. Beg that this finally revised draft will be put up before the Constituent Assembly on behalf of the Drafting Committee, he withdrew his amendment, about the moving of which in the Constituent Assembly, he had given notice to the Secretary of the Assembly. I also wrote to you a letter expressing my gratefulness to you for the pains you had taken in the matter and for the final draft which had been accepted by you on behalf of the Govt., and I informed you therein that Mr. Beg had written to the Secretary of the Constituent Assembly for withdrawing his amendment.

3. This morning when we expected the final draft, which had appeared in the List of Amendments circulated by the Secretary of the Constituent Assembly, to come up before the Assembly, you and Moulana Sahib came to me and asked me if I could accept an important change in the Explanation to Sub-Clause (b) of Clause (I) of the Draft Article 306-A, as appearing in the List of Amendments. After careful consideration of the proposed amendment in the Explanation, my colleagues and I told you both in the lobby that it was not possible for us to accept this change in the final draft and you and Moulana Sahib left us. While we were still discussing the matter in the lobby amongst ourselves, the draft Article 306-A was moved by you in the Constituent Assembly, and, when part of your speech was over, we were told by someone that the draft Article had been taken up by the Assembly, and, therefore, we took our seats in the Assembly Hall. We could not conceive that any amendment in the final draft, as circulated in the list of Amendments, would be made by you without conveying your final decision in the matter to us, and, so, we took it for granted that the final draft Article 306-

A was presented before the Assembly in the form in which it had our consent; and, therefore, when it was passed by the Assembly, we did not take part in the debate. While Moulana Sahib and you came to us to discuss the matter with us in the lobby, I clearly told you that, in the event of any change in the finalised draft Article 306-A, we should be at liberty to move the amendment, of which notice had been given by Mr. Beg and his two other colleagues and which had been withdrawn on the express assurances given by you yesterday. In these circumstances, it was not possible for us to move any amendment and we did not get an occasion to express our views on the matter before the open House.

4. As I have told you before, I and my colleagues have been extremely pained by the manner in which the thing has been done, and, after careful consideration of the matter, we have arrived at the conclusion that it is not possible for us to let the matter rest here. As I am genuinely anxious that no unpleasant situation should arise, I would request you to see if even now something could be done to rectify the position. In case I fail to hear from you within reasonable time, I regret to say that no course is left open for us but to tender our resignation from the Constituent Assembly.

COPY OF D.O. LETTER NO. HMT/217/49 DATED 18.10.1949 FROM SHRI N. GOPALASWAMI AYYANGER, MINISTER OF TRANSPORT AND RAILWAYS, GOVERNMENT OF INDIA, NEW DELHI, TO THE ADDRESS OF SHEIKH MOHAMMAD ABDULLAH.

1. I opened and read your letter dated the 17th October 1949, when I returned home after the close of the prolonged sitting of the Constituent Assembly yesterday.

2. It would be too mild description of my first reaction to your letter if I said that it was a painful surprise to me that you should have chosen to write to me in terms you have done. It is clear that, behind all that you have said in the letter, there is an undercurrent

of feeling that the only person that has, and could have, a sense of grievance in connection with this matter is yourself. Nothing could be farther away from a correct, balanced appreciation of the fact.

3. You have ended up your letter with a sentence which reads like an ultimatum. I am sure that, after you had slept over what you have written to me yesterday evening, you have yourself come to realise that you should not have written to me in that way.

4. I do not propose to deal with the history of the drafting of Article 306-A, which in its final form, the Assembly adopted unanimously and without a single dissentient voice and without a speech from anybody raising any note of criticism. It is true that, after having unsuccessfully attempted, along with Moulana Azad, to persuade you to agree willingly to the substitution of the words "for the time being in office" for the words 'appointed', I did move the article with the amendment after obtaining the permission of the President to do so. The whole House accepted this. I am sorry that you could not move any amendment of your own as against the one I moved; there was, however, nothing to prevent you or any of your colleagues from opposing the amendment that I did move, and as a matter of fact, we were looking forward to your making a speech on the whole of the article, and I believe the President waited for a minute or two for Members to rise for making speeches before he put the draft article to the House.

5. Article 306-A, as finalised in agreement between us, was given notice of on the evening of the 16th after I got your letter of that date and it was immediately circulated to the members of the House. The attempt made by me and Maulana Azad the next morning, when the House was sitting, to persuade you to accept a trivial change, was due to the desire expressed by a large number of the leading Members of the House. All of us, including myself, Maulana Azad and Sardar Vallab Bhai Patel, were of the opinion that it was necessary from any point of view that the change suggested should be accepted. Personally, having agreed with you to the language of

the original draft, I felt a special responsibility in agreeing to this change. And I may tell you at once that I agreed to it because I was, and am, convinced that the change in the actual words used in that particular connection did not alter the meaning of the draft agreed to between us.

6. I should think that it is impossible to escape the correctness of what I have just now said. The words used in the Explanation as agreed to between us are "Council of Ministers appointed under the Maharaja's proclamation dated the 5th March 1948". The words appearing in the article as passed yesterday are "the Council of Ministers for the time being in office under the Maharaja's proclamation dated the 5th March 1948". Under the article, the Council of Ministers has to be consulted on certain matters and its concurrence has to be obtained in other matters. It is obvious that members of this Council appointed under the Maharaja's proclamation cannot give their advice or concurrence unless they happen to be functioning, that is, in office, at the time when such advice or concurrence has to be given. Nor can there be any members of the Council competent to give their advice or concurrence unless they were persons appointed under the Maharaja's proclamation. I hope you will, on reflection, realise that the change of words does not constitute any slightest change in sense or substance.

7. In the circumstances, I am unable on the merits to appreciate your suggestion that something should be done to "rectify the position". There is nothing so far as I can see, which needs rectification. But if you think otherwise, you and your colleagues, who are members of the Assembly, might take such steps as the rules of the House may allow for carrying out any rectification that you may desire and, if any concrete proposal is made, I can assure you, on behalf of the Government of which I am a member, that your proposal would receive our best consideration on its merits. I am bound to add, however, that there was nothing in the manner in which the article was moved and passed which laid itself open

to any criticism. It was both politically and parliamentarily unexceptionable.

8. I do not consider, therefore, that there is any justification for your entertaining any idea of resignation from the Constituent Assembly. The step if taken would produce the most unwelcome and serious repercussions in Kashmir, India and the World, and I must ask you to communicate with the Prime Minister before you decide on anything like it. For myself, I shall pass on to him your letter and this reply of mine to it.

With very kind regards,

COPY OF D.O. LETTER DATED 18.10.1949 FROM SHEIKH MOHAMMAD ABDULLAH TO THE ADDRESS OF SHRI N. GOPALASWAMI AYYANGER, MINISTER OF TRANSPORT AND RAILWAYS, NEW DELHI, WITH A COPY TO MAULANA AZAD.

Kindly refer to your D.O. letter No: HMT/217/49 of date.

1. As you have decided to refer the matter to Pandit Ji, I do not desire to prolong the controversy, I cannot help saying how I do feel that we have genuine grievance in the matter. Apart from the fact that the draft Article containing the new amendment, to which we did not agree, was moved while none of the four members representing Kashmir was in the House, it is strange that it was not considered worthwhile to invite us for the Party Meeting, at which, as stated by you and Moulana Azad to me in the lobby yesterday, this question was discussed and the decision of making this change, which you consider trivial, but which, from our point of view, was material, was taken. We should have been given opportunity for putting our views before the Party Meeting. It is incomprehensible that while we should be asked to participate in the Party Meeting when other questions are discussed there, we should be left out when such a vital question affecting us is under consideration. In fairness to us the Party should not have approved any change in

the finalized draft, accepted by you on behalf of the Government, without hearing us.

2. It is also difficult for me to appreciate your argument that "there was, however nothing to prevent you or any of your colleagues from opposing the amendment that I did move..." We did not know at all that you had moved the finalized draft Art, after inserting amendments not agreed to by us, in it on the floor of the House. This is our second main grievance in this respect. As I have already stated in my letter of yesterday, you left us in the lobby without intimating to us the final decision of the party and without telling us that you were going to move the draft Art. in the House. In these circumstances, we entered the Assembly Hall when considerable part of your speech was over. We could not imagine that any change had been made in this draft Article, and, therefore, we could not oppose the amendment. We, therefore, strongly object to the procedure adopted and cannot agree with you that "it was both politically and parliamentarily unexceptionable."

3. I am sorry to find that you have taken the last two lines of my letter as an Ultimatum. There is no question of ultimatum. It was a plain statement of facts. In view of what happened in the House, we feel that we cannot do any useful service as members of the Constituent Assembly, and despite your letter, our position remains the same. If the same atmosphere continues to prevail here, it is difficult to view with equanimity how the work of the consultations and obtaining our concurrence in connection with Art. 306/A will proceed. I, however, leave the matter here for the present and would await Pandit Ji's return from abroad.

4. As regards what is contained in para 7 of your letter, it is for the Government of India, or the party to take suitable action in the matter, so that our views regarding it which have been explained to you and the Drafting Committee a number of times-may be reflected in the Explanation contained in the Draft Article 306-A.

5. Before I conclude, I am to say that I am sorry if my letter of yesterday in any way hurt your feelings. There is no question of giving you any offence. We all greatly appreciate the help given by you and the sympathy shown by you in realizing our difficulties, but we feel that it is our misfortune that, **despite all this, the final outcome of the negotiations has been not very encouraging.**

With very kind regards.