

# **S p e c i a l      S t u d y**

## **Kashmir**

### **Initiatives, options, prospects**

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## **Initiatives, options, prospects**

Kashmir has been wrecked by violence for more than a decade and just when it appeared that there is light at the end of the tunnel, gloom has set in again. The talks with the Hizbul Mujahideen proved to be a non-starter and broke down even before the modalities of a cease-fire could be finalised. Pakistan's not so invisible hand was evident.

The chain of events began with the government releasing Hurriyat leaders from jail and thereafter inviting them for talks. Coinciding with this development, the Jammu and Kashmir Assembly adopted a resolution seeking restoration of the pre 1953 status. The Union cabinet rejected this. And while all this was brewing, the most dominant indigenous Kashmiri militant group, the Hizbul Mujahideen, unilaterally announced a three month cease-fire, an offer that the Central government promptly accepted with a call for participation in talks. These were dramatic developments for a State that has witnessed violence for a decade and where thousands of lives have been lost.

At present the political situation is in a state of flux with shifting nuances. On the ground the offensive has been resumed but with the Hizbul Mujahideen still not fully active, the security forces are concentrating on foreign mercenaries. The Central government today is angry and upset over the role of Pakistan in the entire episode. But there is still hope of resumption of talks with the Hizbul. There are other options as well. The important thing is that the ice has been broken. An initiative for peace has been taken by the government of India despite provocation from across the border. Equally important is the fact that the most dominant indigenous militant organization did recognize the need for peace, in fact took the initiative and started a dialogue. There is therefore hope.

### **Geography**

But first, a background to the state of Jammu and Kashmir. The terms "Kashmir" and "Muslim" are often loosely, and wrongly, used when referring to the State of Jammu and Kashmir. Pakistan has deliberately fostered this erroneous representation to stake its claim to what it terms a "Muslim state". The State of Jammu and Kashmir is by no stretch of imagination a homogeneous religious or ethnic entity. It represents a mosaic of different religions, different ethnicities and cultures symbolic of India.

The State of Jammu and Kashmir, in its entirety, consists of Jammu in the South, Ladakh in the North and the smallest segment, the Kashmir Valley. Jammu province has strong

Hindu (Dogra) presence in the Jammu, Kathua, Udhampur and Kishtwar-Badarwah region. But Rajouri and Poonch (both parts of Jammu) have Muslim Punjabi, Pahari and Gujar people also. Zankar is Buddhist. Ladakh is divided, with the Leh region being Buddhist while Kargil has a preponderance of Shia Muslims. Within the Kashmir Valley too while the Kashmiri Muslims are dominant, the Kashmiri Hindus called Pandits had a significant presence until 1990-91 when terrorism drove them out, while the Gujars and Bakarwals continue to remain in the Valley. There are also some Sikhs in both Jammu and the Kashmir Valley.

The other parts of Jammu and Kashmir are the areas under Pakistan's Occupation divided into so-called "Azad" (independent) Kashmir and the Northern Areas of Gilgit and Baltistan.

Linguistically, the language of Kashmir and (parts of Doda) is Kashmiri. Dogri, Pahari, Punjabi and Gojari are spoken in Jammu and the Kashmir hills; Ladakhi or Bodhi (akin to Tibetan) in Leh, and Balti and Dardic dialects in Kargil.

The people of "Azad" Kashmir under Pakistan's occupation are mostly Sunni Muslim and speak a mix of Punjabi, Pahari and Pushto. There are few if any Kashmiris or Kashmiri speaking people. The Northern Areas comprise a variety of ethnic groups of which the most significant are Balti, Shin, Yashkun, Pathan, Ladakhi and Turk, and the languages used are Balti, Shina, Brushaski, Khawer, Wakhi, Turki, Tibeti, Pushto, Urdu and Persian. The Northern Areas have sizable Shia and Ismaili population though Sunni Muslims are also present.

The constituent units of the State of Jammu and Kashmir still retain many of their distinctive religious, ethnic and linguistic features. This heterogeneity was not lost even when they were incorporated in one or the other empires-Asokan, Kushan, Mughal or British and today it finds an echo in the ethnic, linguistic, cultural and religious diversity of India.

## **History**

The centuries old civilization, religious, cultural and political links of Jammu and Kashmir with India have therefore shaped the evolution of the ethos and structures of the state. The endorsement of Jammu and Kashmir's accession to India, by a Kashmiri leader of the stature of Sheikh Abdullah, father of the present Chief Minister Dr. Farooq Abdullah, reflected not just a political choice but a reaffirmation of the intrinsic relationship between the destinies of India and Jammu and Kashmir.

Jammu and Kashmir represents a synthesis of religious and cultural influences that pre-date the advent of Islam into the Valley. Shaivite Hinduism and Buddhism had fashioned

Kashmir long before Islam. The earliest history of Jammu and Kashmir was recorded by the Kashmiri historian Kalhana Pandit in his book "Rajtarangini" in the 12th century. The territory of Jammu and Kashmir was part of the empire of Ashoka the Great and it was during his reign that Buddhism was introduced into Kashmir in the 3rd century B.C. Attempts to revive Brahminism occurred after the decline of the Kushan empire and by 530 A.D. Kashmir had regained its freedom but accepted the suzerainty of the Ujjain Empire of Vikramaditya. One of the most famous Hindu rulers of Kashmir was Lalitaditya who ruled from AD 697 to AD 738. A successor, King Avantivarman founded the city of Ananthipur near Srinagar. The temples in Ganpatyar in Srinagar and Khir Bhawani near Ganderbal are believed to date back to the time of the Mahabharat. The Gilgit manuscript discovered at Naupur in 1837 is believed to be the very oldest Buddhist Pali text.

The phase when Brahminism sought to reassert itself after the decline of the Kushans and came up against entrenched Buddhism, witnessed the emergence of "Trika Shastra" as the all embracing philosophy that drew on the diverse religious precepts. The interaction of "Trika Shastra" and the Sufi Islam of Persia and Central Asia, which came to Kashmir in the middle of the 14th century A.D., created the Rishi tradition that forms the core of the ethos of "Kashmiriat" which the people of the State wear as their badge of a distinctive cultural and religious identity even today.

The veneration of the saints and shrines of all religions that is very much a part of the Kashmiri psyche springs from the composite culture that "Kashmiriat" represents. It embodies the tolerance, harmony and religious co-existence that has fashioned the spirit of the people even at times of adversity including periods of war and terrorism. A remarkable manifestation of this ethos of tolerance is the annual Amarnath Pilgrimage where Hindu pilgrims visit the ice cave that was discovered by a Muslim family and is, till today, informally cared for by the descendants of that family. So deep rooted is the belief in religious harmony that at the time of the partition, Jammu and Kashmir remained free of the communal violence that plagued many other parts of the Indian sub continent.

Muslim rule over Jammu and Kashmir dates back to around 1339 when Shah Mir of Swat and Reinchan Shah converted to Islam and his reign was followed by that of Shah Mir who occupied the throne in the name of Shamsuddin. While this period was marked by relatively enlightened rule, the rein of Sultan Sikander (A.D. 1389 - 1413) was marked by complete oppression of Hindus and the destruction of the symbols of the Hindu religion somewhat akin to what the fundamentalist terrorists are seeking to perpetrate in Jammu and Kashmir today in the name of a jihad or holy war.

It was during Sultan Sikander's time that a large number of adherents to the Sufi school of Islam came to Kashmir from Persia and Central Asia. Among them was Mohammed

Abdullah and some others, including the Mirwaiz Maulvi Yusuf Shah, the Muslim high priest of the Valley, in the lead. The Maulvi, it soon transpired, was accepting a monthly stipend from the Maharaja and this, among many other factors, forced Sheikh Abdullah to steer away from Muslim communal politics as symbolised by the then Muslim Conference. By the mid-1930s Sheikh Abdullah had moved to a secular base and formed the National Conference, comprising Hindus, Muslims and Sikhs. The National Conference inevitably found itself drawn towards the Indian National Congress. A foundation was thus laid of an abiding friendship between Sheikh Mohammad Abdullah, Jawaharlal Nehru and Mahatma Gandhi.

## **The Accession**

Since the partition of the Indian sub-continent in 1947, and the creation of Pakistan as a homeland for Muslims, Pakistan has sought to project that the accession of Jammu and Kashmir to India was invalid and that as a state with a Muslim majority, it should have become part of Pakistan. The Pakistani argument is that since the state had a Hindu ruler he was persuaded to accede to India, while if the wishes of the people had been considered, they would have opted for Jammu and Kashmir acceding to Pakistan. This hypothesis has been used by successive leaders of Pakistan to refer to Jammu and Kashmir as the “unfinished business of partition” and to justify Pakistan’s “concern” for the Kashmiris rights and its continuing interference in Jammu and Kashmir. Successive Pakistani leaders have referred to Kashmir as the “jugular vein” of Pakistan, a demonstration of the fact that it is the strategic importance of the state that has fashioned Pakistan’s actions and not any regard for the rights of the Kashmiris. Major General Akbar Khan who organised the raids in 1947 to annexe Jammu and Kashmir by force writes in his book ‘Raiders in Kashmir’ that “it seemed that Kashmir’s accession to Pakistan was not simply a matter of desirability but of absolute necessity...”

The history of the state proves the malafide nature of Pakistan’s arguments. The two nation theory was proved fallible even at its inception when a sizable Muslim community chose to live, and continues to live, in secular India rather than go to the newly created Pakistan at the time of partition. In 1971 the Eastern Wing of Pakistan broke away after a war of liberation fought by the Bengali Muslims against the oppression of the Muslims rulers of West Pakistan.

Given the ethos of Jammu and Kashmir and the liberal and secular philosophy that provided the foundation for the Indian Union, it was natural that the leaders of the people of Jammu and Kashmir would seek to identify with a polity that enshrined the same values that they cherished. India, since its independence, has been a vibrant, secular democracy, albeit not perfect but still providing to the people of all its states, including Jammu and Kashmir, free and equal participation in political life and governance that has enabled them to determine their own destinies. It was this awareness of what India

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The provision for accession made in the Government of India Act of 1935, as adapted under the Independence Act of 1947, says : “An Indian State shall be deemed to have acceded to the Dominion if the Governor General has signified the acceptance of an Instrument of Accession executed by the Ruler thereof.”

The law did not provide that the Instrument of Accession could be conditional. Once the accession was accepted the particular Princely State became an integral part of one or the other of the two Dominions, India or Pakistan. The law had no provision for consulting the people of the Princely States. The ruler’s decision was final. Nor was there any provision that the accession had to be ratified by ascertaining the wishes of the people of the acceding State. There was also no question whatsoever of taking into account the religious complexion of the population of any of the Princely States.

Though Pakistan now harps on the people of Jammu and Kashmir not having been consulted about the accession in 1947 and demands a UN supervised plebiscite to ascertain their wishes, the reality is that while India was willing to ascertain the people’s wishes it was Pakistan which objected to any UN supervised plebiscite. Lord Birdwood in his book ‘Two Nations and Kashmir’ (London 1956 Page 46-47) writes “...With Mr. Jinnah, the approach (of Indian Princely States accession to India or Pakistan) was governed by the strictly constitutional attitude, that it was for the ruler, and the ruler alone, to decide...” The reason was obvious. Pakistan wanted Junagadh and Hyderabad. In both these states, there were Muslim rulers and a Hindu majority. Pakistan was confident that they would opt for accession to Pakistan. Treating Jammu and Kashmir as an exception to this rule would have been inconvenient.

Campbell Johnson in his book ‘Mission with Mountbatten’ Chapter 19, writing about a meeting of the Joint Defence Council at Lahore on November 1, 1947 (after the accession of the state to India) recorded that “Mountbatten proposed that a plebiscite under UN auspices should be held but at that stage (Mohammed Ali) Jinnah was not agreeable to it...”

Given the option to accede to one or the other Dominion under the Independence Act, the Maharaja of Kashmir, Hari Singh dithered, not taking a decision. The legal framework for independence provided for rulers to enter into Standstill Agreements with either or both the dominions in the interregnum while they decided which Dominion they wished to accede to .... Hari Singh offered such Standstill Agreements to both India and Pakistan. Pakistan entered into a Standstill Agreement with Maharaja Hari Singh, clearly recognising the right of the Ruler to decide on behalf of the state and its people. India sought consultations which never took place.

Pakistan was determined to get Jammu and Kashmir for itself. Zafarullah Khan arguing Pakistan’s case in the United Nations Security Council amplified the rationale behind Pakistan’s obsession to acquire Jammu and Kashmir when he stated that “...If Kashmir

should accede to India, Pakistan might as well, from both the economic and the strategic points of view, become a feudatory of India..." Pakistan sent a special emissary to Kashmir to try and persuade the Maharaja to accede to Pakistan. The Mission failed. In total disregard of the Standstill Agreement, Pakistan cut off supplies of essential commodities such as salt and petrol; stopped supply of currency notes and small coins to the Imperial Bank in Kashmir and severed postal connections. Matters became increasingly critical despite the protests lodged by the Maharaja.

Pakistan then sent tribal raiders and ostensibly decommissioned Pakistan Army officers into Jammu and Kashmir. While Pakistan has always claimed that its government was not behind the raids and that these were spontaneous expressions of Muslim sentiment following reports of killing of Muslims in Jammu and Kashmir, the facts are revealed by Major General Akbar Khan, the officer given responsibility for organising the raids. He states in his book 'Raiders in Kashmir' "...I wrote out a plan under the title "Armed Revolt inside Kashmir". As open interference or aggression by Pakistan was obviously not desirable it was proposed that our efforts should be concentrated upon strengthening the Kashmiris internally... and .... to prevent arrival of armed civilian or military assistance from India into Kashmir..." Margaret Bourke-White describes the plunder by the raiders:

"Their buses and trucks, loaded with booty, arrived every other day and took more Pathans to Kashmir. Ostensibly they went to liberate their Kashmiri Muslim brothers, but their primary objective was riot and loot. In this they made no distinction between Hindus, Sikhs and Muslims".

"The raiders advanced into Baramullah, the biggest commercial centre of the region with a population then of 11,000 until they were only an hour away from Srinagar. For the next three days they were engaged in massive plunder, rioting and rape. No one was spared. Even members of the St. Joseph's Mission Hospital were brutally massacred."

Unable to prevent the raiders brutal advance, the Maharaja, on October 24, 1947, appealed for military assistance from the Government of India. The Indian Government felt that only if the state had acceded to India could there be the legal basis for India to intervene. Thereupon the Maharaja signed the Instrument of Accession on October 26, 1947. A simultaneous appeal for assistance and for the state's accession to the Indian Union was also made by Sheikh Abdullah, leader of the National Conference, and the undisputed leader of the people.

On receipt of the signed Instrument of Accession from the Maharaja, preparations were made to fly Indian troops to the state. The formal letter of acceptance of the Accession was signed by Lord Mountbatten on October 27 making Jammu and Kashmir an integral part of India even as Indian forces were airlifted to Srinagar.



The accession of Jammu and Kashmir was final and unconditional. It was offered and accepted in the same manner and according to the same legal stipulations as the accession of other Princely States to India and Pakistan i.e. the decision was made by only the ruler of the princely state as required under the Independence Act. In the case of Jammu and Kashmir, there was further endorsement of the accession by the largest Kashmiri Party, the National Conference.

## **The UN resolutions**

The United Nations Security Council first took cognizance of the Jammu and Kashmir issue in 1948 after the accession of the state to India. A distortion of the nature of the Security Council's involvement has been fostered over the years by Pakistan to try and project that it was the status of Jammu and Kashmir that was the subject under discussion.

It was India that approached the Security Council on January 1, 1948 with the request that the Security Council intervene to vacate Pakistan's aggression and illegal occupation of Indian territory of the state of Jammu and Kashmir.

India approached the Security Council on January 1, 1948, and said: "Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the North West, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the domination of India and is part of India... The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance which is an act of aggression against India." India was the complainant before the Security Council against aggression by Pakistan.

The United Nations Security Council appointed a United Nations Commission for India and Pakistan (UNCIP). Initially Pakistan continued to deny any role in the tribal raids maintaining that it was a natural response of the martial tribes to reports of killings of Muslims in Jammu and Kashmir. Later, however, in July 1948, Sir Zafarullah Khan admitted to the UNCIP that three regular Pakistani Brigades had been fighting in Kashmir territory since May 1948.

The UNCIP taking note of the developments adopted a resolution on August 13, 1948, divided into three parts. The first part called for a cease-fire. The second part called for Pakistan to withdraw its nationals and tribesmen and to vacate the territory occupied by it. Then after the above stipulation had been implemented India was to withdraw the bulk of its forces from the State leaving an adequate number behind to ensure that the Government of Jammu and Kashmir maintains law and order and peace - a clear indication that the UNCIP believed that Jammu and Kashmir was a part of India. Part (3)

of the Resolution to be implemented after parts (1) and (2) stated that both India and Pakistan had reaffirmed their wish that the future status Jammu and Kashmir shall be determined in accordance with the will of the people.

Yet the ensuing months, after the adoption of the resolution, saw Pakistan brazenly advancing deep into Baltistan and Ladakh, hundreds of kilometers to the east while the so-called Azad Kashmir forces, which were to be disbanded, were expanded and consolidated and formed what the UNCIP Military Adviser described as a “formidable force”.

A subsequent resolution was adopted by the UNCIP on 5, January 1949 on the same issue. However this resolution was to be binding only if the stipulations of the resolution of August 13, 1948 had first been met. India accepted this resolution also. It is noteworthy that while India accepted the two resolutions, Pakistan balked at implementing even the first one and has still not, after the lapse of fifty years, fulfilled part II of the resolution of August 1948 calling it to vacate the territories of Jammu and Kashmir seized by it.

It is very significant that during the debates in the UN Security Council and in the wording of the two resolutions the sovereignty of India over Jammu and Kashmir was taken as accepted. Speaking in the Council on February 4, 1948 the representative of the United States of America, Warren Austin said “..The external sovereignty of Kashmir is no longer under the control of the Maharaja...with the accession of Jammu and Kashmir to India, this foreign sovereignty went over to India and is exercised by India and that is why India happens to be here as a petitioner...”

The UNCIP Resolution of 5 January, 1949 stated that “...The Secretary General of the United Nations will ..nominate ....a Plebiscite Administrator... He will be formally appointed to office by the Government of Jammu and Kashmir... The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary...”

Subsequently, on 26 January 1957 at the 765th meeting of the Security Council the representative of the Soviet Union stated “The question of Kashmir has been settled by the people of Kashmir themselves. They decided that Kashmir is an integral part of the Republic of India.”

The irrelevance of the 1948 and 1949 resolutions to the contemporary situation was highlighted by the President of the Security Council, Gunnar Jarring in his report to the Council in 1957 when he said “...The Council will, furthermore, be aware of the fact that the implementation of international agreements of an ad hoc character, which has not been achieved fairly, speedily, may become progressively more difficult because the situation with which they were to cope has tended to change...”

Dr. Frank Graham, the UNCIP's representative stated in March 1958 "....the execution of the provisions of the resolution of 1948 might create more serious difficulties than were foreseen at the time the parties agreed to that. Whether the UN representative would be able to reconstitute the status quo which it had obtained ten years ago would seem to be doubtful...."

If, in 1957 and 1958, Mr. Jarring and Mr. Graham felt that the resolutions of 1948 and 1949 could not be implemented because of the changed situation, the sheer implausibility of these resolutions having any meaning today is self-evident. The State of Jammu and Kashmir to which these resolutions applied does not exist any longer with a part of the territory having been given to China by Pakistan; demographic changes having been effected in the Northern Areas, and the deliberate ethnic cleansing of Kashmiri Pandits and Hindus from the Kashmir Valley and other areas since 1989.

The changed situation was evident in the part of Jammu and Kashmir that remained with India. India became a Republic in 1950. Pursuant to the accession of Jammu and Kashmir to India, the Constitution of India incorporated within it Article 370 designed to secure for the State of Jammu and Kashmir a special and protected place in the Indian polity. In 1951, the Jammu and Kashmir Constituent Assembly was elected by secret ballot. It adopted, in 1956, the Constitution of Jammu and Kashmir which declared that the State of Jammu and Kashmir was an integral part of India.

## **Origin of present crisis - A Kashmir view**

Hardline Kashmiris trace the origin of the present crisis in Kashmir to the Government of India not honouring the commitment to the special status granted to Kashmir when the Instrument of Accession was signed after which Article 370 was inserted in the Constitution. They feel that since then Government in New Delhi has been systematically eroding its internal sovereignty and acting contrary to its commitments in the Instrument of Accession.

The Instrument of Accession clearly delimited the scope of the accession to only defence, foreign affairs and communications. In pursuance of internal sovereignty under the Instrument of Accession, the Maharaja of Kashmir constituted the State's Constituent Assembly in 1951 to draft a separate Constitution for the State. Under the State's Constitution, its Head of the State was designated as Sadr-e-Riyasat and head of the Government as Prime Minister. Karan Singh became the first Sadr-e-Riyasat and Sheikh Abdullah its first Prime Minister. In July 1952, Prime Minister Sheikh Abdullah, and Nehru agreed on the "Delhi Agreement" which essentially ratified Kashmir's autonomy in the form of Article 370 which came to grant "special status to Jammu and Kashmir. But, in 1954, a Constitutional (Application to Jammu and Kashmir) Order was

promulgated by the President which gave New Delhi the power to legislate on all matters in the Union List, not just defence, foreign affairs and communications, with regard to Jammu and Kashmir. This order, according to Kashmiris, practically nullified the 1952 Delhi Agreement.

The jurisdiction of the Supreme Court had already been extended to Kashmir in 1952 and under a Presidential Order issued in terms of Article 370, the fundamental rights chapter of the Union Constitution was extended to Jammu and Kashmir. In 1958, the Government of India unilaterally extended its control on all matters in the State of Jammu and Kashmir which were included in the Union List. The Centre eventually prevailed upon the State Legislature in 1965 to amend its Constitution to replace the designations of Sadr-e-Riyasat and Prime Minister by Governor and Chief Minister respectively. It must however be noted that this was with the concurrence of the leaders of Jammu and Kashmir.

Although it is a matter of debate whether the application of Central laws has been to the advantage or detriment of the state, there is some justification in the Kashmiri view that the internal autonomy of the State as such, guaranteed under Article 370 has been gradually eroded, often with the consent of the political leadership of the State, and consequently, the Special Status enjoyed by the State. In passing the autonomy resolution and asking the Centre to accept it, the present state Chief Minister Dr Farooq Abdullah seeks to restore the pre-1953 status of Article 370.

There are many who believe that Kashmiris are really not concerned with the degree of autonomy that they need and that is why, according to them, they did not show the kind of enthusiasm that was expected after the state assembly passed the autonomy resolution. The problem lies elsewhere. The issue of major concern to Kashmiris has been the interference by successive government at the Centre to control the political development in the State. It all started with Nehru putting Sheikh Abdullah, Kashmir's undisputed leader, behind bars for many years. Nehru justified this by believing reports that the Sheikh was adopting an anti national attitude. And the state government that followed his were seen to be remote controlled by the Centre. Allegations of elections being rigged to the extent that state governments did not represent the true aspirations of the people, fuelled the resentment of the Kashmiris. In the heat of the passion what was ignored was that the practice of democracy in most Indian states suffer from the same drawbacks.

The political scenario thus began deteriorating sharply. Mr. Mir Qasim, Chief Minister during the 1973-75 became acutely conscious of this deterioration and realized that only Sheikh Abdullah, who was under arrest, could stem the rot. He initiated moves for rapprochement between Indira Gandhi and Sheikh Abdullah. This eventually culminated in the Parthasarthy-Afzal Beg Pact (1975) which brought back Sheikh Abdullah to power after decades of incarceration. The process of emotional integration regained its momentum. The outcome of the 1977 assembly elections held under Governor's rule and

universally acknowledged as the most free fair poll in Kashmir was appropriately hailed by the Sheikh as authentic endorsement of the State's accession with India.

The wound had begun healing when Indira Gandhi committed a political blunder. After the death of Sheikh Abdullah he was succeeded by his son, Dr. Farooq Abdullah. To dislodge Dr. Abdullah, Mrs. Gandhi in March, 1984 replaced Governor B.K. Nehru with Mr. Jagmohan, who enacted a constitutional coup by installing Mr. G.M. Shah, brother-in-law of Farooq Abdullah as Chief Minister in coalition with the Congress. This was a turning point. In 1977 and 1983, the people of Kashmir witnessed free and fair elections. But, what they saw afterwards disillusioned them. The imposition of the G.M. Shah government caused much resentment. This opened a new chapter in the Valley where the past became irrelevant and a new, angry generation came up.

Mrs. Gandhi had helped Farooq Abdullah to succeed his father after his death. But, in return, she demanded unflinching loyalty. Dr. Farooq Abdullah was not willing to oblige her. He had made common cause with the main opposition parties in the country against the perceived dictatorial behaviour of Indira Gandhi. This was the time it could be noticed that the Kashmiris had fully identified themselves with the Indian polity. There were no doubt some votaries of Pakistan but they were in a microscopic minority. The arbitrary and tactless dismissal of Farooq Abdullah's Government reversed the whole process and was deeply resented in the Valley. Once again the Kashmiris were denied the freedom to be governed by a democratically elected Chief Minister.

But opinion soon changed against the democratically elected leader, Dr Farooq Abdullah who entered into an arrangement with the Centre. Kashmiris prefer their leaders to be independent of the Central government — at least they must appear to be so. The Kashmir scenario radically changed for the worse with the Rajiv-Farooq accord in October, 1986. Somehow the general impression in the Valley was that Dr. Farooq Abdullah had sold out the autonomy of Kashmir which his father had zealously guarded. There was total disillusionment against his leadership and he appeared to have lost the confidence of the people. The popular feeling in the Valley that the Assembly polls held in 1987 were not fair not only reversed the positive trends set off by the free and fair poll in 1977 but also provided an ideal ground to the secessionist militancy to capture the imagination of Kashmiris. Within a span of ten years, the faith of some Kashmiri youth in the ballot box yielded place to faith in the gun. Pakistan, which had unsuccessfully sought to capitalise on religion and Kashmiri disenchantment in 1965 - 1971, again stepped in, provided momentum to the movement and finally hijacked it for furthering its own purposes. It was not long before the Kashmiris realised this game, but by then, the movement was firmly in the hands of Pakistan sponsored jihadis.

## **History of militancy - 1989 onwards**

Despite well documented evidence to the contrary, Pakistan continues to claim that it is only providing moral, political and diplomatic support to the militancy in Kashmir. The truth behind the Pakistani sponsored violence has been spelt out in the book 'Fateh' the biography of the former Chief of Pakistan's Inter Services Intelligence, General Akhtar Abdul Rehman. His biographer Brigadier Haroon Rashid states "...The plan which General Akhtar Abdul Rehman had made for Kashmiris movement for independence was to come into effect in 1991. It appears that this plan was made with the struggle for the liberation of Afghanistan in mind, which was thought to be achieved by spring 1989... However the Kashmir plan was inaugurated in 1984. The Kashmiris were provided with some arms which were not suitable for the Afghan Mujahideen..."

Terrorism escalated in the Kashmir Valley starting in 1989. Pakistan first used the Jammu and Kashmir Liberation Front with its pro-independence ideology, to mobilise a mass movement. The period between 1989-90 was marked by the targeted killing of Government officials, media personnel, members of the judiciary, and members of the minority Kashmiri Pandit (Hindu) community and those enlightened Kashmiri Muslims who opposed violence. One immediate effect was the mass exodus of nearly 2,50,000 Kashmiri Pandits and over 50,000 Kashmiri Muslims from the Valley. They settled in refuge camps in Jammu, Delhi and other cities in India where they continue to stay even today. The objective was to create terror and paralyse the state's administration.

A tactic used for maximum effect by the militants was to attack the security forces from the cover of crowded market places and civic facilities. The State's response inevitably led to clashes with both militant and civilian casualties. The deaths of civilians then became the substance of campaigns orchestrated by Pakistan and the militant groups alleging oppression of the Kashmiris and violation of their human rights by the Indians. Cordon and search operations to flush out the militants provided the militants and the secessionist groups the occasion to allege that the security forces were indulging in mass rapes.

The orchestrated campaign on human rights was used by Pakistan to internationalise the Jammu and Kashmir question. The context in which incidents occurred and the environment of violence created by the terrorists were glossed over. Exaggerated, and sometimes fabricated, instances of human rights violations were used as a tool of psychological warfare.

It is however, ironic that the very security forces whom the militants accuse of human rights violations continue to be deployed to provide security to the leaders of the secessionist and militant groups, whose lives have been threatened in the course of the internecine fighting amongst the various terrorist outfits.

Since the pro-independence ideology of the Jammu and Kashmir was anathema to Pakistan, the period starting 1990 witnessed the creation of groups determined to install an extremist Islamic regime in Jammu and Kashmir and to ensure its accession to Pakistan. The major responsibility to execute this strategy was given by Pakistan's Inter Services Intelligence (ISI) to the Hezb ul Mujahideen, with whom the government initiated talks recently and whose Supreme Commander, Syed Salahudin, continues to reside in Pakistan. Other splinter groups that were set up included Hezbollah, Allah's Tigers, Al Barq, etc. This period witnessed increasing internecine warfare with the extremist groups suppressing the Jammu and Kashmir Liberation Front. At the same time, a campaign to demand adherence to strict Islamic tenets, at the point of the gun, was initiated, resulting in the destruction of schools, cinemas, restaurants, and a ban on all forms of entertainment. Women were particularly affected since the extremist groups believed that they should remain indoors, somewhat akin to what the Taliban are doing in Afghanistan.

This period witnessed the media in the Valley constantly being attacked by the militants who demanded that anti-terrorist articles should not be carried; government announcements should be boycotted; the "martyrdom" of the militants should be highlighted as also the campaign for "liberation" of the state. Attacks on newspaper offices and printing presses and the killing of eminent journalists and editors became more frequent.

In order to limit the internecine fighting that had begun to emerge amongst the various militant groups and to lend a political dimension to what was fast being perceived as just a terrorist movement, Pakistan sponsored the creation of the All Party Hurriyat Conference in 1993, to present to the world a political facade for its sponsorship of terrorism in Jammu and Kashmir. This conglomeration of disparate elements ranging from the extremist pro-Pakistani Jammaat-e-Islami and its armed wing, the Hezb-ul Mujahideen, to the more secular, independence minded Jammu and Kashmir Liberation Front, has over the years betrayed the aspirations of the Kashmiris. The latest criticism of the Hurriyat has come from the Hizbul Mujahideen.

The Hurriyat leaders like to refer to themselves as the "true representatives of the people of Jammu and Kashmir". But they did not seek legitimacy through the acknowledged process of elections. During the elections held in 1996, the Hurriyat leaders conducted a house to house campaign calling on people to boycott the elections. Despite their threats and pleas the people turned out in large numbers to vote in most parts of the state except in some pockets which were known strongholds of the militants.

The government of India's initiative in the year 2000 in releasing jailed Hurriyat leaders and opening talks with them therefore was a surprising move. That the Hurriyat did not accept it indicates the influence Pakistan wields over it.

But more of that later. The failures of the Hurriyat internationally and in the Valley led Pakistan's ISI to then create the Shoora-e-Jehad in 1996 as the coordinating authority to undertake both militant and political activities. The move was aimed at ensuring continuing ISI control.

By end 1993, however, it had become apparent that, after nearly five years of sustained violence, the Kashmiris were tired and disillusioned and seeking a way out of the morass. With the decline in the numbers of Kashmiri youth willing to be indoctrinated and trained as terrorists, Pakistan took recourse to sending in battle hardened mercenaries from Afghanistan, Pakistan and other countries, many of whom were veterans of the Afghan war. They came under the banner of the Harkat-ul Ansar and Lashkar-e-Toiba to bolster the fighting ability of the pro-Pakistani Kashmiri militant groups. Their disregard for the Kashmiri psyche and their depredations, further turned the tide of Kashmiri opinion against violence.

A spate of incidents in 1993-1994 heralded a definitive change in the mood in the Valley. In 1993 militants occupied one of the most sacred shrines, Hazaratbal in Srinagar, an act of sacrilege that demonstrated the base depths to which the movement had sunk. In 1994 the Mirwaiz of South Kashmir, Qazi Nisar Ahmed, was killed in Anantnag. His widow and the local people blamed the Hezb-ul Mujahideen and processions and demonstrations condemning the militant group and Pakistan took place in the town. In the same year the Harkat-ul Ansar kidnapped Kim Housego and David Mackie, two British tourists. The action was condemned by Kashmiris.

In 1995 a group of mercenaries of the Harkat-ul Ansar and the Hezb-ul Mujahideen led by a Pakistani national Mast Gul, seized another revered shrine at Charar-e-Sharif resulting in the destruction of both the shrine and the surrounding township. Mast Gul was given a hero's welcome in Pakistan and paraded through the streets by the Jamaat-ul Ansar. The destruction and sacrilege of revered Kashmiri shrines like Hazrat Bal and Charar-e-Sharif by the militants further aggravated the divide between the centuries old Kashmiri ethos of harmonious co-existence and the extremist orthodoxy being sought to be imposed by the pro-Pakistani groups.

Also in 1995 the Al-Faran, a front for the Harkat-ul Ansar, kidnapped five foreign tourists and beheaded one of them, a Norwegian named Hans Christian Ostro. In addition to ordinary people, even the Hurriyat was constrained to condemn this act of wanton killing.

Thus the period 1993-1996 witnessed a changing mood in the Kashmir Valley against militancy and towards seeking a peaceful solution to the crisis. The media became more vocal in its criticism of the activities of the militant groups and the "guest militants" as the mercenaries were called. The release of prominent jailed militant leaders like Shabir Shah and Yasin Malik; the formation of political fronts by former militants disillusioned



with Pakistan and militancy; and the revival of political activity by known and established parties in the face of threats from Pakistan, the Hurriyat and the mercenaries, bolstered the mood in Kashmir. The restoration of the democratic process was seen as a way out after years of violence. Pakistan made desperate attempts to prevent these developments.

Responding to a perceived change in the public mood, Government of India held parliamentary and Assembly elections in 1996 in Jammu and Kashmir. The participation of the people in the elections despite calls for boycott by the Hurriyat and Pakistan, despite threats from the militants and mercenaries and the continued targeted killing of political activists and liberal minded Kashmiri Muslims, was a clear manifestation of the desire of the Kashmiris for peace. The Kashmiris voted back to power their own old party, the National Conference with Farooq Abdullah at its head. The opposition, as usual, cried foul.

Parliamentary elections were held in February/March, 1998. There was good participation in the Valley despite calls once again for a boycott by the Hurriyat and by Pakistan, and threats from militant groups against voters, candidates and electoral officers. The period had been preceded by targeted attacks against political workers.

On the militant front, in the phase from 1997 till the present, there is growing evidence that Kashmiri militancy has been overtaken by foreign groups working directly under the control of the ISI. The violence now being perpetrated is largely the work of the mercenary groups comprising Pakistanis, Afghans and others operating in the Valley under organisations like the Lashkar-e-Toiba. This has given a new dimension to the purpose and nature of militancy. Pakistan's role in sponsoring terrorism in Jammu and Kashmir is well documented by the international media and independent observers. The United States Administration identified the Harkat-ul-Ansar, now renamed as the Harkat-ul-Mujahideen, as a terrorist outfit operating from Pakistan and has banned it. Even the Lashkar-e-Toiba is believed to be under watch. After the return of military rule in Pakistan, it has shed all pretence and senior Ministers have been openly visiting the training camps of outfits like the Lashkar-e-Toiba endorsing the calls for a "jihad" against India. The US has in the past years officially maintained that there are credible reports of official Pakistan support to the militants and that Pakistan allows terrorist groups to operate from its soil.

Simultaneously, even as Pakistan sponsored groups wrested the initiative from indigenous groups, the Indian security forces consolidated their gains. This was a natural outcome of introducing foreign mercenaries who cared less for Kashmiri human rights than local inhabitants. The result was the gradual alienation of the masses from the movement. Consequently, more information about militants became available to security forces. The attacks on them by the security forces became more focussed. The results became obvious, tourism started picking up and so did trade, industry and agricultural

activities. The state, which was earlier the favorite destination for film producers, saw interest revived once again in this field. For Kashmiris, sick of years of militancy which achieved nothing but bloodshed, the possible return to normal times was welcome. Faced with this once again, the mercenary groups have begun indulging in urban violence and suicide attacks. In their vocabulary democracy is not a solution, only armed jihad can prevail. General Musharraf has endorsed this stand sanctifying the activities of the militants and mercenaries as a jihad and not terrorism irrespective of the number of innocent Kashmiri Muslims that these groups end up killing.

The quest for peace, articulated increasingly by the Kashmiris, caused disquiet in Pakistan. Something spectacular had to be done to restore the credibility of the movement and bolster the morale of the militants. Thus, even when Prime Minister Vajpayee was travelling to Lahore and talking peace with his counterpart, the Pakistan army was planning Kargil. What subsequently happened is history, but it damaged Pakistan's credibility as a nation among the international community, as no other event had done in the past. It became diplomatically isolated almost completely while India emerged as a mature and strong nation which upheld the principles of international law in the face of severe provocation. This was not lost on the Kashmiri mind and there is reason to believe Kargil has demolished any remaining myth that Kashmir's destiny is any way linked with that of Pakistan's. The military coup and the demolition of democracy has in no small measure contributed to this.

But there has been a negative fallout of Kargil. And this has been stepping up of militant attacks on security forces as well as on civilians. Foreign militants have definitely upped the ante and there is now a visible sense of desperation manifest in the suicide attacks that have followed during the post-Kargil phase. The massacre of Sikhs in Chittisingpura during the President Clinton's visit to India was Pakistan's way of telling the US that Kashmir is the most dangerous place in the world, that it is a potential nuclear flashpoint and that it is the root cause of strained relations between India and Pakistan. While in the post Kargil phase, Pakistan continues to call for the USA to broker a solution, it still has to take on board President Clinton's advice to eschew violence, respect the sanctity of the LoC, exercise restraint and renew the dialogue with India. India remains equally committed to furthering the process started by Prime Minister Vajpayee in Lahore, provided, justifiably, that Pakistan stops fostering cross border terrorism.

It is in this background that India released Hurriyat leaders from jail and offered to talk with them within the ambit of the Indian Constitution. The talks have not yet materialised but it set the ball rolling. Chief Minister Dr. Farooq Abdullah possibly in a political move to pre-empt the government's initiative, suggested a possible solution that would meet the aspirations of the people of Jammu and Kashmir. This was in the form of an autonomy resolution.

## **The Autonomy resolution**

On June 26, 2000, the Assembly of Jammu and Kashmir adopted by voice vote a resolution on the State Autonomy Committee's (SAC) Report, which asked the Government of India to restore the pre-1953 status of Jammu and Kashmir State. If the Report is accepted, it will mean that the State's accession to the Union is limited to defence, foreign affairs and communications and, at the emotional level, the Chief Minister should be called "Wazir-e-azam" (Prime Minister). It will mean denial of jurisdiction of the Supreme Court, the Election Commission and the Comptroller and Auditor General to the State. (Annexure I gives the recommendations of the SAC). The Government at the Centre rejected the demand saying it would not go beyond the 1975 agreement between Sheikh Abdullah and Indira Gandhi (Annexure III gives excerpts of the 1975 agreement) and there is no question of going back to the pre-1953 era. (Annexure II gives excerpts of the 1953 agreement). But the Government couched the Cabinet's summary rejection in sufficiently conciliatory. It has promised to take up the issue of devolution of financial and administrative powers to all States of the Indian Union, including Jammu & Kashmir with greater vigor.

Dr. Farooq Abdullah, who had met the Prime Minister four days before the resolution was passed, had assured the Prime Minister that the Assembly was only debating the report at its special session and that no resolution which was likely to embarrass the Centre would be passed. Obviously things went out of control during the debate in the Assembly. In his first reaction, the Prime Minister who was on a foreign trip when the resolution was passed by the Assembly, had said that any proposal falling within the parameters of the Indian Constitution could be considered, while Home Minister Advani promised to bring the matter before Parliament in which only vests the authority to amend the Constitution. But as mentioned earlier, the Union Cabinet at a special meeting rejected the demand.

Mr Advani announced "the Government would not do anything" to bring the Report before Parliament though a private member could do what he might. This followed his statement on government TV (Doordarshan) the previous evening where he held up to the camera a copy the text of the Indira Gandhi-Sheikh Abdullah Accord of November 1975, and read a sentence from it which said "provisions of the Constitution of India already applied to the State of Jammu and Kashmir without adaptation or modification, are unalterable."

The present status on the autonomy issue is that the Union Government and J&K Chief Minister Farooq Abdullah have agreed to restart a dialogue on "devolution of powers" if not on "greater autonomy" by beginning discussions on devolution of more financial and administrative powers to the State. Having hit a brick wall in asking for a restoration of

the state's pre-1953 status, the National Conference is apparently now willing to discuss the subject under the rubric of "devolution". Jammu and Kashmir State officials and Ministers now say that "autonomy" and "devolution" are interchangeable, emphasising that they are not interested in any confrontation with the Centre on the subject. This is a view that sits well with the position taken by the Prime Minister and Home Minister L. K. Advani in rejecting the autonomy resolution.

Farooq Abdullah has since made it clear that what he has done is to initiate a debate on greater powers to the State, that it is not his last word of take it or break it, that he is ready for talks and that the rejection of the demand will not mean his National Conference pulling out of the National Democratic Alliance [NDA] led by the Prime Minister Mr. Vajpayee at the Centre. Vajpayee in turn invited Chief Minister Farooq Abdullah for talks on the autonomy issue. The salutary result that followed immediately was the recession of the crisis that had been rapidly building up.

### **Assembly discussions on autonomy**

Earlier, events had moved at a fast pace. When Farooq Abdullah called a Special Session of the Jammu and Kashmir Assembly to discuss the controversial Autonomy Committee report, few knew what to expect. Farooq's autonomy package in many ways mirrors his father Sheikh Abudullah's demands as early as 1953. But the compulsions of coalition politics give Farooq, a partner in the NDA Government at the Centre, a bargaining chip his father never enjoyed.

A sense of apprehension has often characterized Farooq's dealings with the Centre but when he made his latest move, Delhi was not ready for the denouncement. This despite the issue being debated in the Jammu and Kashmir Assembly for five days. There were noisy exchanges and walkouts. BJP and Congress legislators accused Farooq of being a Pakistani, questioning his claim of being an elected representative of the State when his party, The National Conference (NC), had secured only 9 per cent votes in parliamentary elections.

But once the decision was taken to play the autonomy card, Farooq Abdullah was riding a tiger. The debate in the Assembly was acrimonious to say the least. It brought out pent up emotions and points were made against the Centre without members holding back. This was not entirely expected for Farooq Abdullah had promised Vajpayee that the State Autonomy Committee (SAC) Report would merely be discussed and no resolution would be passed. This was not to be as the discussions quickly went out of hand.

It needs to be mentioned that many months before the resolution was finally adopted by the Assembly, the Farooq Abdullah Cabinet had endorsed the recommendations in the Report which asked for repealing almost all those Central laws made applicable to the

State and other constitutional changes effected after the dismissal and detention of Sheikh Muhammad Abdullah in August 1953. The restoration of “greater autonomy” to the State was also the main plank of the National Conference in the September 1996 Assembly elections. The Report was later sent to the Centre with the request to set up a ministerial committee in order to initiate a dialogue on the issue. The Centre apparently took no action on the Report.

The Assembly discussion started with a protest walkout by the BJP members who accused Chief Minister Farooq Abdullah and his party of diverting peoples’ attention from the real issues facing them. National Conference members emphasised during the debate that the autonomy package was the only permanent solution to the Kashmir issue, but Opposition members viewed it as a serious threat to national integrity.

Moving the resolution in the Assembly, Law Minister P.L.Handoo, said that it is a “substantive substitute motion for two motions moved on April 8, 2000 along with the amendments”. The earlier motion, also moved by Handoo, had suggested the setting up of a committee for the purpose of building consensus. The June 26 motion, however, merely records approval of the SAC Report, which was tabled on April 13, 1999, “and its acceptance of the recommendations made therein; and further demands that the Union Government and the government of Jammu and Kashmir take positive and effective steps for implementing the same.”

Opening the discussion, Works Minister Gulam Mohiuddin Shah, the senior-most member of the Abdullah Government recalled how Sheikh Abdullah had become instrumental in the State’s accession with the Indian Union on certain conditions laid down in the Constitution and worked out from time to time through mutual agreements. He said, had this relationship of trust and understanding not been tampered with after the Sheikh and his colleagues were imprisoned in 1953, the situation now prevailing in the State would have been much better. Mr Shah said that his party did not want to undermine the sovereignty and integrity of the country as some would wrongly feel, but to strengthen it further and this was possible only when the confidence of the people of the State, shattered by various steps taken during the past fifty years, was restored. Mr Shah, after reading out relevant sections of the Constitution and correspondence between Indian leaders and their Kashmiri counterparts, insisted that no amendments in the Constitution could be made unless approved by the State Constituent Assembly. Referring to the Article 370 of the Constitution which guarantees a special status for Jammu and Kashmir, Mr Shah said that it could neither be abrogated nor amended. He told the BJP members that heavens would not fall if greater autonomy was restored to the State.

Finance minister Abdur Rahim Rather said the then Prime Minister P. V. Narasimha Rao had on the floor of Parliament committed himself to granting autonomy to Jammu and Kashmir. “Not only that, the NC did not agree to fight 1996 Lok Sabha elections in

absence of the Centre's assurance on autonomy and it was only after a clear commitment from it that we participated in the Assembly elections in September that year and romped home with a two-thirds majority, specially on the issue of restoration of autonomy", he said. He alleged that the talk against the greater autonomy was "motivated, irresponsible and ill-founded." He asserted: "What we are asking for is not an anti-national act but what was actually in conformity with the Instrument of Accession, Presidential Order of 1950 and Delhi Agreement (between Pandit Jawaharlal Nehru and Sheikh Muhammad Abdullah) of 1952." He ridiculed the charge that Dr Abdullah and his party had raked up the issue in a deliberate attempt to sabotage the proposed talks between the Centre and Hurriyat Conference. He said, the NC was asking for autonomy right from 1994 when the Hurriyat Conference was not even born.

Speaking on the resolution, Chief Minister Farooq Abdullah dismissed the Opposition contention that the autonomy demand amounted to placing a question mark on the State's accession to India. Such an interpretation, he said, was propaganda launched by Pakistan. He insisted that nobody should nurture the impression that he or his partymen were anti-Indian. He said that the report was now before the countrymen and "let them convince us against it or get convinced by us." If autonomy was denied, he claimed, "you will have one border along the Chenab river and another between Kargil and Leh".

Recalling the then Prime Minister PV Narasimha Rao's observation on the autonomy issue and his talks with his Law Minister and Mr Salman Khurshid in early 1990s, he regretted that in academic discussions political thinkers agree to what "we say, but when it comes to implementation they affix a label of anti-Indians on us." He reiterated that it was not true that he brought the autonomy issue to the fore only to scuttle the Centre's initiative to speak to the Hurriyat Conference leaders. He said he was never against dialogue with secessionists and, in fact, it was he who had urged the Prime Minister and the Home Minister to talk to everyone to bring about peace in the state. He, however, questioned whether talks could be held with people asking for "Azadi" (independence).

Later in an interview Dr. Abdullah said that it is a question of restoring honour and dignity of the people of Jammu and Kashmir. "What we are asking is within Indian constitution. If Government of India is willing to talk to those asking for "Azadi" or freedom and Pakistan, we are only asking something within our own country. What is wrong in that", he asked. The State Autonomy Committee Report should initiate a debate to clear doubts, he insisted. In any case, he said his Government was open to discussion with the Centre and with other parties at all levels and has already constituted a committee of ministers to discuss the matters. "Let there be a national debate on the issue", he demanded.

A national debate did take place and is still continuing. But when the resolution was eventually passed, it was received with shock and disbelief. Endorsed by a two-thirds majority in the Assembly, it sought a radical shift in Centre-State relations and placed

Atal Bihari Vajpayee's NDA Government in a predicament. The Prime Minister was caught between an ally on one side and the "Sangh Parivar" (RSS family comprising the BJP, VHP, Bajrang Dal etc) on the other. Reactions were swift with Shiv Sena Supremo Bal Thackeray demanded Farooq's dismissal. There are those who feel, not without grounds, that it was the strong attitude taken by the RSS that forced the government into convening a cabinet meeting and rejecting the resolution without it being referred to Parliament as the Home Minister had announced earlier. The RSS chief had described the resolution as a retrograde step and the organisation had declared that they will not allow the division of Kashmir. Taking note of all this, during the debate in the Jammu and Kashmir Assembly, BJP members wore black bands around their heads.

In the valley, Farooq earned himself points for doing what his father couldn't. But then, it also shrunk his political space in the other two regions of Jammu and Ladakh where the resolution has met with stiff resistance. While Ladakh went on a weeklong protest, joined by the National Conference's local president, angry Jammu residents reacted by taking to the streets. Kashmiri Pandits, who were forced to migrate in 1990 to escape the booming guns, also reacted similarly. Says Panun Kashmir Chairman for Political Affairs, Ajay Chhangoo: "Farooq is pursuing an agenda aimed at the second partition of the country.

In defence, Dr. Farooq Abdullah's National Conference has contended that it agreed to contest the September 1996 Assembly elections only after a categorical assurance for the Centre on the restoration of greater autonomy to Jammu and Kashmir. National Conference leaders insist that the passage of the resolution was not a sudden development: that once the Autonomy Commission had submitted its report in April, it was inevitable that it would be brought before the House. While that might well be true, the timing of the Assembly debate and passage of the resolution is, nevertheless, unfortunate and calls for a look into Farooq's motives.

## **Motives of Farooq Abdullah**

Dr Farooq Abdullah must have known before hand that no government at the Centre in which the BJP or the Congress is a major partner is likely to accept the autonomy resolution in the form that it was passed by the State Assembly. Why, then, did he make an issue of it and create an awkward situation for himself and the Central government.

Dr Abdullah must have known that in 1975 before his father, Sheikh Abdullah, returned to power, it had been made clear to him that there would be no solution if he insisted on the return to conditions as they were in 1953 about relations between the Centre and the state. Also, that after he took over as Chief Minister a committee appointed by him reviewed all the changes made in the Centre-State relationship since 1953. The

committee found that they were all beneficial to the common man in the state. Sheikh Abdullah was in power for seven long years.

Significantly, he did not mention this point even once. The 42 orders issued by the President since 1953, among other things, extended the jurisdiction of the Central Election Commission, the Comptroller and Auditor General, and the jurisdiction of the Supreme Court. These made the process of election cleaner than before, expenditure more accountable and guaranteed the fundamental rights of the citizen in Jammu and Kashmir as in other states.

As it is, J&K already has far more powers than other states. A substantial portion of the subjects in the Concurrent List of the Indian Constitution and residuary powers are with the J&K government. The powers of the President to declare a National Emergency are applicable only in a limited way to J&K. The President cannot declare Financial Emergency or suspend the Constitution of the state.

If Dr Abdullah had hopes that his demand would get support from the people, these must have been dispelled by the strike observed in Jammu when the autonomy resolution was being discussed and later passed by the assembly. After the Centre had rejected the demand, there was jubilation in Jammu. There was no support from Ladakh as well. The people of Ladakh had been demanding since 1947 that the region should be separated from the state and made a Union Territory. The demand was made even more forcefully after the resolution was adopted by the legislature. This is because the people of Jammu and Ladakh have a genuine grievance that their well-being and the development of the area have been systematically ignored by the state government. They fear that any increase in the powers of the state government will mean that funds will be diverted almost entirely to Kashmir. They are, therefore, totally opposed to the idea of any increase in the powers of the state government.

Autonomy goes hand in hand with economic self-sufficiency. The state of Jammu and Kashmir is too much dependent on Central assistance to make even the concept of autonomy ludicrous. In 1998-99, the total expenditure of the state was Rs 5904 crores of which the state government raised only Rs 632 crores. The rest came from the Centre. The Central assistance to the state in 1998-99 worked out to Rs 2724 per capita. Only two states, Sikkim (Rs 4463) and Arunachal Pradesh (Rs 3841) received more aid per capita from the Centre. Since the population of these two states is much less than that of J&K, the total Central assistance comes to much more.

Dr Abdullah is therefore aware of the harsh reality that autonomy for J&K is politically unacceptable and economically impossible. Why then did he raise this question at this time and create an awkward situation for himself, his party, the state government and the ruling National Democratic Alliance of which his party, the National Conference, is a member?



There are two possible reasons. There were chances that the Centre may begin talks with the Hurriyat Conference. Dr Farooq Abdullah may have even known of the feelers that were being made to militant groups like the Hizbul Mujahideen. And he must have been aware that any deal with the Hurriyat or militants would politically marginalize him. He thus had to have an alternative game plan. The autonomy card provided him with one.

The other reason is of immediate relevance. Elections to the state assembly are due in the year 2000. The last election held in 1996 returned the National Conference to power with a massive majority. Dr Abdullah has little to show by way of development for the four years that he has been in power. The last election was fought on the question of autonomy and Dr Abdullah possibly hopes that he can put forth the lack of autonomy as the reason for non-performance of his government. He has therefore, raised the question of autonomy at this time so that he can exploit it for the next assembly elections. He may abide by the decision of the Centre but at the same time tell people in Kashmir that he is for autonomy but is helpless.

## **Sheikh Abdullah-Indira Gandhi 1975 agreement**

It is not out of place to mention about the 1975 agreement between Dr Farooq Abdullah's father Sheikh Abdullah and Indira Gandhi as this would place in proper perspective the present demand for autonomy. In February 1975, after two decades in jail, Sheikh Abdullah re-emerged on Jammu and Kashmir's political terrain. He assumed power again and signed an agreement with Indira Gandhi which accepted much of the constitutional changes that had taken place. The SAC Report skips the period from 1975 onwards in just three pages (Excerpts from the Report at Annexure IV). Its authors believe that the agreement has no real moral authority. But the 1975 agreement is a milestone that cannot be dismissed out of hand. In fact, this is the agreement by which most political parties would stand by even today. (Excerpts of the agreement are at Annexure III).

Government sources say, in reverting to the "autonomy" provisions in the Instrument of Accession, Farooq Abdullah has glossed over a solemn accord between his father, Sheikh Abdullah and Indira Gandhi in February 1975. The agreed conclusions leading up to it, initiated by the late G. Parthasarathi and Sheikh Abdullah's right hand man, Mirza Afzal Beg in November 1974, included two important features. First, the "provisions of the Constitution of India already applied to the State of Jammu and Kashmir without adaptation or modification are unalterable". Second, the State Government can review and amend or repeal the laws extended to the State after 1953. However, the President's assent to such legislation was not assured but its grant "would be sympathetically considered". Implicit in it is the understanding that it can be withheld for good and sufficient reasons.

Sheikh Abdullah was released and with the support of the Congress made the Chief Minister only after he signed the 1975 accord with the Indira Gandhi Government negotiated over a tortuously long period by Mirza Afal Beg and G. Parthasarthy. Sheikh Abdullah knew what would best serve the interests of his people. He continued to object to extension of certain Central laws to the State; he asserted the State's supremacy in certain matters (all of these are listed in the 1975 accord) and agreed to disagree on the question of re-designating the Governor and the Chief Minister as Sadr-e-Riyasat and Prime Minister respectively. Sheikh Abdullah even overlooked the attempts made at Indira's behest to backstab him when, after having accepted office in the mid-70s with the support of the Congress Party, attempts were made to dictate terms to him. He went to the polls and wiped out Indira's Congress party in the States.

Autonomy, however, never remained a demand of the National Conference right from 1975 when Sheikh Abdullah was reinstalled as Chief Minister. He, of course, appointed two successive committees headed by his ministers, and Ghulam Mohammed Kochak respectively, to find out if there was any need to re-amend any portion of the Jammu and Kashmir Constitution. Both the committees came to the conclusion that all the Central laws incorporated in the Constitution of Jammu and Kashmir since 1953 were duly enacted by the appropriate legislatures through proper and legal legislative procedures with full application of mind and for the welfare and healthy democratic growth of the people of the State. Sheikh Abdullah thus dropped the idea to interfere with the constitutional arrangements of State-Centre relations.

Sheikh Abdullah's son, Dr. Farooq Abdullah succeeded him as Chief Minister. Although Dr. Farooq Abdullah was installed as Chief Minister at Indira Gandhi's instance in spite of bitter resistance by Sheikh Abdullah's son-in-law, G.M. Shah, as mentioned earlier, the Farooq Abdullah Government was dismissed in June, 1984 by Governor, Mr Jagmohan and G.M. Shah was imposed as Chief Minister.

The National Conference under the leadership of Dr. Farooq Abdullah returned to power in the 1987 Assembly poll, yet the word "greater autonomy" was nowhere in the dictionary of the National Conference. Dr. Abdullah voluntarily resigned in January, 1990 in protest against the appointment of Mr. Jagmohan (the present Union Minister for Urban Development) as Governor. He disappeared from the scene for nearly six years on self-imposed exile. His party dare not contest parliamentary elections in 1996 which were held under the direction of the Supreme Court following a writ petition filed Bhim Singh, president of the Jammu based Panthers party. Dr. Abdullah reappeared to participate in the Assembly elections only when the then Prime Minister, Mr. Deve Gowda, promised him power and doles.

Farooq Abdullah appointed two committees of National Conference leaders; one to determine State-Centre relations, headed by Dr. Karan Singh, and another to determine

the regional autonomy which was headed by a loyalist of the Sheikh family, Mr Balraj Puri. Dr.Karan Singh resigned from the committee when he realised that he had been trapped by Dr.Abdullah to achieve ulterior designs. Balraj Puri was fired when he disagreed to recommend trifurcation of Jammu province on the basis of Dixon Plan to effect the division of Jammu on communal lines.

## **Little support for the autonomy resolution**

Returning back to the autonomy resolution, as expected there appears to be little support for the National Conference from parties other than the CPI and the CPI (M). At one extreme stands the Hindu Right which regards the autonomy demand as something close to treason, bordering on separatism and threatening to bring about the disintegration of India. The National Executive of the Rashtriya Swayamsevak Sangh (RSS) has publicly denounced the State Assembly's resolution as but "a step short of actual secession" and demanded that the Vajpayee government should keep all options open, including dismissal of the State government, in dealing with the challenge. In an effort to keep on the pressure, an RSS spokesman publicly criticized the Vajpayee government for "compromising" on the issue of abrogating Article 370 of the Constitution for the sake of staying in power, and even suggested that this spineless stand had led to the near-secessionist autonomy resolution. Following consultation among the party's top leaders, the former President of the ruling Bharatiya Janata Party (BJP), Kushabhau Thakre, had declared his party to be "totally against" the Jammu & Kashmir autonomy demand, which needed to be "rejected outright". He had warned that any return to a pre-1953 status for Kashmir would lead to disintegration and instability because, in addition to Jammu & Kashmir, various states were bound to seek autonomy. We will never, never, never accept anything of that kind. You can't turn the clock back," he had said. The new BJP president Mr Laxman is known to have views similar to those of the Prime Minister and is therefore likely to be less critical of the government's Kashmir policy.

Not to be outdone, the Shiv Sena's supremo, Bal Thackeray, characterised Dr Abdullah's advocacy of autonomy as "traitorous," in fact a move towards "another partition" of India.

Not surprisingly, the Congress (I), which had much to do while in power at the Centre with diluting Article 370 in practice, announced its opposition to the autonomy resolution. The Congress has taken the view that Government should stick to the Beg-Parthasarthy Accord of 1974, through which Sheikh Abdullah was restored to political primacy after 20 years of imprisonment. The accord confirmed the steps taken by the Centre to integrate the State into the Union after its Constitution came into effect in 1957, even while conceding the right of the State to have any legislation it wanted to protect its special cultural and religious status. Several senior Central Ministers, including Home Minister Advani, believe these accords could form the basis of a compromise between the

Union and state governments, especially since they underscore the legality of many Constitutional measures taken during 1953-1974 to link the state closer to the Union.

It is only the Left parties and some of the constituents of the former United Front who are in sympathy with the autonomy demand, even if they differentiate themselves soberly from Dr. Abdullah's party with respect to the scope and extent of autonomy.

Within Kashmir itself, the Opposition J&K Peoples Democratic Party headed by former Union Home Minister Mufti Mohammad Sayeed termed the autonomy demand as a "gimmick" by the Chief Minister and his party to "blackmail the people of the State and the Centre." The people of Jammu and Ladhak have, as mentioned earlier, vociferously opposed the resolution with the latter even demanding Union Territory status for itself.

The majority view is therefore against the autonomy resolution in its present form. Extreme critics of the Resolution say that if implemented, it will deprive the people of Jammu and Kashmir of the civil and fundamental rights which they have been enjoying as citizens of India. There shall be no accountability of the aid and finances that the Union of India has been pouring into Jammu and Kashmir in billions if the control of the Auditor General is scrapped. There shall be no control over the conduct of the elections. Almost all the laws duly introduced to J&K shall stand abrogated. The President of India shall have no power to grant pardon, Parliament will cease to hold any authority to legislate; there shall be end of Central Services, Central Commissions such as Minority or Scheduled Tribe/Scheduled Caste Commissions. Chapter III of the Constitution of India carrying fundamental rights shall not be applicable in the State; no freedom of speech, no freedom of thought, no freedom of the press, no freedom of religion, no principle of equity and equality shall prevail in Jammu and Kashmir. The basic structure of the Constitution shall not exist in the State thereafter. There will be no outside judge in the Jammu and Kashmir High Court nor shall the High Court enjoy powers to issue any writ or order under Article 226. If there were any inconsistency between the law made by the State Legislature and that of Parliament in respect of any matter, the law made by Jammu and Kashmir shall prevail.

Moreover, a recommendation which, among other things, leaves only external affairs, defence and communications in the hands of the Centre and redesignates the Chief Minister as Prime Minister obviously concerns a matter on which a national consensus has to be evolved. Any attempt to force the issue can only be counter-productive not least because it will result in a hardening of attitudes on all sides.

From that standpoint, the impetuous Dr Abdullah may have made a mistake because it was extremely unlikely that the proposal would have received wide endorsement in the rest of the country. As a result, the move towards reasonable autonomy may have suffered a setback although no one will deny that nowhere is the need for it more urgent than in Kashmir. In fact, a patient evaluation of the situation might have yielded

agreement on a status not substantially different from what is now being sought. Yet, now that the demand has been presented in such stark terms, resistance was inevitable. The outcome will be an increasingly acrimonious debate which will be of no little solace to India's detractors who will interpret the expected adverse comments as signifying New Delhi's reluctance to grant greater "freedom" to the State.

## **Autonomy violates the Constitution**

There is also the constitutional argument against the autonomy demand. Jammu & Kashmir acceded to India prior to the coming into force of the Constitution. Article 1 of the Constitution states, "India, that is Bharat, shall be a Union of States". This Article, which some Constitutional experts consider to be the basis of everything else which follows in the Constitution, does not say that the State of J&K is not a constituent of the Union. Article 370c categorically states that provisions of Article 1 will apply to J&K. It is as much a constituent of the Union as are Uttar Pradesh, Madya Pradesh or Maharashtra.

The entire claim of differentiating J&K and other states is based on two arguments. The first is that Prime Minister Jawaharlal Nehru, had agreed to a special status for J&K and has even undertaken to hold plebiscite on the future of the State. The second is based on the provisions of Article 370, which starts with the heading that is a temporary provision with respect to J&K and which is one of the articles included in Part XXI, which contains temporary, transitional and special provisions. The first argument falls to the ground because Nehru had no mandate of the Parliament to give any undertaking about treating J&K as something different from the rest of India. As for the plebiscite, the issue was dead and buried the moment that Pakistan refused to vacate its aggression. It had made continuous attempts thereafter to aggravate the aggression so that the State falls into its lap through the attrition of terrorism.

The argument based on Article 370 needs serious consideration. The Article begins by stating that Article 238 will not apply to J&K and that the powers of Parliament are restricted to legislating on matters in the Union and Concurrent lists which correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India. Incidentally, Article 238 has been deleted from the Constitution. Article 370 also states that Parliament may legislate on all matters in the Union and Concurrent lists which the President may specify with the concurrence of the State Government. Here the State Government refers to the person recognised by the President as Maharaja of J&K (subsequently Sadar-i-Riyast and Governor ), acting on the advice of his Council of Ministers. The Article further states that in case a Constituent Assembly is convened for the purpose of framing the State Constitution, matters requiring the Concurrence of the State Government will be placed before such assembly.

It is important here to note that the relevant words are “State Government” and “Constituent Assembly”. In other words, the concurrence of the State legislature is not needed for extending the Legislative jurisdiction of Parliament to J&K. No Constituent Assembly was convened and instead an elected State legislature was constituted to which elections have been held from time to time. Every extension of laws, of the jurisdiction of institutions such as Supreme Court and the Election Commission, every extension of the executive powers of the Union to the State has occurred with concurrence of the State Government in power. The Constitution itself provides that it is the executive and not the legislature in J&K or, for that matter, the legislature, can rescind its consent or ask for a reversal of that which has legally occurred. Article 370 is therefore, according to this argument, dead and gone. The J&K State legislature has absolutely no right to ask for an autonomy package which virtually breaks that State away from India. Because Article 1 applies to J&K, the Indian Constitution applies automatically, notwithstanding any agreements contrary to this. Therefore, as ruled by the Supreme Court in the Keshvanand Bharti case, no one has the right to alter the basic features of the Constitution. The Fundamental Rights, the jurisdiction of the Supreme Court, the supervision of elections by the Election Commission and the ensuring of financial accountability by the Comptroller and Auditor General are all part of the basic features. No State, not even J&K, can claim an autonomy that alters these basic features.

Provisions in the Constitution in Articles 371 and 371A to 371I, make special provisions for the States of Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Sikkim, Mizoram, Arunachal Pradesh and Goa. There is also the Fifth and Sixth schedules which apply to scheduled areas and scheduled tribes and the administration of tribal areas in Assam, Meghalaya, Tripura and Mizoram, respectively. If J&K can make out a case for similar provisions in the Constitution recognising the special requirements of the State, that would be legitimate. According to those opposing autonomy, what is wholly illegitimate is J&K asking for exclusion of the legislative jurisdiction of Parliament which vests in it under Lists 1 and 3 of the VII Schedule, as also of the jurisdiction of the Supreme Court, the Election Commission and the provisions of Part XVIII of the Constitution (emergency provisions) and Part XIV (the services). In fact by asking for a separate constitution, the legislature of J&K would hit Part II(citizenship), Part III (Fundamental Rights), Part IV (Directive Principles of State Policy), Part X (Scheduled and Tribal Areas) and Part XI (Relations between the Union and the States). It would also hit at Part XIII which guarantees freedom of trade, commerce and intercourse throughout the country. Under no circumstances can the Indian Union accept any of these demands.

### **Article 370: a nationalist view**

The above argument agrees with the nationalist point of view, according to which the villain of the whole drama is Article 370. It was the agenda of the BJP as well as OF the RSS to repeal Article 370 but compulsions of coalition politics do not permit this. The

party view however is that Article 370 which grants special status to Kashmir has been eroded and in fact, needs to be eroded and that was indeed the intention of the framers of the Constitution.

Piloting Article 370 in the Constituent Assembly which drafted the Indian Constitution Gopalswamy Ayyangar said, “that particular state (Jammu & Kashmir) is not yet ripe for this kind of full integration. It is the hope of everybody here that in due course even Jammu and Kashmir will become ripe for the same sort of integration as has taken place in the case of other states.” The idea is that even before to Constituent Assembly (of J&K) meets, it may be necessary in the interests of the both the Centre and the State that certain items which are not included in the Instrument of Accession would be appropriately added to the list in that Instrument so that administration, legislation and executive action might be furthered ... that is provided for.”

Article 370 was therefore, according to some experts, not meant to give Kashmir some special status. On the contrary, it was a device for extending provisions of the Constitution of India in a step-by-step manner to Kashmir. The intention on the both the sides was to extend the entire Indian Constitution to Kashmir. Notice also that the arrangement was temporary, to be used only till the Constituent Assembly of State could be constituted and could adopt the Indian Constitution at one go.

In retrospect, it is clear that the device was a disaster even as a temporary one. Experience shows that whenever an unhealthy arrangement is made, even temporarily out of political expediency or incapacity of the State to do the right thing, it becomes self-perpetuating by spawning powerful vested interests around itself. This has been the case with the caste-based reservations, common çivil çode and, of course, Article 370.

An entire politics of separatism has grown up around Article 370. Every time a J&K Chief Minister perceives a threat to his power he whips up the demand for greater autonomy. Successive governments in the state have blackmailed the Centre into turning a blind eye to their corruption, nepotism, rigging of elections and maladministration. Since the Central Government needs the cooperation of the State Government for making and enforcing laws, it too tends to manipulate persons, parties and institutions or connive at their wrong doings to secure its objectives. Every time a State Government cooperates with the Centre, it is vulnerable to the charge of being its stooge, a traitor to the people of the state etc. To refute that charge, it has to strike a separatist posture. Farooq Abdullah’s penchant for autonomy has to be seen in this backdrop of competitive separatism.

## **Opportunity to end crisis: A good starting point**

Much of the support to the autonomy proposal has come from the media, not in its existing form but as a starting point for further discussions. They support it for the

opportunity it presents. People, tired of insurgency, now know that the militants or the Pakistanis are never going to be able to win them “azaadi” (independence). Yet, having come along with the rebellion so far, they cannot be expected to surrender without any gains. Can these gains be gift-wrapped in some sort of a constitutional autonomy package? This is possible according to some Kashmir experts

But first, the Center should not take an inflexible posture. The logic is quite simple. The autonomy resolution has been adopted by an elected legislature under the Indian constitution. A debate on its own people’s aspirations is hardly something to be chary about. Autonomy by itself is nothing that should scare the government. National Conference leaders have indicated that while they have demanded the pre-1953 status, that position is negotiable. So many years of blood-letting has convinced them that a return to that status when Sheikh Abdullah was called Prime Minister is a fantasy. Also that Farooq Abdullah is not quite the Sheikh that his father was. Between 1953 and 2000, therefore, there is a lot of room for give and take.

Even today the worst aspects of the so-called autonomy still prevail in Kashmir. The Indian taxpayer endlessly throws money into the state which is spent without any accountability. In spite of huge budgetary allocations, the state’s infrastructure in terms of roads, power, schools, healthcare is no better than Bihar’s and would have been worse if the Army did not have such a large presence, filling in wherever possible to provide the basic services. The Centre’s tax collections, if any, in the Valley have been ridiculously poor. So how else could the new autonomy package make a situation worse?

A new gameplan can unfold now. There will be international support for a calibrated move towards autonomy and for the rebuilding of a credible Kashmiri democratic order. This could also nudge the separatist middle ground to the negotiating table. All this would weaken Pakistan’s international posture a great deal. It would also provide justification for at least some elements within the Hurriyat to gravitate towards the mainstream. The history of insurgencies in India shows that they follow a reasonably predictable pattern. Riding on popular alienation and the Centre’s neglect, the rebellions first become more intense. They take on the might of the entire Indian state, inflicting a large number of casualties on the armed forces. But then, in the course of time, the armed forces stabilise the situation. At one critical point then the rebels are convinced that there is no way they could defeat the rest of the nation. It is at that point they are psychologically in a mood to settle for some honourable concessions. Nagaland, Mizoram, Assam and Tripura have more or less followed the same pattern.

Constitutional autonomy can be a pretty good starting point. In fact, according to observers who have taken the above line, the autonomy resolution holds promise for a different approach to the Kashmir conflict. It could potentially be an important contribution to a debate on devolution of powers. But changing the federal balance in favour of states has been a major issue and will be a major challenge. A significant section of



Indian public opinion is suspicious of even the radically diluted autonomy that Article 370 represents. To them, the prospect of going back to the exceptional autonomy that Kashmir enjoyed till 1953 is frightening. But arguably, according to many experts, the road to a stronger Indian democracy lies not in the abrogation of Article 370, but in extending the autonomy, embodied in that Article, to all states.

Continuing with the positive aspects, many experts believe that although the J & K Assembly's 'resolution' has no special constitutional status, it has a positive aspect which needs to be emphasised. It is a demand for autonomy not secession. The Resolution wants to go back to the status quo of 1953. From this many implications follow. It follows that the J & K Assembly accepts the Instrument of Accession. Through this Resolution, the J & K Assembly confirms that all of Kashmir (including Pakistan-occupied Kashmir) is an integral part of India. By staying within Article 370, the J & K Assembly also accepts that Kashmir's merger with India is irrevocable. Analysts believe such a strong political affirmation of Kashmir's status within India by its own duly elected Assembly must be given due respect. Writ large over the Assembly's Resolution is not a message for India, but for Pakistan and the rest of the world.

As mentioned earlier, the idea that special provisions have to be made for special States should not startle the government. Apart from Article 370, there is a family of Articles (371 A to 371 I) which makes special provision for Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Sikkim, Mizoram, Arunachal Pradesh. There are special provisions for Tribal Areas (in the Fifth and Sixth Schedule). One provision provides for special Cabinet Ministers for Tribal Welfare for the States of Bihar and Madhya Pradesh (Article 164).

Within the terms of Article 370, many Indian laws relating to negotiable instruments, mines and minerals, security, working journalists and many other crucial aspects of law and order, commerce, communication have been applied to Jammu & Kashmir. Equally, many parts of the Indian Constitution including those relating to fundamental rights, the Supreme Court, Election Commission, Auditor General and many others have been extended to J & K. The Election Commission of India has been given express recognition in the J & K Constitution of 1957 which cannot be altered even by the J & K Assembly by less than a two-thirds vote. According to the list in Chief Justice of India, Mr. A. S. Anand's authoritative book on the Constitution of J & K, no less than 43 Constitutional Application Orders and 205 Union statutes have been applied to J & K since 1953. The proposal to go back would unsettle all these laws and constitutional arrangements.

Therefore, although the autonomy resolution should be viewed positively, a voice vote of the Assembly cannot, in the eye of experts, unravel the entire legal edifice which has been fully built with the concurrence of successive state Governments over a period of 47 years since 1953. The Jammu & Kashmir Government has no power to unsettle these arrangements. Its voice vote is no more than a demand. It cannot wipe out the

present known constitutional and legal system. Indeed, if that were the effect of the Resolution of the Assembly, there would be chaos in the state. Banking would come to an end. Trading and investment operations would come to a close. A legal vacuum accompanied by a terrifying social chaos could not be what the Assembly intended. Autonomy is just a word. Each ingredient of autonomy needs to be worked through the political and constitutional process. Some demands are easier than others. The state cannot shrug off the Supreme Court and become a law unto itself. Nor can it accept Union money and reject financial audit through the Auditor General. Each thread has to be carefully considered and reconsidered.

Demands for autonomy within the framework of the Indian Constitution are not new. They were suggested in the Fifties and Sixties. Tamil Nadu's Rajmanner Report demanded de-centralisation in 1971. In 1978, West Bengal issued a Memorandum making 29 demands for autonomy. The Sarkaria Commission has favoured decentralisation in many areas. Constitutional Amendments have been made to create "panchayats" or local bodies.

Autonomy is not secession. Nor is it a signal for other States to make similar claims as those of J & K. It is a unique and special opportunity to resolve fundamental issues germane to a decentralised peoples democracy.

## **Autonomy and regionalism**

Historically, autonomy for states has been associated with a federal form of decentralisation which has been used as a political solution to unite culturally diverse micro-nationalities to form a bigger nation state but in the post - cold war period, it has come to be advocated for achieving efficiency in the use of scarce resources to achieve a higher rate of GDP. In India, the demand for more autonomy for states has become a complex political issue. This is because of the quasi-federal nature of the Constitution which was necessary to take care of the fear of further disintegration (after the separation of Pakistan) of the country. British India was divided on religious lines into India and Pakistan and after independence there was a need to integrate the various sub-national and sub-regional cultures. This became an exercise resulting in the reorganisation of states on linguistic lines. The country held together because of the virtual one party rule in the Centre as well as in the States. After the Congress party lost power in many states in 1967, regional parties took control of large parts of India. Today regional parties wield more influence in their respective states than most national parties. This swing of power has weakened the centralisation process and strengthened the bargaining power of the states vis-à-vis the Central Government. There are nascent demands for autonomy, similar to Kashmir, from states like Tamil Nadu, Assam and now Punjab. The issue of more autonomy for the states therefore cannot be brushed aside merely because the Jammu and Kashmir Assembly has passed an untenable resolution. Its rejection by the

Union Cabinet should not be construed as rejection of the broader issue of more power and funds for the states.

It is important for the Government to realise this because just about the time the Union Cabinet was meeting to reject as “unacceptable” the “autonomy resolution” of the Jammu and Kashmir Assembly, Mr. Prakash Singh Badal, Chief Minister of Punjab, who is generally hailed as the most trusted ally of the BJP, had opted to gather a group of political and legal advisers for the ostensible reason of preparing the State’s case before the Constitution Review Commission. And, as could be predicted, he was passionately articulate on the need for setting up a “truly federal structure” which “was a historical necessity in order to put India among the front-ranking nations of the world”.

The Government is making a distinction between autonomy and devolution. Its much-professed open mind on greater devolution of powers to the states is not likely to produce any moderation, according to some experts, among the secessionist forces and groups. Militant outfits in Kashmir, including the Hurriyat have already rejected even the autonomy resolution; they would therefore not likely to agree to greater devolution.

The plain fact is that almost all regional parties - which are the good guys” in the current grammar of political correctness - would want to free themselves from the monitoring control of the Centre, all in the name of “regional pride”. There is, of course, a historical dimension to it: most regional parties developed an anti-Centre stance in response to the Congress(I)’s stranglehold on the political and electoral space in the country. And, as in response to dynastic politics the Congress(I) turned more and more authoritarian, the dissent within and outside the grand old party acquired an anti-Centre hue. Those anti-Centrist positions, not necessarily separatist or secessionist, have become part of the regional parties’ rhetoric; and these positions can, ironically, be used by a minority/dissident group against a Chief Minister to accuse him/her of being “soft” on the Centre.

Even before Dr. Abdullah decided to play the “autonomy” card, Chief Ministers from non-BJP, non-Congress(I) Governments have been regularly demanding at the Inter-State Council and other forums that the Centre should divest itself of its supervisory and monitoring powers. For instance, the DMK has not yet disowned its 1974 demand for “autonomy”; the Murasoli Maran sub-committee had suggested that “the ideal distribution of powers” would be allocation of defence, foreign affairs, inter-State communications to the Centre and the other residuary powers being exercised by the States. True, over the years, these demands have been de-emphasised, but the sentiment survives.

Or, to take another example, the Akali Dal remains emotionally and ideologically committed to the Anandpur Sahib resolutions. And all the three versions - of 1973, 1975 and 1978 - favour the “autonomy” formula of the Centre being bothered with only

foreign affairs, defence, communications and currency and the “residuary” powers going to the States. The only difference between Mr. Badal and Dr. Abdullah is that the former has not yet demanded that the Supreme Court and the Central Election Commission cease to have jurisdiction over his State.

In fact there is a built-in logical connection between the BJP’s support to regional parties and the resurgence of the “autonomy” sentiment. To the extent the BJP’s cobbling together of a national alliance is based on a pronounced and deliberate anti-Congress(I) bias, the regional partners feel justified in playing up this bias and couching their autonomy demands in anti-Congress(I) slogans. Argues the Punjab Chief Minister Mr. Badal: “Successive Congress Governments in Delhi have systematically concentrated all the authority with the Centre and the States have been reduced to the status of beggars.”

The Constitution Review Commission could open a Pandora’s box. The regional parties, especially those in power in various States, are readying to use the Commission to make demands more or less similar to those articulated in Dr. Abdullah’s State Autonomy Committee report. The immediate agenda is devolution of fiscal powers. Says, for example, Mr. Badal: “There is need to discover a fresh mechanism for restructuring our socio-economic fabric and discard the top-down approach to development. The mere geographical magnitude and demographic character of the country makes the logic of a centralised fiscal dispensation totally irrelevant. Therefore there is need for fiscal autonomy for the States, accompanied by more political, legislative and administrative powers.”

## **The economic factor in Kashmir**

When one talks of fiscal autonomy, it is pertinent to understand Kashmir’s economic status. As statistics would reveal in the matter of finances, J&K does not appear to be as preferred a state as is made out to be. Figures by the Central Statistical Organisation reveal that J&K recorded a compound growth rate of 4.4 per cent between 1991-92 and 1996- 97 whereas Maharashtra recorded 9.5 per cent, Andaman & Nicobar Islands 13.3 per cent and Tripura 8 per cent. The only states which recorded growth rates lower than that of Jammu and Kashmir were Arunachal Pradesh (2.8 per cent), Assam (2.8), Bihar (0.3), Meghalaya (2.1), Uttar Pradesh (3.2) and Pondicherry (0.0).

The fastest growing sector in J&K was the mining sector which showed a compound growth rate of 40.4 per cent during the same period, whereas Bihar, Karnataka, Meghalaya, Punjab, West Bengal and Delhi showed negative growth rates of 0.1, 6.6, 25.7, 17.8 and 76.1 respectively in this sector.

However, ironically, during 1995-96, it was J&K that recorded the highest negative growth rate of 24.9 per cent in the sector. Punjab and Andaman & Nicobar Islands, on the

other hand, during the same year, showed positive growth rates of 211.1 and 466.7 per cent in this sector.

It seems that most of the growth in mining and quarrying in J&K occurred in the early nineties. As regards the share of states to the country's net domestic product in 1995-96, J&K's share of 0.7 per cent compares poorly with 16.2 of Maharashtra, 10.3 of Uttar Pradesh, 8 of West Bengal and 6 of Andhra Pradesh. Once again, Jammu and Kashmir fared better than only some of the much smaller north eastern states.

Coming specifically to agriculture, during 1996-97, the total area under high yielding varieties in J&K was 7.2 lakh hectares as against 149.7 in UP, 89.6 in Maharashtra, 78.0 in MP, 67.5 in Bihar, 54.2 in Punjab, 47.0 in AP and 38.5 in Rajasthan. Data also reveals that the average yield of foodgrains in J&K during 1997- 98 was 16 quintals per hectare. While on this count, J&K fared better than some of the big states like Maharashtra (7.4 quintals per hectare) and MP (9.8), the yield per hectare was still far lower than that of Goa (23.0), Haryana (27.2), Manipur (22.6), Punjab (36.0), Tripura (20.2), TN (21.0), UP (20.3) and West Bengal (21.9).

As regards oilseeds, the highest yield per hectare was recorded in TN (14.3) followed by Gujarat (13.1), Mizoram (12.0), Punjab (11.3) and Goa (10.0). The yield per hectare in J&K was 6.7 quintals and was only slightly better than that of Maharashtra (6.6), HP (5.0), Assam (5.5), Orissa (5.0) and UP (5.8). This may be partly due to the fact that the J&K lags in the use of agricultural implements and machinery, especially the diesel and electric based ones.

The total fixed capital during 1994-95 in the J&K was only Rs 118 crores as against Rs 43,409 crore in Maharashtra and Rs 31,028 crore in UP. Similar is the picture when looked at from the net value added angle. The ratio of net value added to total output during 1994-95 was only 0.1 which was the lowest level recorded for the year.

Another set of statistics showed that the state's own tax revenues during 1996-97 were only Rs 289.3 crore as against Rs 11,715 crores of Maharashtra, Rs 7,983.5 crore of Tamil Nadu, Rs 6,306 crores of Uttar Pradesh, Rs 5,767.8 crore of Karnataka, Rs 4,258.9 crore of West Bengal and Rs 3,898.5 crore of Kerala. Again, only the north-eastern states of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura ranked below J&K in this respect. Even the much smaller state of Goa did better than J&K in being able to raise Rs 302.7 crore during that year. Perhaps, that was the reason for the lowest level of cumulative financial assistance up to March 1997 sanctioned and disbursed by all India financial institutions and this holds separately for the Industrial Development Bank of India also.

Similarly, out of the Rs 57,699 crore of priority sector advances for agriculture and allied activities allocated to the northern region for the year ending March 1997, J&K received only Rs 1,771 crores or 3.1 per cent of the share of the northern region.

Delhi, on the other hand, cornered a 57 per cent share. The north-eastern states together were allocated only Rs 2,248 crores or 0.82 per cent of the total bank credit at the all-India level on this head. This may be considered a little unfair considering that during 1998-99, out of the consolidated gross fiscal deficit of states budgeted at Rs 59,277 crores, almost 52 per cent was accounted for by five states - Bihar (Rs 3,898 crores), Maharashtra (Rs 7,148 crores), Tamil Nadu (Rs 4,471 crores), Uttar Pradesh (Rs 10,707 crores) and West Bengal (Rs 4,355 crores). Uttar Pradesh and Maharashtra were also the leading revenue deficit earners during that year.

### **Autonomy is not the real issue**

The above statistics make a case for greater financial autonomy. But is this what the State government is really seeking? Analyst K. Subrahmanyam says the State is really not seeking more autonomy. The game is that of political survival. In fact most of the autonomy Indian states need is given to them in the Constitution. The powers of the states were steadily and progressively eroded through the centralised planning process and because of the unwillingness of the states to raise their own resources. Just as the government of India has to accept conditionalities when it borrows money from the World Bank and the International Monetary Fund, the states had to submit themselves to the conditionalities of the central government to obtain plan grants and loans.

Autonomy for a state is essentially two-fold. The first is in respect of law and order and law enforcement. The second, and more important one, is financial autonomy. The state governments, with a few exceptions, have voluntarily abdicated their autonomy on maintenance of law and order. Their credibility in regard to law enforcement is so low that in the case of almost any investigation of a crime, the demand is for a CBI enquiry. And whenever there is a public law & order problem, the first impulse is to ask for Central forces.

On the question of financial autonomy, even the Kashmir autonomy proposals do not demand powers to levy a state income tax and more powers for the state to raise resources. They only want autonomy to spend the money which will be provided by the central government. They are not demanding real autonomy which is the additional powers of taxation. No politician of a state asks for that autonomy because that would mean the state assuming greater financial responsibility. If the Constitution is to be amended to provide for greater autonomy, why not give powers to the states to levy their own state income tax as in the US, reduce the need for their dependence on non-statutory transfer of resources from the Centre to states and give them greater financial autonomy?

It would be interesting to find out whether the Kashmir assembly is interested in that kind of genuine autonomy.

The idea of creating state electricity boards and public sector units was to make them autonomous to enable them to take their own decisions and run them profitably. Instead of exercising autonomy, all the electricity boards and public sector undertakings surrendered their autonomy to the arbitrary authoritarianism of ministers as a result of which most are facing financial ruin today. This happened because the basic principle that autonomy carries with it responsibility was overlooked by our politicians both at the state and the Centre.

How can there be autonomy for the states when the state legislatures run by national parties have voluntarily forfeited their right to choose their own chief ministers and surrendered that right to the central party leaderships? Cabinet ministers in the central government surrendered their autonomy to the prime minister with the creation of a strong prime minister's secretariat. Indira Gandhi as prime minister concentrated all authority in her hands and thereby subverted democratic decision-making in governance. Critics say, her style of governance still persists because the political culture of India is essentially monarchical. Republicanism, genuine democracy and autonomy are still alien concepts for most of the politicians.

## **Breakdown of talks with the Hizbul Mujahideen**

The above view is correct if one looks at the ground situation and the politics of survival being played everyday. But a solution, however imperfect and however long it takes, would still have to be found within the principles of democracy, republicanism and autonomy. Autonomy is a bad word as far as militant organizations are concerned but in a no win situation that exists for the government as well as for the militants, there might be room for a compromise.

And that appeared to be so when on July 24, 2000 the Hizbul Mujahideen (HM) announced a unilateral three-month cease-fire. (See a backgrounder on the Hizbul Mujahideen at Annexure V). The announcement was made in a press conference addressed by the Deputy leader of the HM Mr. Abdul Majid Dar. The supreme leader of the HM Mr Syed Sallahudin confirmed this offer of cease-fire from Islamabad. After a high-level meeting, the Prime Minister also announced the acceptance of the offer on July 28, 2000. The presumption was that Pakistan had approved of the Hizbul move. This was perhaps a correct assessment at that time since considerable diplomatic and intelligence effort had gone into the preparation for the announcement of the cease-fire. Subsequent events however, indicated how complex the Kashmir problem is.

On July 27, 2000 a meeting of militant organizations opposed to the cease-fire was held in the north of Kashmir. It was attended by Harkat-ul-Mujahideen, Lashkar-e-Toiba, Al-Fateh Force, Al-Badr Mujahideen, Jaish-e-Muhammad, Islami Front, Harket-e-Jehadi Islam, Al-Barq and Mujahideen-e-Taliban. The meeting condemned the cease-fire and maintained that nothing short of independence was acceptable. Although Mr Dar described this reaction as “outside interference”, the power and influence of the “jehadi” sections in Pakistan was clear. This they demonstrated by killing more than 100 Hindus including pilgrims in a series of attacks on August 1 & 2.

Nevertheless, talks on modalities of the cease-fire did commence and reactions to the cease-fire from many was positive. The JKLF (Jammu and Kashmir Liberation Front) leader Ammanullah Khan described the offer as “bomb-shell” and said that diplomacy should be given a chance. Chief Minister Farooq Abdullah welcomed the offer as did the Hurriyat, atleast initially. Most political parties cautiously welcomed the peace moves but the RSS and its organizations were less than forthright in supporting it.

The peace moves did not go very far. Pakistan obviously panicked and pulled the plug when it found that the talks might result in something substantive. It made the Pakistan based Hizbul chief Syed Sallahudin put a pre-condition of involving Pakistan in tripartite talks and set a deadline of August 8, 2000 for India to accept it. When this was not accepted, the cease-fire was called off.

Terrorists struck almost immediately and set off a car bomb explosion on August 10, 2000 in Srinagar killing 10 security men and a media photographer. The Hizbul and the Lashkar-e-Toiba (See Annexure VI for a background on the Lashkar-e-Toiba) both claimed responsibility but police believe that the latter was responsible. Not to be outdone the Hizbul attacked a Border Security Force convoy on August 13 in the Udhampur area of Jammu and killed 6 security men and injuring 43. This was only the beginning. Terrorist violence has continued through the year.

Things are therefore back to square one with Syed Sallahudin asking for the induction of Pakistani troops in Kashmir and in India demands being made of hot pursuit. Officially, the Government reaction was tough with the Home Minister Mr L.K. Advani squarely blaming Pakistan, the Hizbul and the Hurriyat for sabotaging the talks. Prime Minister Vajpayee’s reaction was more sober and surprisingly there was a significant change in his outlook when he said that India would have no hesitation to talk to the military rulers of Pakistan. Earlier, the Prime Minister had even removed the pre-condition of holding talks with militants within the ambit of the Constitution: the talks he had said, would be held on humanitarian grounds.

The Prime Minister has also said that talks could still be resumed, perhaps with a faction of the Hizbul, which is inclined to take a view independent of Pakistan. The Hizbul negotiator Fazal Haq Qureshi has said that “the process of talks has been delayed, not



derailed..... the process has been delayed possibly but it has to come again.... and this time it will probably come with a greater weight and force". In an interview on August 13 he said, "if the militants continued to be backed by Pakistan, there would only be death and destruction in the valley". He also criticised the Hurriyat for not supporting Hizbul in the talks. "If the Hurriyat has three stands within two weeks over the cease-fire and no stand on its withdrawal, the people of the state are justified in asking them to dissociate from the freedom struggle ... we want to ask the leaders of the Hurriyat who openly came out against the cease-fire to tell the nation, what program they have to achieve freedom for the people of J&K".

Attacking the Hurriyat's negative stand on the Hizbul cease-fire it dared the Hurriyat to join the armed struggle if militancy is the only solution. There is belief that the Hurriyat's open opposition to the cease-fire had put the credibility of the HM in jeopardy in separatist circles.

From Pakistan, Syed Sallahudin has said that the outfit could again declare a cease-fire if India accepts the participation of Pakistan in talks. The latest from the Hizbul is that talks can be resumed even if India agrees in principle to involve Pakistan in tripartite talks at a later stage. But this appears a less likely possibility with the Prime Minister making it amply clear during his address to the UN millenium summit and during his interactions with the US President and with members of the Indian community. The stand of the government of India has never been put forward so clearly and so consistently by the Prime Minister: that India is prepared to talk to Pakistan but for this to take place Pakistan must create an environment of peace, that is to stop its cross border terrorism. The US endorsement of this stand, rather forthrightly during talks between President Clinton and the Indian Prime Minister in September 2000, has strengthened the resolve of India.

But there is no evidence that all this is having any impact on the attitude of Pakistan. In fact there is evidence to suggest that it is becoming more rigid and fanatical. The Pakistan President declared on its Independence Day on August 14 that it would continue to support Kashmiri freedom fighters and that attempts to ignore Pakistan would not result in any solution. General Musharraf has been equally caustic. In fact there are reports emerging in September, 2000, denied by the Hizb in Jammu and Kashmir, that the Jamaat-e-Islami in Pakistan has brought the Hizbul Mujahideen under its control. The organisation's chief Quazi Hussain, who has been among the sharpest critics of the Hizbul's case-fire move, now heads a 12 member committee which will henceforth take all important decisions for the Hizbul. The Quazi has told the Hizbul chief that "if I am betrayed again, I will resign from the chairmanship of the committee." The Hizbul Mujahideen has been heavily dependent on the support of the Jamaat ever since its formation and has constantly given in to its pressure. In this context, the firm refusal of the Jamaat-e-Islami of Jammu and Kashmir to be a party to the Pakistani Jamaat's move, is of considerable significance. Mghulam Mohammad Butt, Ameer (chief) of the Kashmir

Jamaat has said that his party had a separate identity and had nothing to do with the policy, politics and functioning of the Jamaat in Pakistan. The Kashmir Jamaat has been for many years moving away from violence and has publicly sought a negotiated settlement. It had been for many years regarded as a public face of the Hizbul and still has some influence over its fighters. Even if its present stand does not prompt a section of the latter to rebel against the Hizbul's leadership, it is bound to have an impact on the people of the state.

## **Pakistan's position**

The prospect of any arrangement in Jammu and Kashmir that falls within the framework of the Indian Constitution, establishes peace, and sets the tone for a solution other than that of accession of Jammu and Kashmir to Pakistan remains unpalatable to Pakistan.

Pakistan's critical reaction to the autonomy resolution adopted by the Jammu and Kashmir Legislature and its definitive role, utilising the person of Syed Salahuddin, to abort the Hezb-ul Mujahideen ceasefire reflect its dual concerns - the possible loss of a policy instrument that it can use against India and, more importantly, fear that any peaceful solution that suggests increasing autonomy or self-rule to Jammu and Kashmir could have ramifications in its own restive provinces.

Even while Pakistan has continued to project itself as the champion of the right of self-determination of the people of Jammu and Kashmir, it has had to take notice of the voices that are being raised in Pakistan Occupied Kashmir and the Northern Areas seeking a greater degree of independence from Islamabad's control. Quiescent people, particularly in the Northern Areas have, of late, through the medium of legal appeals, demonstrations, bomb blasts and press conferences, begun to demand that Pakistan relinquish its control over Gilgit and Baltistan and delink the Northern Areas from the Kashmir issue. Pakistan's denial of any Constitutional status to the Northern Areas has always been explained away by claiming that the future of the Northern Areas is inexplicably linked to a final settlement of the Jammu and Kashmir issue - an argument increasingly being challenged from within the Northern Areas, where demands for basic fundamental rights, self-rule, etc., are beginning to grow.

Developments in Pakistan's provinces, other than Punjab, suggest a restiveness that could transform into a challenge to the Central authority. The Mohajirs, who were in the forefront of the creation of Pakistan, have begun to question the whole idea of Partition. The Sindhis, reacting to perceived discrimination, have begun to talk about their right of self-determination. Violence is once again erupting in Baluchistan. All the provinces are united in their rejection of what they see as a Punjabi engineered plan to deprive them of essential irrigation waters through the construction of the Kalabagh dam.

While these noises are somewhat tentative and the Pakistan Oppressed Nations Movement has yet to make much of a mark, it is a fact that developments in India have repercussions within Pakistan. Therefore, any solution to the Kashmir issue arrived at through a dialogue with the Kashmiris and within the frame work of the Indian Constitution would reverberate in Pakistan's provinces too. It is, therefore, essential for the Pakistani leadership to ensure that any solution to the Kashmir issue should be according to the agenda determined by Pakistan and with Pakistan playing a deciding role. The duality of approach where calls for dialogue are coupled with justification of the violence in Jammu and Kashmir in the name of jihad, flows from these imperatives.

There is recognition, reflected mostly in the Indian media and comments of the Opposition parties, that a lasting solution would require bringing Pakistan on board. Pakistan's ability to play the spoiler, given the jihadi resources at its command, cannot be under estimated. The question that is often debated in India is at what point Pakistan should be involved - now, later, when the talks with the Kashmiris have reached a certain critical stage; or only when Pakistan has finally and irrevocably given up supporting violence. Logic dictates that until Pakistan is willing to eschew violence, it cannot be a responsible and positive interlocutor. As the Indian Prime Minister has stated recently in New York, "jihad and dialogue are not a viable mix". There are increasing signs of the Kashmiris favouring a non military peaceful solution to the problem. Those quarters that espouse the welfare of the Kashmiris need to impress upon Pakistan, the imperative need of changing its attitude and engaging constructively in efforts designed to end violence in Jammu and Kashmir and resolve the problem.

## **Options**

Over the past years, there has been a plethora of suggestions as to how the problem can be resolved. With the sole exception of Amanullah Khan's proposed solution, most others emanate from Western think-tanks. Amanullah's proposal - not taken seriously - suggests the creation of an independent Jammu and Kashmir. The steps suggested by him include - first reuniting all the parts to reproduce the entity that existed in 1947; withdrawal of the Indian and Pakistani armies from the respective positions in the State; disarming pro-Pakistan and pro-Indian militia; handing over administration only to civil servants of Jammu and Kashmir; setting up an International Kashmir Committee from the UN, NAM, OIC, etc., to oversee the reunited State, and finally holding a referendum after 15 years under the aegis of UN to decide the future of the State.

Many of the other proposals are derivatives of the old Owen Dixon Plan of regional plebiscites. The one that has gained the maximum currency in the Valley, and which is often cited as the model for the State Regional Autonomy Report, is the US-based Kashmir Study Group's framework for adjustments along the Line of Control.

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American perception that the centre of international terrorism has shifted from West Asia to Pakistan and Afghanistan, and the challenge India faces in combating the forces of extremism being sponsored from its neighbours, have created a new convergence of interests between Washington and New Delhi.

The Clinton Administration has been putting pressure on Pakistan to use its influence with the Taliban to modify its policies and hand over Osama bin Laden, the Saudi dissident accused in the US of masterminding the bombing of American embassies in East Africa two years back. The US is also urging Pakistan to end the cross-border terrorism in Kashmir and create an appropriate atmosphere for resumption of Indo-Pakistan dialogue.

Earlier, while addressing the US Congress Prime Minister Vajpayee said that “In our neighbourhood — in this, the twenty first century — religious war... has been proclaimed to be an instrument of state policy”. He said, that there were “forces outside our country that believe they can use terror to unravel the territorial integrity of India... they wish to show that a multi-religious society cannot exist .. they pursue a task in which they are doomed to fail”. No country he said, had faced as “ferocious an attack of terrorist violence as India has over the past two decades : 21,000 were killed by foreign-sponsored terrorists in Punjab alone, 16,000 in Jammu and Kashmir”. In an unprecedented direct pitch to the assembled legislatures, the Prime Minister said such evil cannot succeed. “But even in failing, it could inflict untold suffering ... “.

## **Prospects**

India's willingness to engage in a dialogue both with Pakistan and with the various Kashmiri groups, is often perceived as a sign of India's willingness to negotiate a settlement that could be different from its stated position of Jammu and Kashmir being an integral part of India. Such perceptions miss the point that India has repeatedly maintained that no peaceful solution can come about through a redrawing of borders or re-writing of history. They also ignore the reality that the silent majority in India is unlikely to acquiesce in any formula that redefines the borders and sovereignty of the country.

But there is still tentative hope that the process set afoot by the release of the Hurriyat leaders and the Hezb ul Mujahideen ceasefire can be salvaged. The apparent schism that has emerged between the Hizb ul Mujahideen in Jammu and Kashmir and its Jamaat-e-Islami mentor in Pakistan; differences within the Jamaat-e-Islami in the Valley with its Amir favouring an end to the militancy and a negotiated settlement; and the continuing and obvious pressure from international interlocutors on Pakistan, on India and on the various political and militant groups in Kashmir for a resumption of the dialogue, are seen as a manifestation that recent developments could be the opening gambit in a longer

game. The Hezb ul Mujahideen, possibly under continuing pressure from Pakistan and other jihadi groups, has been reiterating that tripartite talks are essential. But the fact that its Supreme Commander, Syed Salahuddin is still speaking in terms of another ceasefire and possibly a political formation and participation in some form of elections suggest that a considered decision may have been taken, at least by the Hezb, that the gun has not achieved the desired results and only caused suffering for the people whose cause the group purports to represent.

Most analysts believe that the maximalist positions currently being articulated by all the protagonists may dilute if the process of peaceful negotiations does start. Eventually, a solution somewhere between the current Constitutional position of Jammu and Kashmir and a greater devolution of powers and self-rule to the Valley with similar developments in Pakistan Occupied Kashmir could emerge. This, however, is still in the realm of theory as, for the moment, the critical issue occupying everyone is, when the dialogue with the Hezb ul Mujahideen or the Hurriyat or others would resume, what shape it would take and whether it will become a self-sustaining peaceful process or, as happened in August 2000, once again degenerate into hostility and violence. The question mark still remains.

## **Autonomy Committee's recommendations**

The following is the brief summary of the Autonomy Committee's Report adopted by the Jammu and Kashmir Assembly.

Matters in the Union List not connected with the three subjects of defence, external affairs and communication and/or ancillary thereto but made applicable should be excluded from their application for the State.

The Committee recommended that the word "temporary" be deleted from the title of part XXI of the Constitution of India and the word "temporary" occurring in the heading of Article 370 be substituted by the word "special".

All modification made in Article 46 in its application to the State subsequent to the 1950 order should be rescinded. List II (State) and List III (Concurrent) of the Seventh Schedule should not be applicable to the State, Article 254 should be restored to the position of 1954 and Article 262 and 263 which were not applicable under the 1950 order but were subsequently extended to the state, should cease to apply.

About the imposition of emergency, the Committee recommended that it shall be subject to whatever decision the State Assembly might take within two months of the declaration of emergency and failing any such decision, the proclamation of emergency shall be deemed to have been revoked.

The Committee recommended that Fundamental Rights (Part III) be deleted and a separate chapter on fundamental rights be included in the State Constitution.

The Union (Part V) Article 72 (I)C, 72(3),133,134,136,138, 145 (I) and 151(2) should be made non-applicable to the State as was the position in the 1950 order and Article 149 to 151 should apply to the State in the form in which they were in 1954.

The State (Part VI) Article 218 be omitted in its application to the State and the position as it existed before the Jammu and Kashmir Constitution (First Amendment Act) of 1959 restored; Article 220, 222 and 226 should also be omitted in their application to Jammu and Kashmir State.

About finance, property, contracts and suits, the Committee recommended that the matter be discussed between the State representatives and the Union Government as agreed to during the talks in 1952 (Delhi Agreement).

Special provisions relating to certain classes, application of Articles 338 and 342 to the State should be omitted and corresponding provisions made in the State Constitution.

Amendment of the Constitution of India, Clause (4) of Article 368 added Vide C.O. 101 be deleted, Clause (2) of the article should apply with the provision already introduced by the 1954 order and clause (i) thereof which was not in existence in 1954 and was introduced in 1971 should remain omitted in its application to the State.

It said that in the Seventh Schedule entries in the Union List not applied to the State by the Constitution (Application to J and K) Order, 1950, should be omitted. Concurrent List which was applicable to the State in 1950 but was applied by subsequent orders should cease to apply to the State.

Constitution of Jammu and Kashmir (First Amendment) Act 1959 in so far as they relate to directions and control of elections to the State legislature and to the State High Court, and Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965, relating to change of nomenclature of the Head of the State and State Executive, mode of appointment of the Head of State and other consequential amendments should be repealed and the original provisions of the Constitution of Jammu and Kashmir restored.

It said all orders issued thereafter under Clause (1) of Article 370 of the Constitution of India by the President applying various provisions and matters of the Constitution of India to the State whether in full or in modified form or making any change in the provisions of matters already applied by 1950 order or agreed to under the Delhi Agreement, should be rescinded and the provisions or matters so applied to the State should cease to apply.

The Committee recommended that the changes made in the State Constitution vide two amendments in 1959 and 1965 be repealed and the original provisions of the constitution of Jammu and Kashmir as adopted by the State Constituent Assembly on Nov. 17, 1957, be restored. The Committee also made some suggestions for safeguards for future.

It suggested that Article 258 should be invoked for entrusting the State functions in relation to any matter to which executive power of the Union extends. It said, this issue is not one of executive functions but legislative powers apportioned between the Union and the State under two solemn pacts between them - the Instrument of Accession in 1947 and the Delhi Agreement of 1952 to which the President's order of



May 14, 1954 gave constitutional sanctions besides Article 370 itself. “We must return to them if popular sentiment is to be respected and resentments assuaged”, it said.

The Committee said, 40 years of unconstitutional practice had created a mess and the best course was for the President to repeal all orders which were not in conformity with the Constitution [Application to Jammu and Kashmir] Order, 1950, and the terms of the Delhi Agreement, 1952. It further said, ever since Article 370 had acquired a dangerously ambiguous aspect; designed to protect the State's autonomy, it had been used systematically to destroy it. A pact is necessary between the Union and the State which makes ample redress to finalise their relations by declaring a constitutional understanding that Article 370 of the Constitution of India can no longer be used to apply to the State of Jammu and Kashmir. Any other provisions of the Constitution of India beyond the ones extended under the 1950 order and the Delhi Agreement, 1952 shall not apply. This, the committee said, could be embodied in a new Article that specified the agreement as part of the unamendable basic structure of the Indian Constitution.

## **Excerpts from the 1953 Agreement**

After the Constituent Assembly of Jammu and Kashmir arrived at its main decisions, representatives of the Indian government and the State met to discuss their implications. This arrangement between Sheikh Mohammad Abdullah and Jawaharlal Nehru agreed upon in July 1952 came to be known as the Delhi Agreement. its main contents are:

1. The Government of India agreed that while the residuary powers of legislature vested in the Centre in respect of all States other than Jammu and Kashmir, in the case of the latter they vested in the State itself.
2. It was agreed that persons domiciled in Jammu and Kashmir shall be regarded as citizens of India, but the State Legislature was empowered to make laws for conferring special rights and privileges on the State's subjects.
3. As the President of India commands the same respect in the State as he does in other units of India, Articles 52 to 62 of the Constitution relating to him should be applicable to the State.
4. The Union Government agreed that the State should have its own flag in addition to the Union flag, but the State Government agreed that the State flag would not be a rival of the Union flag.
5. The Sadar-i-Riyasat, equivalent to the Governor of other States, will be elected by the State Legislature itself instead of being nominated by the Union government and the President of India.
6. In view of the peculiar position in which the State was placed, in particular Sheikh Abdullah's land reforms programme, the Fundamental Rights enshrined in the Constitution could not be made applicable to the State. The question that remained to be determined was whether Fundamental Rights should form a part of the State Constitution or the Constitution of India.
7. With regard to the jurisdiction of the Supreme Court of India, it was accepted that for the time being, owing to the existence of the Board of Judicial Advisers in the State, the Supreme Court should have only appellate jurisdiction.
8. The Government of India insisted on the application of Article 352, empowering the President to proclaim a general Emergency in the State. The State government argued that the Union, in the exercise of its powers over Defence, would anyway have full authority to take steps and proclaim Emergency. In order to meet the view point of the State's delegation, the Government of India agreed to the modification of Article 352 in its application to Kashmir by the adding the words, "but in regard to internal disturbance at the request or with the concurrence of the Government of the State", at the end of clause (i).

**Excerpts from the 1975 Agreement**

Excerpts from the agreed conclusions of the Sheikh Abdullah Indira Gandhi Accord, 1975, signed by Mirza Mohammad Afzal Beg and G.Parthasarthi in New Delhi on November 13, 1974.

1. The State of Jammu and Kashmir, which is a constituent unit of the Union Of India, shall, in its relation with the Union, continue to be governed by Article 370 of the Constitution of India.
2. The residuary powers of legislation shall remain with the State; however, Parliament will continue to have powers to make laws relating to the prevention of activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India.
3. Where any provision of the Constitution of India had been applied to the State of Jammu and Kashmir with adaptation and modification, such adaptations and modifications can be altered or repealed by an order of the President under Article 370, each individual proposal in this behalf being considered on its merits; but provisions of the Constitution of India already applied to the State of Jammu and Kashmir without adaptation or modification are unalterable.
4. With a view to assuring freedom to the State of Jammu and Kashmir to have its own legislation on matters like welfare measures, cultural matters, social security, personal law and procedural laws, in a manner suited to the special conditions in the State, it is agreed that the State government can review the laws made by Parliament or extended to the State after 1953 on any matter relatable to the Concurrent List and may decide which of them, in its opinion, needs amendment or repeal.
5. As an arrangement reciprocal to what has been provided under Article 368, a suitable modification of that Article as applied to the State should be made by a Presidential order to the effect that no law made by the Legislature of the State of Jammu and Kashmir, seeking to make any change in or in the effect of any provision of the Constitution of the State of Jammu and Kashmir relating to any of the undermentioned matters, shall take effect unless the Bill, having been reserved for the consideration of the President, receives his assent. The matters are: the appointment, powers, functions, duties, privileges and immunities of the Governor, and the following matters relating to elections namely, the superintendence, direction and control of elections by the Election Commission of India, eligibility for inclusion in the electoral rolls without discrimination, adult suffrage and composition of the Legislative Council, being matters specified in sections 138, 139,140 and 50 of the Constitution of the State of Jammu and Kashmir.
6. No agreement was possible on the question of nomenclature of the Governor and the Chief Minister and the matter is therefore remitted to the Principals.

**Excerpts from Chapter V of the report of the J & K Autonomy Committee on Article 370 of the Constitution of India**

A careful study of the text (of Article 370) reveals six special provisions for J&K. First, it exempted the state totally from the provisions of the Constitution of India providing for the governance of the states. It (J&K) was allowed to have its own constitution within the Indian Union.

Second, Parliament's legislative power over the state was restricted to three subjects – defence, external affairs and communications. (In respect of these) only "consultation" with the state government was required since the state had already accepted them in 1947 by the Instrument of Accession.

Third, if other "constitutional" provisions and other Union powers are to be extended to the state, prior "concurrence" of the state government was required.

Fourth ...even that concurrence alone did not suffice. It had to be ratified by the state's Constituent Assembly. This is often overlooked. Article 370 (2) says clearly: "If the concurrence of the government of state... be given before the Constituent Assembly for the purpose of framing the Constitution of the state is convened, it shall be placed before such (Constituent) Assembly for such decision as it may take thereon".

Fifth ...the state government's authority to give the "concurrence" lasts only till the state's Constituent Assembly is "convened". It is an "interim" power... Moreover, the President cannot exercise his power to extend the Indian Constitution to J&K indefinitely. The power has to stop at the point the state's Constituent Assembly drafted the state's Constitution and decided finally what additional subjects to confer on the Union and what other provisions of the Constitution of India it should get extended to the state... Once the state's Constituent Assembly had finalised the scheme and dispersed, the President's extending powers ended completely.

Sixth ...the last step in the process, is that Article 370 (3) empowers the President to make an order abrogating or amending it. But for this, also "the recommendation" of the state's Constituent Assembly "shall be necessary before the President issues such a notification".

Article 370 cannot be abrogated or amended by resource to the amending provisions of the Constitution which apply to all the other states because Article 368 has a proviso which says that no constitutional amendment "shall have effect in relation to the state of Jammu and Kashmir" unless applied by order of the President under Article 370. That requires first the concurrence of the state government and subsequent ratification by its (J&K) Constituent Assembly.

Article 370 was authoritatively explained by its mover in the (Indian) Constituent Assembly, Mr N Gopaldaswamy Ayyangar...

Mr Ayyangar said in the Constituent Assembly on October 17, 1949: "... (As) to matters which are not mentioned in the Instrument of Accession, and it is one of our commitments to the people and government of Kashmir that no such additions should be made except with the consent of the (J&K) Constituent Assembly which may be called in the state for the purpose of framing its Constitution. In other words, what we are committed to is that these additions are matters for the determination of the Constituent Assembly of the state".

Mr Ayyangar explained that, "the provision is made that when the Constituent Assembly of the state has met and taken its decision both on the Constitution for the state and on the range of federal jurisdiction over the state, the President may, on the recommendation of that Constituent Assembly, issue an order that this Article... shall either cease to be operative or shall be operative, only subject to such exceptions and modifications as may be specified by him. But before he issued any order of that kind the recommendation of the Constituent Assembly will be a condition precedent.

This unique process of Presidential orders altering Constitutional provisions by an executive order ends with the final decision of the state's Constituent Assembly. "When it (J&K Constituent Assembly) has come to a decision on the different matters, it will make a recommendation to the President who will either abrogate (the) Article... or direct that it shall apply with such modifications and exceptions as the Constituent Assembly may recommend". Mr Ayyangar repeatedly said that the government's concurrence alone will not do. "That concurrence should be placed before the Constituent Assembly when it meets and the Constituent Assembly may take whatever decisions it likes on those matters".

...Sheikh Saheb (Sheikh Abdullah) told the state's Constituent Assembly on August 11, 1952 that "the fact that Article 370 has been mentioned as temporary provision in the (Indian) Constitution does not mean that it is capable of being abrogated, modified or replaced unilaterally. In actual fact, the temporary nature of this Article arises merely from the fact that the power to finalise the Constitutional relationship between the state and the Union has been specifically vested in the J&K Constituent Assembly... It follows that whatever modifications, amendments, or exceptions that may

become necessary either to Article 370, or any other Article in the Constitution of India in their application to the Jammu and Kashmir state, are subject to the decisions of this sovereign body (Constituent Assembly)".

Obviously, once this body disperses after completion of its task, no amendments to the Constitution of India could be made in their application to the state for the simple reason that the sovereign and appointed ratifying body no longer existed...

Sheikh Saheb warned: "I would like to make it clear that any suggestions of altering arbitrarily this basis of our relationship with India would not constitute breach of the spirit and letter of the Constitution, but it may invite serious consequences for a harmonious association of our state with India".

## Background on the Hizbul Mujahideen

Hizbul Mujahideen was once the most feared militant group of Kashmir. The group was launched in 1989 to keep a check on the pro-Independence Jammu and Kashmir Liberation Front (JKLF). Initially a pro-Pakistan militant group, the outfit was named as Al Badr, and was launched with the blessings of Jamat-e-Islami, Pakistan, with militants culled from the JKLF. This marked the first ideological division of militancy in Kashmir, with the JKLF standing for complete independence from India and Pakistan and the Al Badr for a merger with Pakistan.

As the Jamat-e-Islami Kashmir has traditionally been closer to its Pakistani wing rather than the Indian one, this new outfit had a well-knit organisational setup and cadre-based structure at its disposal across the Valley. The group was re-named Hizbul Mujahideen and Master Ahsan Dar, a militant leader from Pattann, north Kashmir was the first commander-in-chief.

The group initiated a massive recruitment drive across the Kashmir Valley after establishing a network of trained guides, generally residents of bordering villages. In fact, most of these guides had been doing cross-border smuggling before the emergence of militancy. Unlike the JKLF, the Hizb conducted unchecked mass recruitment drives to send boys across for arms training. It was later blamed for trying to swell its ranks without caring for the quality of recruits. Militancy, till then a hush-hush affair, came out into the open. Passenger buses were being run from Srinagar to take fresh recruits to Kupwara, from where they would cross the border.

In late 1991, the pro-Pakistan Tehreek-e-Jihad-e-Islami (TJI), led by Abdul Majeed Dar — who announced the cease-fire offer, — merged with Hizb. TJI was then the biggest militant outfit in north Kashmir. Soon Hizb became the largest militant group, and Master Ahsan Dar had more than 10,000 militants under his command. By now, JKLF had completely been marginalised, and Pakistan had embargoed arms and money supply to it. While, two training camps — Jhal and Dhani — were launched in Pakistan Occupied Kashmir (PoK) for the Hizb.

Though almost 150 pro-Pakistan groups mushroomed across the Valley, Hizb was the only organisation with a large network. Majority of the groups existed only on paper and did little more than issue press releases. But there was a rationale behind floating so many of them: minimise the chances of a group claiming responsibility for an attack on security forces as well as prevent any stronger outfit from directly establishing contact with security agencies.

Then, the Jamat-e-Islami decided to openly steer militancy. Master Ahsan Dar claimed that his outfit to be the fouji bazu (armed wing) of Jamat. However, this split the

Hizb, with a prominent commander, Nasir-ul-Islam, launching his own Hizbul Mujahideen. To checkmate the Hizb top brass and the Jamat, Nasir-ul-Islam claimed his splinter group to be Islam ka fouji bazu (armed wing of Islam). Thus began the major division within the outfit. However, Nasir-ul-Islam later changed his outfit's name to Jamait-ul-Mujahideen.

Islam was later killed, allegedly in custody, in Srinagar. The group had taken on itself to 'discipline' the media. In fact, it had launched a terror campaign against the local Doordarshan and All India Radio stations. It was almost wiped out, but got a fillip when one of its jailed commanders, Ghulam Rasool Shah alias General Abdullah, recently escaped from police custody. Abdullah crossed over to Pakistan and is trying to reorganise the group.

In a bid to tighten its grip on the Hizb, Jamat launched a clean-up operation within the top brass. The first step was a change in leadership, since the Jamat was not comfortable with Ahsan Dar. On November 11, 1991, a senior Jamat leader, Mohammad Yousuf Shah alias Syed Salahudin was made Supreme Commander of the outfit, superseding Dar. To maintain absolute control over the outfit, which was now dominating militancy across the state, Salahudin divided the organisation into administrative and military wings. The administrative wing manned by Jamat leaders had supremacy over the militant commanders in the field. In fact, Hizb introduced district administrators, who were always being senior Jamat activists.

Another leading militant outfit, Allah Tigers, also merged with Hizb, expanding its base in Srinagar city. Hizb, however, had another split when its former commander Ahsan Dar parted ways and launched the Muslim Mujahideen, based in Anantnag. Unnerved by Dar's popularity, Hizb kidnapped him from Anantnag in May 1992. He was released only to rush to Pakistan to seek fresh support. However, Dar's new outfit could not match Hizb on the ground. And after his arrest, a majority of the group shifted loyalties and joined the counter-insurgency force. The Muslim Mujahideen commander in south Kashmir, Azad Nabi, later contested elections as well.

Foreign militants started joining Hizb and were deployed as bodyguards of the top Hizb leadership, besides running training camps in remote villages. These foreigners later became part of assault groups. With the increase in the number of foreign militants, the local-foreigner tussle also surfaced within Hizb. In fact, the foreign cadre was unprepared to work under the local command. Finally in 1998, the Hizb top brass constituted a separate group Al Badr, exclusively for its foreign cadre. Al Badr, which is led by a Pakistani national Bakht Zameen, has completely severed ties with Hizb. It was one of the groups that vehemently opposed Hizb's ceasefire proposal.

In 1993, Hizb was the only active outfit in the field, with a vast network of more than 6,000 militants and a large upper-level base of Jamat-e-Islami across the Valley.



However, the first blow on the Hizb was in 1994, when the government managed to create a counter-insurgency force. Aimed at wiping out the Hizb, the force was led by Kuka Parrey in Sonawari-Bandipore area, Sareer Khan in Pattan, Nabi Azad in rural Anantnag and Hilal Hider in Anantnag town. Called Ikhwan, it targeted the Jamat network and at least 2,000 Jamat activists and leaders were killed, besides scores of Hizb cadre.

Hizb had also established powerful women's wing, Binat-ul-Islam that was led by Umi-Arifa. The group would visit residences of slain militants, besides affected families.

Around 5,500 of the 11,000-odd militants killed in the past 11 years of violence in Kashmir have been from the Hizb, according to a top security agency). Despite massive efforts by security forces and the Ikhwan, it remains the biggest indigenous outfit in the state. Though the army believes the Hizb has around 750-850 active members out of 1,500 militants operating in the Valley, sources in security agencies say the number of Hizb militants is actually 3,000.

Hizb also runs a news agency from Pakistan, Kashmir Press International. Its research centre, the Kashmir Study Centre based in Muzaffarabad, PoK, is led by Jamat-e-Islami naib amir (deputy chief), Ghulam Nabi Newshehri and Jamat ideologues, G.M. Sofi and Prof M Ashraf Saraf.

The outfit's propaganda arsenal comprises three films: Barood ka Toufa (Gift of Explosives), Afghan ki Lalkar (War cry of an Afghan) and Gazi Ibni Qasim (a film on the life of Pak Jamat chief, Qazi Hussain Ahmad).

## **Lashkar-e-Toiba : the most dreaded outfit**

When separatist violence first registered its presence in the frontier state of Jammu and Kashmir in the late eighties, the Lashkar-e-Toiba was not at the forefront of the movement seeking Kashmir's merger with Pakistan. Within the last few years, however, the outfit has emerged as the most dreaded of the extremist groups, its fanatical cadres being held responsible for some of the most heinous massacres and outrageous attacks on security forces.

The Lashkar, which according to intelligence sources is actively backed by Pakistan's Inter-Services Intelligence, has been held responsible by the Prime Minister Atal Behari Vajpayee for masterminding and executing the massacres in Kashmir earlier this week that shocked the entire nation. This was not, however, the first time that the Lashkar was blamed for targeting unarmed civilians. Its name has been linked to some of the most gruesome massacres of Hindus and other minorities in Kashmir, including the killing of 25 members of a wedding party in Doda in June 1998 and the murder of 34 Sikhs in Chittisinghpura village in March this year, an incident that was timed to coincide with the visit of president Clinton to India.

Lashkar-e-Toiba, which literally means the "army of the pure," is the militant arm of the Lahore based Markaz Ad-Da'wah Wal Irshad or "centre for preaching," a fundamentalist organisation supported by the Wahabi sects of Pakistan. The Markaz was set up in 1989 by two Pakistani engineers - Mohammad Saeed and Zafar Iqbal - who had a long association with extremist organisations that operate on the concept of 'jihad' or holy Islamic war.

The Markaz and the Lashkar, on their Web site, claim that they are engaged in a jihad in Kashmir to end the oppression of the state's Muslims by the major Hindu population of India, who are described as "disbelievers." The aims of the holy war are to "enforce Islamic world order," to restore "our possession of Muslim territories now occupied by disbelievers, like India" and to "protect Muslims continuously facing offensives from disbelievers." The Web site claims there is no deed equivalent to jihad and says all 'mujahideen' or holy warriors will be guaranteed entry to heaven.

The outfit, headed by Mohammed Latif, operates in the Srinagar valley as well as the districts of Poonch, Rajauri and Doda and has training camps at several places in Pakistan-administered Kashmir.

Most of the Lashkar's cadres are Afghans or Pakistanis drawn from the Punjab province. The group also has a small number of foreign mercenaries drawn from countries like Sudan and the Central Asian republics.

“The Lashkar’s cadres are highly motivated, mainly due to the religious indoctrination they receive from teachers of the Markaz, who exhort them to die rather than surrender in the fight against Indian security forces,” according to senior army official.

Indian security agencies first recorded the activities of the group in the early nineties, when some of its cadres crossed the Line of Control dividing Kashmir and infiltrated the Poonch district. The group, however, came into prominence after 1997, when ISI began providing greater logistical support and funding to the Lashkar. There was also support from the government of Nawaz Sharif, who was then serving his second term as Pakistan’s Prime Minister. Evidence of this official patronage came when the then information minister Mushahid Hussain visited the Lashkar’s headquarters in Muridke near Lahore along with then Punjab province governor Shahid Hamid and some provincial ministers. The visit, the first public association between a Pakistani minister and the Lashkar, marked a clear departure from Islamabad’s earlier stand that it extended only “moral, political and diplomatic” support to extremist groups operating in Kashmir.

ISI has reportedly extended greater support to the Lashkar as it is easier for its Pakistani Punjabi cadres to mingle with the local population. Now equipped with a lethal arsenal, Lashkar cadres adopted the tactic of suicide attacks on camps of security forces after Pakistan-backed intruders withdrew from the Kargil sector. Small suicide squads, known as ‘fidayeen’, have stormed several camps and facilities of the army and paramilitary forces.