

**KASHMIR CRISIS: A SITUATION
ANALYSIS WITH REFERENCE TO THE
EXODUS OF KASHMIRI PANDITS**

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PARUL PARIHAR

**CENTRE FOR STUDIES OF SOCIAL SYSTEMS
SCHOOL OF SOCIAL SCIENCES
JAWAHARLAL NEHRU UNIVERSITY
NEW DELHI-110067**

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जवाहरलाल नेहरू विश्वविद्यालय
JAWAHARLAL NEHRU UNIVERSITY
NEW DELHI 110 067

Centre for the Study of Social Systems
School of Social Sciences

Dated:

CERTIFICATE

This gives me immense pleasure to certify that Parul Parihar, a student of M.Phil in Sociology, Jawaharlal Nehru University (S. Delhi) has satisfactorily worked under my guidance and supervision in the preparation of her dissertation entitled "Kashmir Crisis: A Situational Analysis with Reference to Exodus of Kashmiri Pandits" that incorporates the result of her independent study and research. To the best of my knowledge and belief the work is original and creative in nature.

The dissertation is worthy of consideration for the award of degree of M.Phil in Sociology.

We recommend that the dissertation be placed before the examiners for evaluation.

(Prof. M. N. Panini)

Supervisor

Professor
Centre for the Study of Social Systems
School of Social Sciences
Jawaharlal Nehru University
New Delhi

(Prof. Anand Kumar)

Chairperson

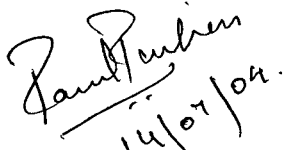
Chairperson
CSSS/SSS
Jawaharlal Nehru University
New Delhi-110067

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Kashmir Crisis a Situational Analysis with Reference

To Exodus of Kashmiri Pandits

INTRODUCTION

Neither of them wants to loose the gamble or be defeated in the battle because, on Kashmir depends the survival of both Pakistan and India. The defeat of any one of them would expose the hollowness of the philosophies they have nurtured with sweat and blood. They may call Kashmir a riddle that cannot be solved by any. Kashmiri themselves feel seriously that they have become sandwich between the two hypocrite states one being the pseudo-Islamic and other being the pseudo- secularist. The primal question is what is the basis of their claim? Is Kashmir the basis upon which they have constructed the ideological foundations of their states respectively that the success of one would result in failure and humiliation of other, nay, failure of the philosophical foundations of statehood of the other? Pakistan stakes its claim to Kashmir on the ground like Islamic Unity and Muslim majority population. Its failure to get Kashmir would amount to failure of two-nation theory and in particular failure of the Islam. On the contrary India claims Kashmir on the basis of secular credentials and argues why a Muslim majority state could not be assimilated into its secular society. Any breaking away would tantamount to failure of secularism. The simple folks are not heard by any as if Kashmiris have no existence and no identity of their own. Is it because they were sold and purchased – for Rs 750000 and an annual tribute consisting of six horses, twelve goats and three pairs of Shawls against their promise for security as a vassal-- a unique situation that has no parallel in history (except in Alaska State--- a territory that was sold by Russia to United States). None else than the so-called civilized people called British did this, the self claimed custodians of conscience of the peoples of the world. They created the Kashmiri state in 1846 because it suited their interests and installed a Hindu dynasty of Maharajas as their vassal, which ended up on a note of hatred and bad blood among the simple folks. Thus Kashmiris were retrospectively paid for their

hospitality and Gulab Singh for his treachery against the Sikhs. This is the kind of morality they espoused, which finally bred contempt and mistrust among the local folks who otherwise lived peacefully and mixed together like sugar and milk.

The partition of the country in 1947 rubbed salt on the wounds of Kashmiri people. Instead of receiving a fair deal as they were awaiting for the dawn, to get wedded with the damsel albeit right to life and liberty but to their disappointment the “damsel” was not only stolen away, but Kashmiris were emotionally and physically molested by the two rival states while these folks remain hitherto awaiting for the return of the damsel yet no chance is spared to make her return impossible. In the course of events the polarization along ethnic lines was promoted by these states both overtly and covertly, wherefrom a paradoxical situation arose which on one hand disappointed Pandits who were not pleased with power being vested in the hands of a Muslim politician, on the other hand the aspirations of the Buddhists of Ladakh were lost in the bigger Hindu- Muslim question. Thus bred an ethnic conflict, which is an inevitable consequence of political and social modernization of nations, which are economically less developed and ethnically more plural. The ethnic question gains strength in particular, when the effects of modernization and access to power and education are unevenly spread. As a result the struggle for being the same culminates in being different. In the course of modernization traditions are invented which are gradually traditionalized. The old categories are revalued and new values are re-categorized. The participatory democracy may lead to dissident civil war and bureaucratic benevolence may give way to bureaucratic force. This in ultimate analysis points towards the essentialist and epochalist modes of nationalist ideologizing defined by Geertz being helpful in an analysis of what took place. According to him essentialist mode is built out of symbolic forms drawn from local traditions. This he likens to vernacular language, in the sense that it is ‘psychologically immediate and socially isolating.’ Epochalist mode is built out of forms implicated in the general movement of contemporary history, and Geertz likens this to a lingua franca,

which is 'socially deprovincializing but psychologically forced.'¹ Psychological warfare was in fact unleashed by colonialism in constructing a communal discourse where British constructed India for themselves primarily in terms of religious communities-Hindu, Muslim, Sikh, and so on. Indian elites in their interactions with colonial state as well as with each other aided and abetted this construction; they made for themselves communal histories with their roots deep in the past. At the same time, in opposition both to the communalizations and to the 'fundamental unity of India'.²

An honest evaluation of Kashmiri mind appears to be approving neither. They are not **pseudo Islamists** and hence their perception of Islam is different from the Islam espoused by the Pakistan, which bears only physical features and is used for the purpose of identity and nothing more. For over centuries Kashmiris practiced the Islam that has a content, which is pure and simple, based on *jihad al nafs* "self introspection", love, tolerance and humanity. Their secularism is galvanized by *Saivism* as its basis that teaches self abnegation not usurpation, self-control not self centeredness and vengeance, self restraint not self aggrandizement and peaceful co-existence not the violence and intolerance, debate and discourse provided it does not hurt the sentiments of others, wherein no human would trench on other ecological systems that would deny the other it's right to life and existence. They are not the **pseudo-secularists** that only bear a label and is bereft of the core and content. They are the simple folks whom the destiny had wedded together for thousands of years, who being emancipated welcomed at different epochs of their political history new philosophical thoughts like Hinduism, Buddhism and Islam and made Kashmir a nursery where people were trained to live in peace not in pieces. The Third Buddhist Conference speaks lot about Kashmiris mind and intellectual abilities. In this way ethnicity permeates beyond the horizon of Kashmiri personality to that of Kashmiri Identity. The composite cultural syndrome presents all that is eternal human and universal in its appellation and

¹. Hutt, Michael, *Unbecoming Citizens--- Culture, Nationhood and the Flight of Refugees from Bhutan*, PP. 160-162 (Oxford University Press 2003)

². Robinson Francis, *Islam and Muslim History in South Asia*, PP. 14- 15 (Oxford University Press 2000)

application. It has developed through the silent process of history rather than being imposed from the above. The development of a rich language as an admixture of Sanskrit and Persian highlights the historical connections of Sanskritised Hindu period and the latter Muslim period. The other component of composite culture is the development of literature that reflects the little and the great traditions of the subcontinent. The third component is a culture that has remained particularly free from dogmatism and obscurantism, excepting the hard caret apostles of Brahminical order who preserved and reincarnated the caste consciousness of Brahmanism. Islam was accepted not as a negation but as a culmination of a proud spiritual heritage because both *Dharm Yud* and *Jihad* were understood by them to be pointing more towards the inward of a person than the physical conditions around a person. The historical accounts confirm it that Islam made its way into Kashmir “not by forcible conquest but by gradual conversion, for which the influx of foreign adventurer’s from the South and the Central Asia had prepared the ground.”³ Though the individual conversions had been going on for some time particularly after the local ruler Rinchen embraced Islam in 1320, Hazrat Amir Kabir Mir Syed Ali Hamdani, one of the most remarkable personalities of 14th century Muslim world, is regarded as the real founder of Islam at the time when the country had touched the abyss of the morass, thus succeeded to come out of the same without mutilating her cultural heritage. They had no problem with the *lingua franca* because Kashmiriyat eclipsed their identity. As such the peculiar set of values, not the convergence of interests based on a sense of territoriality, enumeration of communities and use of vernacular language which are the hall mark of modern identity,⁴ determined Kashmiri Identity. In the past annals of history of Kashmir there are numerous examples of solidarity of workers like Shawl Weavers Strike of 1865 and Silk Factory Workers agitation in 1924 are just reminder of their concept of solidarity against the exploiters and oppressors. This was because of the decisive influence of labour ideology in the freedom

³. Wani Gull.Mohd.&others, 1993, *Reflections on Kashmir Politics*, A shish Publishing House, Delhi.

⁴. Bahera, Navnita Chadha, *State Identity and Violence: Jammu, Kashmir and Ladakh*, P.21-30 (Manohar Pub. Delhi, 2000)

struggle, which came through the organization of trade union movement. In 1940's the national movement came under the telling spell of Marxism. By 1943 there had emerged a big group of CPI progressives in the National Conference who were able to influence its future strategy in a decisive manner. It was in the background of such political changes that National Conference adopted "Naya Kashmir Programme" on 29th to 30th September 1944. The program was not only a Constitutional blue print of a sovereign independent state looking after its own defense and external affairs but also contained a radical socio-economic program. The movement launched by the National Conference in May 1946 had its slogan "quit Kashmir" meaning thereby that the autocratic Dogra House should surrender sovereignty to its real owners, "the people". In a memorandum to the Cabinet Mission of 1948 it demanded absolute right to freedom from the autocratic rule of the Dogra House. Launching this struggle for a decisive victory, National Conference on 15th May 1946 reiterated at Srinagar the demand that Princely Order should quit the state, as the same is a logical extension of the policy of quit India.⁵ The evolution and development of this discourse may be explained by weaving of individual biography into social text through the use of local knowledge. Materially it was in infancy a nation in the making, which needed to be protected against contending identities. Accordingly state formations processes were geared towards constructing a strong state capable of defending a nascent state.⁶ But a scene contrary to the expectations of the people opened up with the invasion of the irregulars under the command of trained personnel of the erstwhile *Indian National Army* from the Frontier area who were joined by the tribesmen and ultimately by the regulars from the Pakistan military services. In the course Baltistan, Gilgit, Muzafarabad and other areas were seized thus severed from the main land. In the meanwhile Maharaja acceded with India and requested for Military help which was dispatched after accession, and hence the Paradise was lost and the ethnic divide wrought uneasiness on the

⁵. Wani Gul Mohd et al, *Reflections on Kashmir Politics* (Ashish Pub. 1993)

⁶. Bahera, Nawnita Chadha, *Op cit.*

local populace, undoing the thousands of years' trust and faith of the two communities that was never conditioned with religion but this time emerged as the basis for divide. It may not be out of place to mention that Kashmiri Muslims do not have anything common with Pakistan except religion so do not have Kashmiri Hindus anything common with India except the same yet polarization had taken place much before 1991. The arrest of sheikh Abdullah in 1953 caused resentment and doubts in the Kashmiri minds and they attributed all this to Hindu conspiracy so the credentials of Kashmiri Pandits became doubtful especially the broker being a Kashmiri Pandit who was obsessed with his Kashmiri origin. He was supported in this endeavour by some well known and remembered Pandits like Shanker Lal Koul, Pandit Dwarka Nath Kachroo and Kashyap Bandhu who had laid foundation of a secular, non-partisan and non-communal movement in the state as may be deducible from the fact that the Declaration in 1938, which formed the basic groundwork of the movement for self government as a result of which the *Muslim Conference*, which spearheaded the Muslim agitation against Dogra rule in the state was converted into secular organization – the National Conference in 1939 so came into existence two different political parties which were based on two distinct philosophies of religion and secularism. The former found its supporters in Mirpur where as the latter found support from the people of the valley. The word Diaspora suggests displacement or dispersal of a group from their homeland to alien territory under political or economic pressures.⁷ Hindu extremism, like other xenophobic movements, functions through carefully fashioned exclusionary principles whereby all non- Hindus, identified as Hindu traitors, become second class citizens. In addition, justification of caste inequities, subordination of Dalits, Women, Adivasis(tribals) and other minorities, and the consolidation of a cohesive middle class base are critical to it's momentum. The VHP, in it's meeting with Muslim leaders in New Delhi on July 15,2002, stated that if Muslims agreed to resettle Hindus in Jammu and Kashmir, Muslims in Gujarat would be

⁷ *Indian Diaspora – Relations with the Homeland.htm.*

rehabilitated. The Hindus must understand that issues connected to the democratization of Pakistan, ethical resolutions to Kashmir, or Gender reforms within Islam are separate from India's commitment to upholding the rights of minorities or to reform within Hinduism.⁸ Among Pandits, D.N. Kachroo represented the All India States Peoples Conference in the historic meeting of the National Conference, held on October 1947, in which the Conference decided unanimously to support accession of the state to India. This was the first divide in Muslim ranks managed by the Kashmiri Pandits. The post independence events perhaps convinced the Sheikh about his folly so he had a second thought about it. His meeting with the leader of the American Congress and his subsequent arrest and subsequent involvement in conspiracy case convinced him about his miscalculation. Hence no sooner his lieutenant Mirza Mohammed Afzal Beig founded the Plebiscite Front that demanded right to self-determination for the people of the state based on a Resolution of the United Nations Organisation. The Sheikh patronized it without any hesitation and the Muslims of the state pinned their hopes again with the Sheikh, so did the anti- India lobby in Kashmir find a natural ally in Sheikh Mohammad Abdullah. They were all unanimous in agreeing that Kashmir Pandits were the fifth column of Hindu communalists of India, who sought to end the Muslim identity of state by seeking the abrogation of Article 370 of the Constitution. All these factors changed the Muslim perception of Hindus who saw in them an Indian agent who were eager to achieve the merger of state in the Constitutional Organization of India and consolidate the Indian hold over Kashmir. As a consequence, they were assumed to be against Muslim supremacy and Muslim identity of the state. The Hindus continued to be charged of being the search enemies of the Muslim nation of Kashmir, a threat to the Muslim religion and its' political solidarity, as such the motive force behind all secular processes in the State, which obstructed the Muslim struggle for Pakistan. This perception did not bog down even after Sheikh –Indra,

⁸ *Chatterji Angana, Indian Diaspora Funding Hindu Extremism The Milli Gazette, Vol.-3 No.-16 MG62 (16-31 Aug.02). htm.*

Accord, in 1975 that precisely revolved around the exclusion of state from the Constitutional organization to which Hindus were totally opposed hence earned heaviest Muslim censure. The period that followed was that of trial and tests mixed with turmoil and triumph. The developments like dissolution of erstwhile U.S.S.R and fall of Berlin Wall inspired and emboldened the Muslim people in Kashmir to consolidate their ranks to fight the Indian sovereignty in the state which finally opened up a new scene and began a new era wherein Kashmiri Hindus had to stand face to face to pan-Islamists and on the other hand Muslims thought of devising strategies to get rid of Hindus to earn a tactical edge for the secessionist forces. The elimination of Hindus would not only destroy secular institutions but also make secular unity of India redundant. It would also destroy the credibility of the Government of India among the Muslims of Kashmir who had a psychological contact with the Indian support structure and would promote fundamentalist indoctrination. It would plug the feed back channels of government of India, which Hindus endeavoured to keep open. The helplessness of uprooted Hindu masses would break the resolve of Hindus in India so would it influence the resolve of Government to hold Kashmir any further. At the same it would mark the first step towards the conversion of Kashmir into a Muslim State. The fundamentalists sought refuge to religion, which was otherwise necessary for legitimizing their activities and for breaking the psychological link of Kashmiri Muslims with India. And the inevitable happened thus a population of 4, 25, 000 had to think of their future place of abode as early as 1989. Notwithstanding the small size of their number their exodus from the valley had become inevitable in the light of spade of killings, kidnappings and loot. As a result 2, 16,820 live in Jammu as migrants, 1, 43, 565 live in New Delhi and 50,000 approximately are scattered as migrants in other Indian cities. It may be surprising that 15,000 Pandits are surviving back home in Kashmir. [Inner Voice- Monthly Magazine, –Vol. (1/4) {Jammu, May 2004 at p11}. Kashmiri Hindus preferred to migrate to other places in India, so did some of

the Kashmiri Muslims prefer to migrate to Pakistan occupied Kashmir. The whole story thus sounds like the tale of Two Cities.

The exodus of Kashmiri Hindus has exposed both the Muslims and Hindus to new kind of problems. Apart from socio-economic setbacks both the communities have suffered, they continue to suffer from the crisis of identity. Muslims in Kashmir feel to have been robbed of their Muslim identity. The Kashmiri Hindus are denied Indian identity because being simply treated as migrants all over India. The same in view they have been persistently asking for refugee status which in any case is denied to them and hence their identity is never separate from their place of origin i.e., Kashmir. There is greater urge to consolidate their ranks through preserving and promoting their culture, language and religion. For the same reason greater importance is attached to rituals which are the signboards of a culture and its philosophy. To register their identity distinct from the Kashmiri Muslims they emphasise on changing the script of Kashmiri language, from Persian to Devnagri one.⁹ But post independent events paved the way for provincial reorganization of states along the linguistic lines,¹⁰ which for a while did not touch Kashmiri conscience.

⁹ Thomas Christopher, 2000, *Faultline Kashmir*, Brunel Academic Publishers, P-247.

¹⁰ Hasan Mushirul, 2003, *Making Sense of History, Society, Culture and Politics*, Manohar Publishers, Delhi, P-77.

CHAPTER --- 1

Historical Landscape of Jammu and Kashmir

The historical landscape of the State of Jammu and Kashmir is as revealing as captivating its scenic beauty is. It lies between 32 and 37 North and 73 and 80 degrees to East. It is a state situated in the extreme north of India and at the southern point of Central Asia, and it is almost entirely a mountainous region with the geographical area of 0.222836 million sq. kms including the area under Pakistan Occupied Kashmir and China. To its East lies Tibet; to the north- east Sin- kiang a province of China; to the north- west, Afghanistan and a few miles from Afghanistan lies (Russian) -Turkistan. As such it is surrounded by Afghanistan, Pakistan and China. It has three distinct climatic zones which also correspond by and large to three different geographic regions spread over Kashmir valley which is a temperate region with severe winter and moderate summer. The Jammu region being subtropical region has hot summer and moderate winter, where as Ladakh region is cold and dessert with temperature dipping to minus 40 degree Celsius during winters in certain areas. According to the census of 2001 the population of the state is 10.077 million. Ladakh region has a population of about 0.25 million divided between Buddhists and Shia Muslims. Jammu region has a population of 4.3 million with populace divided in the ratio of 60:40 between Hindus and Muslims and Kashmir has a population of 5.4 million which is predominantly Muslim. Administratively the state is divided into two divisions, Jammu and Kashmir division having in all 14 districts.¹

The State has additionally been a centre of great religious activity. Jammu is generally known as the city of temples and people from all over the world come to visit Mata (goddess) Vaishno Devi Shrine, while as Kashmir apart from being a place of great religious attraction to all the communities, its physical essence is described by a Persian poet Firdusi as “ *Agr Firdus ber royey Zamieen Ast Hamein Ast o Hamein Ast o Hamien Ast,*” i.e., if there is a paradise on earth

1. Dr. Adarsh Sein Anand, Constitutional History of Kashmir, P. 7 (1980); also see: Government of Jammu and Kashmir, Office of the Relief Commissioner (M), (2002)

it is Kashmir, Kashmir and Kashmir only. The same has been summed up by Bernier to be “the terrestrial paradise of the Indies” which wears the appearance of a fertile and highly cultivated garden; villages and hamlets frequently seen through the luxuriant foliage.”² Ladakh has a unique landscape which is different from the other two regions being the world’s high level dessert and hence it has been a source of great attraction for tourists.

Cultural Primordialism

The historical landscape of a place would sound to be incomplete unless reference is made to the people who live there, which bear a direct nexus with the culture they espouse. The communication and interaction between the people and the legacy they hand down to their young generations is a cultural heritage that the man would value most. In this context it may be stated that notwithstanding the physical divergence of the state that has given birth to different social norms and mores, the people of its three regions have a shared history which survives because it has withstood successfully the political vicissitudes and social upheavals of the times that took place in its neighborhood at different intervals of their history. Differentiation has stood the least in their way to formulate a common vision of life. The social and political cohesion has been the hallmark of their social solidarity, may be that religiosity has helped the simple folks to conquer the divisive forces that are the enemy of social solidarity. More so the best and appropriate way to understand a people is to know their culture because culture is manifested in its art, philosophy, morality, religion, fashion and opinion.³ The same in view the people of the state, as would history tell us were a simple people who at their earliest appear to have contributed to the religious thought of times in the form of *Saivism* – a monistic philosophy known as *Trika Sastra*. Kashmiri Shaivism is one of the most highly developed schools of India philosophy. As a people, their origin could be traced to Aryan invaders who may have something to share with Brahmins elsewhere in India. If at all being the same genus they were squarely different from them in dietary and other habits, which may be on account of geographical and climatic conditions.⁴ These people remained a pure race

2. You gusband Francis , 2000, Kashmir : As it was , oxford University Press, cited on P .151

³ . Johnson, Sociology, p. 9

⁴ Lawrence Sir Walter, R. , *The India We Served*, (Cassell & Co. Ltd. 1923). It is worth attention that among Kashmiri Brahmins

because of their endogamous tradition of marriage. All the same they have been highly emancipated to the extent having been receptive to the contemporary religious philosophies of their times. It is why the remnants of hundreds of temples, stupas, viharas connected with various schools of thought help us to draw a conclusion that this state has been the nursery of great religions of the world. The same theme has been perhaps hammered hard by Vincent Smith when he writes that “in ancient times it has been a nursery of two great religions of India – Hinduism and Buddhism.”⁵ This confirms that a country of such striking natural beauty was the place of abode of a people who possessed beauty of thought and mind because they were receptive to new ideas and tolerated it as responsible and mature people. Although their religious thought for the time being did not spread beyond its roots nor did it encourage breeding any form of fundamentalism and bigotry because of the state’s physical isolation nonetheless this has been a kind of philosophical thought, which according to Pt. Jawahar Lal Nehru dominated intellectual scene of India for almost 2000 years.⁶ A reference to temples is important again to unravel the artistic mind of its people and their mastery over the science of architecture which can not be attained without mastery over mathematics and science and thus cycle would become complete. These temples are remarkable for their almost Egyptian solidity, simplicity and durability, as well as what Cunningham says, “as the graceful elegance of their outlines”. This perhaps brings in the elements exterior to this physically isolated place. This is confirmed by the historical assertions that testify that the King Asoka the most ambitious ruler had successfully stretched his rule to the state as he had expanded his empire to cover other areas in the north and south of India. He also had established contacts with other civilizations like Greeks and Mesopotamia (Egypt), which is confirmed by the Buddhist –Greco architectural remains of sculpture, temples and statues, discovered in the state. Since it is reported that *Asoka* founded the present city of Srinagar, which was then situated on the site of the present village of “*Pandathan*” just three miles above the present capital. As a result of its

there is no bar on eating meat, which is unthinkable among most Brahmans elsewhere in India (save among some in Bengal).

See: Edwardes and Merivale, *Life of Sir Henry Lawrance*, 3rd Ed. London., Vol. II. P77 (1872)

⁵. Vincent Smith, See: Jagmohan, 1991, *My Frozen Turbulence in Kashmir*, Allied Publishers, New Delhi, cited on P.36.

⁶. Thomas Christopher, 2000, " *Faultline Kashmir*, Brunel Academic Publishers, cited on P.240.

scenic attraction and hospitability of people it is not unbelievable that the foreign element may have mixed up with the indigenous skill that produced memorable monuments whose remains loudly speak about them; their perception of their existence and its proximity with cosmic order. Whether or not the neighboring countries had prying eyes on it the fact remains that because of its scenic look and receptive mind of the people it became the center of religious activity. As the same can be confirmed by the fact that King Kanishka, convened the third great council of the Buddhist Church to draw up a northern canon or Greater Vehicle of the Law. It shows that Buddhism was at its zenith but was soon followed by a resistance from the orthodox Brahministic Hinduism, against which Buddhism was a revolt. Thus was diluted the Buddhist influence over the people, about which a Chinese Buddhist pilgrim *Hiuen Tsiang* who visited the state around 631 A.D has reported “ the kingdom is not much given to the faith, and the temples; and the temples of the heretics are their sole thought.”⁷

Political History

The period that followed belongs to one of the native kings about whom much may not be known except that his family had at any rate been settled in Kashmir for a couple of generations, thus who counts in the history of kings that wielded political power and military strength. At the same it would have added to the pride of native people as the state had emerged as a Kingdom in itself than being an appendage of any greater kingdom. Lalitaditya's region extended from about A.D 699 to 736. It is generally stated that he had resolved to conquer the world but the fact is that he asserted his authority over the hilly tracts of the northern Punjab that he attacked and reduced the king of Kanauj to submission. He was also instrumental in conquering the Tibetans and successfully invaded Badakshan in Central Asia and sent emissaries to Peking. Though Lalitaditya was not the universal monarch that the historians described him yet he seems to have been the most conspicuous figure in Kashmir history and raised his country to a pitch of glory it had never reached before. The temple at Martand (mattan) being erected and the ruins of the city at Parihaspura near the present Shadipur bear full testimony to his greatness. This seems to be the most reliable indication of the degree of culture and civilisation, which Kashmir attained in its most balmy day some twelve hundred

⁷ Yougusband Francis , 2000, Kashmir: As it was , Oxford University Press, cited on P.140

years ago.⁸ Baring a few short and weak reigns his grand son was almost as great a hero of popular legend as he himself. In his reign the scholars and poets were encouraged and he founded new cities. The strife's and struggle for power followed his death that finally paved the way for Avantivarman to rise to the throne, which lasted from 855 to 883 A.D. His reign appears to have brought a period of consolidation for the country which must have greatly suffered economically as well as politically from the internal troubles during the preceding reigns.⁹ The town of Avantipura named after him survives to the present day. The ruins of ancient buildings though not equal in size of Lalitadityas structure, yet rank among the most imposing monuments of ancient Kashmir architecture and sufficiently attest to the resources of the builder.¹⁰ This was an era when the state concentrated on agriculture and for the same constructed irrigation canals but the floods could not have been controlled without the technical advice of Suyya a Kashmiri engineer after whom the present town of Sopur (Sopore) is named.¹¹

The successor of Avantivarman after defeating a cousin and other rivals to the throne started on a round of foreign expedition, in the historian's words "to revive the tradition of the conquest of the world). The practical result does not appear to have been much more than an invasion of Hazara, an attack on Kangra and subjugation of what is now the town of Gujarat in Punjab. The record is of interest as showing that the conquering tendency was still from Kashmir outwards and not from the Punjab into Kashmir. This was the last outward effort and from this reign onward the record is one long succession of struggles between the rulers and usurping uncles, conspiracies and bloodsheds that at some point in time involved the people from outside the royal household.¹² As a result new interest group namely feudal landholders gradually emerged as a power group who reckoned with. Their intervention did not bring in stability rather lead to succession by a youth grossly sensual and addicted to many vices, who married a princess of the house of Punch (Poonch). This reign lasted for 23 years during which the princess appointed one minister who by virtue of his valour supplementing her cunning diplomacy and

⁸. *Ibid* , at P- 143

⁹. Youngsband, Francis, Kashmir-- As it Was, P 146 (Oxford University Press, 2000) citing Dr. Stein,

¹⁰. *Ibid*

¹¹. Youngsband Francis , op cit., at P 146

¹². *Id.*, at P 141

bribes in overcoming all opposition retained her undisputed predominance.¹³ The weakness of the kingdom exposed it to the aggressions from the outside. In this regard it may not be out of place to mention that Mahmud of Ghazni was the one who made an unsuccessful attempt in A.D 1015 to invade Kashmir. The intervening period presented again the worst examples of violence, including murders, suicides and short reigns that in fact proved to be a prelude to a new era that of Harsa which lasted from 1089 to 1101 A.D and popularly known as most striking figure among the later Hindu rulers of Kashmir. He was the lover of science, art, and music besides being courageous and fond of display. He kept up a splendid court and was munificent to men of learning and poets. In order to put down some conspiracies hatched against him he had to resort to some cruelest measures even to the extent of exterminating his own relatives on mere suspicion. The extravagant expenditure and over indulgence in sensual pleasure gradually involved him in grave financial troubles from which he endeavoured to free himself by imposing oppressive imposts and the ruthless spoliation of sacred shrines and even by confiscating divine images made of any valuable metal. As sequel to it both the misery and discontent spread which got worsened by plague and floods resulting in famine. The discontent among the masses cost Harsa his life as he was slain in fighting. The position of his successor Vacula, too, was no less precarious than that of the generality of Kashmiri rulers, consequently met the same fate in 1111 A.D. However the successor of Vacula namely Jayashima reigned for 21 years during which the resources of the powerful feudal landholders were well nigh exhausted by the preceding struggles. Despite his diplomatic skills and unscrupulous intrigues he could not reduce the power and pretensions of these petty nobles and a rebellious independent attitude persisted for centuries far in to the Mohammedan period. From here onwards a student has the first hand account of the events that took place 800 years ago because the history written by Kalhana though described by some as petty melancholy and sordid history nonetheless carry an authoritative account of events. The Hindu rule survived for two hundred years more but the inevitable happened because the Muslims had made great advances in the adjoining kingdom of Punjab and Mahmud of Ghazni had already tried his luck by invading Kashmir in 1015 A.D.

¹³. Ibid.

Muslim Rule

This time i.e., in 1339 A.D Shah Mir deposed the widow of last Hindu ruler and founded his own rule which he owes to the influx of foreign adventurers from Central Asia as well as from India who in fact had prepared the ground for Mohammedan rule. The things did not change because even under Shah Mir the system of administration remained as before in the hands of the traditional official class, the Brahmins. However the reign that followed and is worthy of notice has been one of the happiest chapters of Kashmir History finally points towards a great ruler namely Zain-ul Abidin whose reign lasted from 1420 to 1470 A.D. He was virtuous, liberal and friendly to cultivators for whom he built many bridges and constructed canals. He was tolerant towards Brahmins, remitting the poll-tax on them and encouraging them by grants of land. It was the era of revival of Hindu learning, where temples and shrines were repaired and renovated. He introduced many art manufacturers from foreign countries. His court was thronged by poets, musicians and singers. But this did not prove lasting because the reigns that followed Zain ul Abidin were weak, and dreary until a direct conquest of the country by a foreign invader namely Mirza Haider was affected.¹⁴ The period that followed was peculiar because it once again repeated the past history of strife and struggle between the feudal lords and families till finally in A.D 1586 the Mughal Emperor Akber succeeded to annex it after arresting the Yousuf Shah Chack the native ruler.

The reign of Akber shot into popularity because of some reformative measures like land revenue settlement and initiating developmental projects like construction of Hari Parbat. His son kept the momentum of the developmental projects going by. As it was under his rule that stately pleasure gardens like Shalimar and Nishat Baghs were built. By and large the rule of the Mughals was fairly just and enlightened. Equally were their laws and ordinances excellent in spirit. Bernier who visited Kashmir in the reign of Aurangzeb makes no allusion who tells about them that they are “celebrated for wit and considered much more intelligent and ingenious than the Indians. In poetry and sciences he continues, they are not inferior to Persians and they are very active and industrious. He notes the prodigious quantity of shawls which they manufacture.”¹⁵ Kashmir prospered during the reign of Mughals because the governors they

¹⁴.Id. , at P. 151

¹⁵ Id., citing Bernier

appointed were enlightened, they reduced the taxes and put down the oppression of petty officials but as the Mughal empire began to decay governors became more independent and highhanded, Hindus were oppressed, officials fought among themselves and Kashmir fell once more into wild disorder. Eventually in 1750 it came under the rule of Afghans who to this day are known as the oppressive and cruelest rulers and according to Lawrence most brutal. The immediate casualties of Afghan brutality were the Pandits, the Shia's and the Bombas of the Jehlum valley. So the Kashmiris through a Pandit Birbal Dhar turned again to outsiders for help: the Sikhs under Maharaja Ranjit Singh who were twice defeated in their attempts to seize Kashmir from the Afghans. As such Sikhs successfully defeated Jabbar Khan, the Afghan governor at Shopian in July 1819 but fact remains that Kashmiri, the Hindus and Muslims were broken both physically and psychologically.¹⁶

Sikh Rule

The oppression became so unendurable that the Kashmiri turned with hope to Ranjit Singh the powerful Sikh ruler of the Punjab, who after an unsuccessful attempt finally in 1819, accompanied by Raja Gulab Singh of Jammu defeated the Afghan governor. and annexed Kashmir to his dominions. As such Hindu rule found a convenient return notwithstanding that nine tenth of the population was converted to Mohammedanism.

The Sikh rule added miseries by their cruel and rough rule, Moorcorft who visited the country in 1824 A.D says that every where the people were in the most abject condition, exorbitantly taxed by the Sikh Government and subjected to every kind of extortion and oppression by the officers. The cultivators were in a condition of extreme wretchedness because of which cultivators abandoned their land.¹⁷ The perception of Sikh rule can be well grasped by the fact that Sikh rulers seemed to look upon Kashmirians as little better than cattle . . . as the murder of a native by a Sikh was punished by a fine to the government from 16 to 20 Rupees of which Rs 4 were to be paid to the family of the deceased if a Hindu and Rs 2 if a Mohammedan. The death of Ranjit Singh resulted in much violence and mutiny among the Sikh soldiery and the Governor of Kashmir was slain, thereupon an army of five thousand men under the command of Sher Singh – Ranjit's successor but really under the charge of Gulab Singh a Rajput of

¹⁶ For further details see: Walter Lawrence, R., *op cit*

¹⁷ Youngusband Francis, *op cit* at P. 152 citing Moorcroft

Jammu was sent to Kashmir to restore authority. However in 1841 Gulab Singh who practically quelled the mutiny in Kashmir and appointed a Governor of his own choice thus became the virtual master of the valley though till the year 1846 it nominally belonged to the Sikh rulers at Lahore. In the course of next fifteen years all the principalities in the neighbourhood were subdued and Gulab Singh's troops under Zorawar Singh had conquered Ladakh and Baltistan and even invaded Tibet though there Zorawar Singh was himself killed and his army annihilated. Gulab Singh consolidated his authority that was conquered by his army under the command of Zorawar Singh who already commanded influence in Kashmir that was still under Sikh Governor. However his position in the Court after the death of Ranjit Singh had touched the lowest of low but soon after the cycle took a full turn where a courtier of Ranjit Singh was confirmed in the possession not only of all that he had subsequently acquired by his own prowess but also of the rich and beautiful vale of Kashmir as well against a payment of three quarters of a million Sterling and an annual tribute of some animals three pairs of Shawls.¹⁸ In the intervening period some internal strife befell the Sikh empire in the wake of which Gulab Singh made overtures to the British Government but the Sikh army was not yet thoroughly defeated, which became possible only after the battle of Sobraon on February 10th 1846 that the way for negotiation had become clear paving the way for Lahore being occupied by the British troops and Treaty of Lahore was concluded on March 9th 1846. A week later, on March 16th 1846 a separate treaty was signed by British with Gulab Singh by which they transferred and made over, for ever, in independent possession, to Maharaja Gulab Singh and heirs male of his body, all the hilly and mountainous country with its dependencies situated to the eastward of the river Indus and westward of the river Ravi including Chamba and excluding Lahore being part of the territories ceded to the British Government by the Lahore State against Seventy five Lakhs of Rupees and an annual tribute to the British Government. Thus Kashmir came under the protection of British to the extent of the territories being protected by them against external enemies. Thus began a new era in the political history of the state.

Dogra Rule

The governor of Kashmir who being appointed by Sikhs showed no disposition to handover the provinces and with the aid of feudatories attacked Gulab Singh's troops who with the help of

¹⁸ *Id.*

British troops being sent to Jammu were rushed to Srinagar along with two British officers one of whom being Sir Henry Lawrence accompanied Gulab Singh to Srinagar. This was a gift to Gulab Singh who had promised military support to British in their expeditions against the unsubordinated and recalcitrant people of sub-continent.¹⁹ He became the master of all distinct regions that came to comprise the historical territory of the princely state of Jammu and Kashmir, that was the largest in area out of 562 states so far the British had hitherto created. The condition of Kashmir when Gulab Singh took it over was deplorable especially in the agricultural sector where the cultivators got only a quarter of the crops leaving the major share for the government and the corrupt officials. He died in 1857 and his son Ranbir Singh in recognition of his valuable services to the government during the mutiny received the right to adopt from collateral branches an heir to the succession.

The state of things improved steadily during the reign of Ranbir Singh because of his simple, virtuous life style which was conducive to inculcating good relations between rulers and the subjects. Public Durbars, which are a source of inculcating manners and education besides being a measure of building rule of law, were held for receiving and answering people's petitions. However his officials were not better as they were accustomed to older style of rule. The crimes of all kinds were rare chiefly because people were well fed and had no reason to commit it and the system of fixing responsibility for undetected crime was upon local officials. The drunkenness being almost unknown half a lakh was being spent on education and another half a lakh, was spent on construction of roads. Much was done yet the state was far from what it ought to have been. The cultivators were reluctant to cultivate beyond their needs and no cultivator would claim waste land because of uncertainty with regard to the returns of their labour. The land revenue continued to be a burden as being three times heavier than the amount demanded in the British districts in Punjab. The commerce in aggregate was subjected to multiple exactions by the state. The state monopoly of silk, paper, tobacco, wine and slat discouraged people to take on trade in these items. The manufacture of Shawls was subjected to parallel restrictions in the form of tax and the merchants too were subjected to tax before exporting goods which was 85 % *ad valorem*. Taxation was the life breath of the state and a person in any occupation even a prostitute was taxed. The status quo in economic terms

¹⁹ Dasgupta 1968: 387-388

prevailed over more than a century. It may not be out of place to mention that the general condition of people of the state who according Census Report of 1941 were 77 percent Muslims and 20 percent Hindus under Dogra rule was pitiable. The Dickensian picture of Srinagar painted by G.N Kaul points on prostitution, thievery, beggary, illiteracy, disease and unemployment being the conditions people suffered from and 90 percent Muslim house were mortgaged to Hindu money lenders. The plight of Sikhs was equally frightful while Pandits were a little better in comparison.²⁰ The same has been confirmed by Prem Nath Bazaz where he sums up that “ the poverty of Muslim masses is appalling, dressed in rags and barefoot, a Muslim peasant presents the appearance of a starving beggar... most are landless labourers working as serfs for absentee landlords... almost the whole brunt of official borne by the Muslim masses ... rural indebtedness is staggering.”²¹ The absence of mass uprising against this oppressive regime was being attributed to the exceptionally docile nature of the peasantry in the vale.²² However, an organized resistance commenced in 1931 lead by new generation of Kashmiri Muslim youth who were educated at Aligarah university. On 13th July 1931 dozens of demonstrators were gunned down by Maharaj’s police as a sequel to it Jammu and Kashmir Muslim Conference was formed in 1932 to co-ordinate the popular movement for democratic government and social justice. The movement underwent an ideological change under the dynamic leadership of Sheikh Mohammed Abdullah and the nomenclature of the organization was changed to National Conference with an intent to accommodate all Hindus and Sikh members of the small urbanized intelligential who responded to the call enthusiastically. The party adopted a social Manifesto in 1944 with a view to usher in a New Kashmir promising radical reforms once the monarchy would be abolished. The orthodox views represented by Muslim Conference sided with Muhammad Ali Jinnah, the founder of All India Muslim League whose campaign for Pakistan continued to be strong in the Jammu region especially in the western Jammu districts which latter became part of Pakistan Occupied Kashmir. In 1946 the

²⁰ Sumantra, Challenge in Kashmir ---Democracy, Self Determination and a Just Peace, P. 24 (Sage Publications, 1997) citing G. N. Kaul

²¹ Premnath Bazaz, PP. 252--253 (1987)

²² Lamb—(1966: 28)

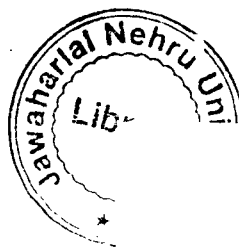
²³ M.J. Akbar, P.P., 227-228 (1985)

National Conference launched a mass agitation which it called "Quit Kashmir" modeled on Quit India movement of 1942 against the last Maharaja Hari Singh. The main plank of the movement was "Quit Kashmir is not a question of revolt but a matter of right."²³ With the exit of British from India in 1947 the beleaguered Maharaja challenged by the popular movement of democratic change within his domain and buffeted by the cataclysmic events sweeping the sub-continent was desperately trying to find a way to preserve his autocratic power. But Maharaja was desperate to preserve his throne so toyed with the idea of working out an association with Pakistan and an agreement had indeed been concluded between the Maharaja and Pakistan and the latter had literally been given the charge of running the state's post and telegraph services and supplying the population with various essential commodities.²⁴ However the situation was out of control as a major local revolt against the Maharaja's authority developed among Muslims in the north western Poonch area of Jammu and a feeling developed that the revolt was being aided by the government of Pakistan. Maharaja's forces retaliated against the same by setting loose the forces against areas dominated by Muslims. Communal situation worsened, no sooner influx of Hindu refugees from western Punjab and Frontier province arrived in Jammu and Rashtriya Swyam Sevak Sangh or R.S.S in connivance with Maharaja's police seized the opportunity to massacre huge Muslim populace from Jammu eastern districts. The situation worsened when some former Indian National Army officers led the Pathan Tribesmen from North West frontier province to Kashmir ostensibly to liberate their co-religionists from the Hindu yoke. After defeating the Maharaja's forces, they within a week had taken Baramulla the north western gate way to the valley under their control and reached 20 miles deep into the valley. During this offensive and their subsequent retreat they engaged in indiscriminate murder, rape, arson and looting against the overwhelmingly Muslim population of the valley. This shaped the skeptical Muslim psyche of the state towards the relationship with Pakistan.²⁵ The confused Maharaja felt constrained to call for Indian troops and acceded to India on 26th October 1947, which was accepted by the by the then Governor General being conditional to the wishes of people. The collapsing administration was taken under control by Sheikh Abdullah who had been released from prison a few weeks earlier. This resulted in U.N.

²³ . M.J. Akbar, PP. 227-228 (1985)

²⁴ . Sumantra, op cit. P. 27 citing Lamb

²⁵ . Balraj Puri, P. 57 (1995)



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brokered ceasefire terminating the first Indo –Pak war which was instrumental in expelling of the Pakistani regulars and tribesmen from the state as well as from some contested areas in Jammu. The ceasefire left India in control of two-thirds of the area. A large chunk of western Jammu and Poonch as well as Gilgit and Baltistan fell under Pakistan’s control. On 2nd November the Indian Prime Minister Pt. Jawaharlal Nehru declared his governments pledge to hold a referendum under international auspices such as U.N to determine whether the people wished to join India or Pakistan.²⁶ He reiterated this pledge number of times over the next several years at press conferences, public meetings and international forums.²⁷ Accordingly the U.N Resolutions that led to the cease-fire visualized the establishment of a UN appointed Plebiscite Administration.²⁸ However, any reference to plebiscite has been contested on account of Pakistan’s reluctance to vacate its forces from occupied territory and the lawful ruler of the state having acceded to India thus confirming the validity of accession. The fact remains that Pt. Nehru’s Government had committed itself to plebiscite despite the legality of Hari Singh’s accession. The argument of this kind results in recognition of the sovereign authority of an autocrat which may sharply contradict the ethos of democratic struggle. However a democrat in no time turned to be the autocrat in himself which Pt. Nehru watched from a distance but publicly praising him as a great democrat. From the outset Mr. Mehar Chand Mahajan the then Prime Minister of Kashmir while wishing to resign wrote to Sardar Patel about Sheikh Abdullah’s undemocratic way of running the emergency administration and finally quit paving the way for Sheikh Abdullah’s taking over as Prime Minister who forcibly held to the Maharajas accession terms which limited India’s jurisdiction to foreign affairs, defense, communication and then provided for its substantial dilution. The Delhi Agreement of 1952 opened the way for Delhi’s involvement in crucial areas of Kashmir’s life while whittling down the autonomy to which Sheikh was passionately committed. However a paradoxical situation emerged on account of Sheikh Abdullah’s double standards as he wanted to please Pt. Nehru on one hand permitted India to use Delhi Agreement for extending greater control over Kashmir on the other hand he kept the masses in good humour and blocked the extension of jurisdiction of the Supreme Court in matters of defense, foreign affairs and communication.

²⁶ . Id. PP. 46 - 48(1966)

²⁷ . For details see: A.G. Noorani, P. 61 (1964)“ Harsh Truths about Kashmir , ”The Kashmir Times

²⁸ . Dasgupta, PP. 395-403 (1968) 395-

The same was ascertainable from his political ambivalence which has been recorded and reported by the press.²⁹ The National Conference fell in line with Sheikh and on October 1948 it confirmed the provisional accession of state with India and further pledged its full support to a final accession to India. The events took a new turn in 1951 when Dr. Karan Singh the Governor issued a proclamation for convening a constituent assembly that would finally define Kashmir's relationship with India. The poll boycott by the Praja Parishad, representing the Jammu Hindus led to a farcical election where all the Sheikh's candidates were declared elected though the voter turnout was less than 5 percent. The issues in front of the elected body included the framing of the Constitution, declaring its reasoned conclusion regarding accession, deciding on the status of Dogra dynasty and considering whether to compensate Hindu Landholders whose properties had been seized and redistributed. In his address to the Assembly Sheikh spelled out the reasons behind his decision to accede to India, but he undid his belief as well as statements he had made in this regard in less than two years. Sheikh Abdullah apparently backed out of the 1952 Delhi Agreement with Pt. Jawaharlal Nehru as he quickly implemented those aspects of agreement that appealed to him like the abolition of monarchy on 21 of August 1952, the provisions of election and the appointment of Sadar –i-Riyasat for five year terms. The rest of the provisions he blocked which exposed Pt. Nehru in the Parliament to awkward questions, which he tried to thwart thus invited Sheikh to Delhi. He spurned appeals made by Pt. Nehru which Dr. Karan Singh evaluated as tantamount to going back upon the solemn agreements at the cost of their position and being a grave blow to national interest and to their international position as well.³⁰ As a result Sheikh was put under surveillance of the Indian Intelligence Bureau over his strident demands for greater autonomy from India especially in the wake of Pt. Nehru losing his grip on Sheikh with flattery and friendship.

On local level Sheikh was alarmed by the kind of demands made by Dr. Shyama Prasad Mukherjee a right wing Hindu leader who viewed Sheikh's coming to power as political domination from Srinagar which was equally shared by the Buddhist leaders of Ladakh. He pleaded for integration of Kashmir with India or creation of a separate state for Hindus of Jammu who viewed Sheikh's policies nothing less than pulling Kashmir out of India. He was arrested after raising protest against Sheikh in Jammu and was shifted to Jail in Srinagar where

²⁹. Statesman of Calcutta – Oct. (Sheikh addressed a Press conference

³⁰. Alan Campbell Thomas Christopher, op cit., at PP 214- 215 citing autobiography of Dr. Karan Singh

he died six weeks later. His death created suspicions of foul play giving a flip to Sheikh's arrest which was further inspissated by Sheikh's own statements wherein he questioned Indian Secularism, which according to him debarred Indian Muslims from government service and educated Muslims were looking towards Pakistan. A further simmering was caused in official circles of Delhi no sooner they came to know about the meeting between Sheikh and Adlai Stevenson leader of America's Democratic Party who seems to have proposed Independence for Kashmir – Independence from both India and Pakistan.³¹ Fearing that Sheikh might do something or take some steps that would worsen the situation he was arrested on the order of Dr. Karan Singh the Sadar – i- Riyasat of the state. During the process of dismissal on the accusation of treasonable correspondence with foreign powers a complete secrecy was observed for the fear that Sheikh might stage a counter operation. Sheikh's arrest caused a commotion both within the country particularly in the streets of Srinagar where hundreds died when police opened fire. In the neighbourhood the people were never silent because they seized an opportunity to exploit it to vindicate their own perception of Kashmir.

On account of the same Sheikh spent almost fourteen years in Indian jails or under house arrest, which proved disastrous propaganda against India, as he being a true voice of democracy and creation in many ways of Pt. Jawaharlal Nehru. As such he should not have been thrown in jail without any trial. Though the words he uttered had not changed but the political environment in which he uttered them had, India was now in the irreconcilable position of silencing the man who had been adjudged as undisputed democratic voice of Kashmiri aspirations. However, Government of India incorporated Article 370 into the Indian Constitution emphasizing the limited range of areas in which it claimed jurisdiction over Kashmir. It was in fact only a temporary measure to be deliberated upon by the Kashmir Constituent Assembly which had yet to be established. The operation of the Kashmir Constitution was deferred till 1957 and its wording would have been far less fulsomely pro-Indian had the Sheikh, who condemned it, been at the helm of affairs rather than in jail notwithstanding the fact that most of his colleagues had been set free to participate in the debate on the draft Constitution which had been drawn in his absence. This could be achieved only because India found in Bakhshi Gulam

³¹. Thomas Christopher, Op cit, at PP.223-224

Mohammed a suitable substitute for Sheikh and made it possible to convene the Constituent Assembly and draft the Constitution for Jammu and Kashmir.

After the approval of the draft Constitution which was unanimously adopted by 68 members of Constituent Assembly except its seven members who were in jail, the National Conference split into two factions one being led by the Sheikh and other being little more than extension of Nehru's Congress Party. India thus through a dubious body namely Kashmir Constituent Assembly, which could be said to be least representative of 'will' of the people, had tied Kashmir into a secure Constitutional knot. The elections that followed in 1957 and 1962 to the legislative Assembly have hence forth been treated as plebiscite notwithstanding the truth admitted privately within the Indian government circles that the elections to Constituent Assembly were farce and to that of the Legislative Assembly were rigged. The whole show was overlooked by Dr. Karan Singh who was a direct link between Kashmir and Delhi so he kept Pt. Nehru informed of political events. Apart from this the role played by Dr. Karan Singh satisfied his father on the score that the former had avenged Sheikh's act of destroying the Dogra dynasty besides he had strengthened the constitutional, administrative and political ties between the state and the rest of India.³² This resulted in disillusionment of Kashmiri Muslims. India eschewed its embarrassment at international level for the only cause to keep Kashmir with which Pt. Nehru was so emotionally involved and hence he was unwilling to find a solution within the limited provisions of the Maharaja's instrument of accession, which by various ways had been thoroughly breached.³³ The Article 370 is still part of the Indian Constitution despite the intention that it should have been temporary measure. However this Article has been so watered down that it hardly merits the heat it continues to create. Its real impact is now mostly symbolic.³⁴ This is attested by Pt. Nehru's own words where he confessed that Article 370 has been substantially neutralized therefore he saw no point in

³² . Dr Karan Singh,s Autobiography.

³³ . Moutbetton's Press Officer Alan Campbell Jhonson in this regard reflected in his diary " I honestly believe this letter as finally dispatched will stand the scrutiny of history and should serve to study and strengthen Nehru in handling a problem of peculiar personal intensity his origins as descendent of Kashmiri Brahmins, his friendship and political association with Sheikh Abdullah make it difficult for him to stand above this problem at the movement of decision. For details see: Alan Cambell, Thomas Christopher, Faultline Kashmir, P 209 (Brunel Academic Publishers 2000)

³⁴ . Id.

stirring up a political storm by seeking to have it scrapped. His remorse over the detention of his friend without a trial does not over weigh his principles of political ethics and morality where he finally left the issue of Sheik's detention to be decided by government of Kashmir but spelled out that " we are there at the point of bayonet till this improves democracy and morality can wait."³⁵ This policy did not change, especially when different interest groups emerged and were satisfied with maintaining the status quo than disturbing it. This policy suited Central Government as well therefore it did not bother much about the kind of administration run by the state in Kashmir. The Central Government made huge funds available to the state to pacify and win over the people. As a result medical and engineering colleges were established, roads were constructed and many projects were taken in hand with a desire to calm fissiparous tendencies. As a result, the sudden inflow of wealth into the state bred corruption in the administration and the ministers were not an exception to it. Bakshi Ghulam Mohammed was made to resign under a bluff. He nonetheless had done a good job to integrate Kashmir with rest of the country. He was the one who removed the permit system under which people other than natives had to register themselves. He also extended the jurisdiction of the Supreme Court to the State. This notwithstanding a paradoxical situation like that the key areas still remain outside Delhi's control in matters like bringing Kashmir within the ambit of National emergency, suspending the Kashmir Constitution to the anger of Hindu right wingers who insist on full integration of Kashmir with India in all matters not only in bringing the state under Presidents rule owing to Constitutional breakdown thereof because they are annoyed with the state having a separateness so much so that outsiders are barred from owning land and property in the state. It also denies non-Kashmiri Indians the right to vote in elections as a result many migrants from erstwhile Punjab are consequently outsiders in this regard.

A new era began when conspiracy case collapsed which paved the way for the release of Sheikh and his 14 colleagues in April 1964 he met Pt. Nehru and impressed upon him the need to solve Kashmir problem, which the latter agreed and sent him to Pakistan to persuade President Ayub Khan to enter into negotiations with Indian counterpart. The death of his friend left his mission half way and he returned India to take part in the cremation of his friend. The relations once again began to sour With Congress party opening a branch office in Srinagar

³⁵ Id. At P212 citing Balraj Puri

amid protests which had psychological and political ramifications of its own kind. In 1965 he was given a Passport to travel to Mecca with his wife and few companions. He used the occasion for a political tour and visited Britain, France and some Muslim countries. In Algeria he met Chou-en-Lai to whom he told about 2000 square miles of territory Pakistan ceded to her but India viewed it as cementing a close relationship with China therefore, worried them enormously. As a result when he returned from Pilgrimage he was arrested and taken to snooty Ooty, where he was kept under the surveillance and no journalist could interview him without permission. His release brought to Delhi on the pretext of medical check up and on account of the fact that 163 members of the Parliament questioned spending lavishly on Sheikh besides described his detention as an affront to the democratic credentials he was lodged in a Bungalow on Kotla Lane in New Delhi until he was released in winter but which the Prime Minister described as experiment, which was soon deemed to be a failure, as he publicly admitted that he had made a mistake in agreeing to Kashmir's accession to India in 1947 as he said " I trusted Pt. Nehru and I never thought he would change." So expressed the resolve that Plebiscite Front shall contest elections in 1972, which resulted in arrest of pro-Pakistani activists and the same was mixed with shootings and bomb blasts caused by an extremist group – Al-fatah. Though the relationship between this group and Al- Fatah was never proved yet the former was banned from contesting elections. Furthermore led to the externment of both Beig and Sheikh for three months during which elections were held in the valley. The people of the valley lost zeal for Pakistan no sooner Bangladesh came into existence. In fact Pakistan received a crushing blow that showed that it was militarily, economically a weak country but to Kashmiri it was a psychological blow, especially where the Pakistan had to plead for the release of ninety thousand prisoners of war which was negotiated on a note finally translated into Simla Agreement which stressed on settlement of disputes between two countries through peaceful means besides both the countries pledging not to alter the situation unilaterally, instead maintain harmonious relations. The political leadership in Kashmir put their own gloss on Simla Agreement and Sheikh Abdullah interpreted the pact to mean that the fate of Kashmir could no longer be discussed without the active participation of the Kashmiri's. One of the most significant effects of the Pact was that Kashmir was taken away from United Nations. Thus the blunder of father was undone by his daughter as Kashmir became a bilateral issue to be sorted out by mutual discussion without any mediation. However, the elections of 1972

through routine manipulations brought Congress Party to power but at the same time incidents like “ Book of Knowledge” wherein an offensive page a drawing depicted showing Archangel Gabriel dictating the Quran to the Holy Prophet. The book was banned in Kashmir and rest of India thus a mystery where from the said book had come? India appeared desperate to quell the Kashmiri’s and turned to Sheikh who prepared a deal with Mrs. Indira Gandhi popularly known as 1975 Kashmir Accord which was a stunning repudiation of what he had spent his political life for. It threw overboard the question whether accession to India in 1947 was temporary? Pakistan called it a sell out and Muslim leaders called it a betrayal. Sheikh was rewarded for his retreat and assumed the office of Chief Minister after Syed Mir Qasim resigned and he was received by the people with their conventional warmth. However, diametrically opposite views were registered by right wing Muslim of Kashmir and Hindus of Jammu. The former denounced it because it did not emphasise on enough separation because it did not address the question of Peoples right to self determination and the latter decried it because it perpetuated an element of separation for rest of India. Sheikh was contented with Art 370 to appear as a bridge between Kashmir and the Union, which in its original form provided for the autonomy of the state in all matters except defense communications, and external affairs but in present form it empowered the parliament to legislate against any move that would take Kashmir away from India. A popular outrage resulted as a gesture of reaction against the Kashmir Accord as soon as its contents became known. Sheikh’s perception of the Kashmir Accord was that there was no dispute with the government of India over accession; it was over the structure of internal autonomy. However as a token of love for Nehru family and symbol of statement of unity with Delhi revived once again pre-1953 memories. But Sheikh Abdullah soon retracted from what he had agreed with Central Government. Contrary to his agreement he kept Congress out its own government. As such the administration run by Sheikh became a family fiefdom run by Sheikh and his family, as India had India had Mrs. Gandhi’s autocracy the Kashmir had Sheikh’s. As a result his wife won her Parliamentary election and on the basis of his speech recorded from his bed, as he had suffered from a heart attack the National Conference made a sweeping victory in the Assembly elections on a sympathy wave, which were necessitated on account of Congress Party’s withdrawal of support from Sheikh. The fall of Congress in Centre in 1977 led Mr. Morar ji Desai to install the government being known for his honesty, the elections, could not be rigged in the state. Sheikh however fell to his fate and foresaw the need

to keep power safe within his family willed his son to step in the shoes of his father and prayed for his courage so that his son would feel a sense of responsibility towards his people whom his had nurtured with pride. Even on his death bed he had drawn the map of his final journey through the narrow street on a route so that it passed Srinagar's main Muslim Hindu and Sikh shrines and all religious denomination reciprocated with the same spirit so the whole Kashmir became united in mourning his death. It was a living repudiation of the two nation theory that divided India in 1947 but at the same time that had united the Hindus and Muslims of the valley. The period that followed has once again put on trial the cultural ethos of a people who once rose above the bonds of religion and were identified as a community that thitherto was not true of any peoples in the world not to speak of India. The same people have fallen at least officially poles apart which need to be investigated and pondered over in order to cement their bond of unison because the same has been a cornerstone of their culture. When they lost their sense of togetherness they appear to have lost their culture and ethnicity.

Kashmir-- Ethnicity or Identity: A Crisis

The ethnic identity is described as a static feature and this view, in modern political science and sociology, is said to be traceable to Max Weber³⁶ nevertheless it is difficult to find what might be called the ideal Primordialists in the literature on ethnicity and nationalism . The term Primordialism which is the root of primordialist has often been used to denote the view of ethnic identity as attachments derived from place of birth, kinship, relationships, religion, language and social practices – something that is primarily based on descent. These core features are said to be acquired at birth, they persist through time and are sometimes claimed to provide the basis for understanding the rise and development of nations.³⁷ For example Clifford Geertz has

³⁶. Widmalm Stein , op cit., P11 citing Max Weber

³⁷. Widmalm Stein, Kashmir in Comparative perspectives---Democracy and Violent Separatism in India P11 (Routledge Publications 2002)

argues that primordial attachments are 'given' but a closer reading reveals that Geertz thinks that attachments can also to some extent, be acquired in a culture. As such Geertz does not consider culture to be entirely static.³⁸ Indeed it is even difficult to describe Anthony Smith's position on the role of ethnicity in the development of nationalism as primordial if one insists on static nature of ethnicity. But can the ethnicity be a characteristic feature of personal identity that can change, at least to some extent over time? More crucial differences appear when some theorists try to explain violence and separatism within the spectrum of views agreeing that ethnicity is to large extent the prime mover in the casual chain that leads to violence. All the same the historical determinism can not be ruled out in other words it is said that an area that is conflict ridden in the past is likely to stay so. Ethnic divisions, which often have a historical origin, make co-existence difficult. Contrary to this some writers exaggerate this position greatly because in their opinion ethnic conflicts are caused by irrational feelings or some unique form of passion that will inevitably erupt when different groups come into contact. This is not only caused by antagonism rooted in history rather because difficult ethnic identities act as repelling magnets which make the blood in peoples veins to boil. The symptoms like this are present in Horowitz's abstraction on the subject as well. It is deducible from his assertions that internal dynamics which are typical of political parties based on ethnicity are the main cause of violent conflicts. In his opinions economic theories can not explain the extent of the emotions invested in ethnic conflicts. He does not subscribe to the view that economic factors contribute to the secessionist or separatist movements as he concludes: "economic interest may act either as an accelerator or break on separatism. Yet among the moist frequent and precautions secessionist backward groups in backward regions economic loss or gain plays the smallest role and ethnic anxiety the largest."³⁹ His arguments are further elaborated with references to group psychology and the emphasis is clearly placed on the uniqueness of ethnicity this is evident from a detailed discussion of the conflict promoting character of ethnic party systems. Horowitz describes what he calls the ethnic two party system where the competitive behaviour of an ethnic party is limited to its own ethnic group. Whereas in non ethnic two party systems the centripetal forces continue to influence voters in the buffer of the right and the left somewhere in the middle consequently political positions of the parties are therefore constantly

³⁸. Ibid., citing Clifford Geertz.

³⁹. *Ibid.* Citing Horowitz

moving closely together. On the other hand in ethnic party system the buffer remains constantly missing. This is why ethnically based parties are mainly concerned with their flanks within ethnic spheres not across them and centrifugal forces always remain in action. As a result the extreme parties are naturally tending to be more extreme so prone to adopt radical and non-parliamentary policies and approaches. The extremism further increases by the fact that the incentive to use violent means may increase after an election in an ethnic party system if the results are in favour of one, and the other is locked in disadvantageous position. This is most challenging attempt to grasp the dynamics that could explain why ethnic conflicts occur.

It has generally been observed that a tendency to form parties along ethnic lines is very strong mostly in deeply divided societies, in particular when few major ethnic groups meet at the national level of the politics. As such the definition of ethnic party system denotes deep divisions, which is one of its main important characteristics. Besides it introduces the ethnically based party into the party politics. On this very basis it is argued that ethnic party system fosters ethnic conflict. But why do groups suddenly become politically polarized along ethnic lines, perhaps Horowitz cannot explain. The analysis of his theory leaves much unsaid about how institutions such as the public service sector, the police, the party organisations and the institutions like that promote or counteract mobilization and conflict. In this regard great importance is attached to constitutions and electoral system. Furthermore Horowitz attaches great importance, so examines, how do political parties regulate recruitment to their cadres. These assertions are a part of the dialogue between Horowitz and Arend Lijphart on the question of nature of the constitution such divided societies should espouse. Constitutions may indeed be important but something more is probably needed to explain social instability. In this regard it is pertinent to mention that neither Horowitz nor Lijphart lays much emphasis on the fact that power relations and patterns of mobilization in many of the third world states they cite as illustrations, are more often determined by factors other than the intricacies of the constitutions. In this regard the case of Jammu and Kashmir can be cited as an example to prove the inadequacy of the theory Horowitz has floated. Although he argues that ethnic parties are tactical democrats as opposed to democrat by principle⁴⁰ He does not explain why the

⁴⁰. Herbert Tingsten has been the one who used this label to denote a democrat who supports a democratic system as long as elections have good prospects of winning. If elections are lost the tactical democrat abandons the

ethnic parties fail to accept a minority position over an extended period, where as the facts confirm to the contrary because there have been ethnic parties that have accepted minority positions over a long period. There is little doubt that party polarization along ethnic lines has led to many problems. In certain situations parties tend to assume more and more antagonistic positions which may produce violence. As many writers propose that ethnic sentiments are charged with stronger emotions than other aspects of human identity that is why ethnic party competition is more conflict prone than other forms of competition. This position belongs to a school of thought which considers heterogeneous societies inherently unstable. That may on occasions manifest that ethnic conflicts are more likely to cause acts of gross inhumanity than Church –state and class conflicts. In similar vein the ethnic sentiments can be a source of blind ferocity and orgies of passion.⁴¹ It may not be out of place to refer to Rousseau and other classical Republicans who generally hold that patriotic feeling and political participation rested and could only rest on social, religious and cultural unity, because they were the political expressions of a homogenous people.⁴² According to Walker Connor ethno-nationalism and genocide are caused by a non-rational core of the nation which provides unique ‘emotional well-springs’ that make people willing to die and kill in the name of the nation. In support of his theory Connor refers to a number of ethno-nationalist movements that have caused wide spread suffering and he links his argument to Freud’s attempts to grasp the emotional source of national identity. This view appears to have been confirmed by the report of Journalists on other conflicts as well as the one in Jammu and Kashmir which has often been described as an ethnic conflict stemming from the peculiarities of the Kashmiri mind.

Cultural breakdown of the Kashmiri’s it seems can not be explained within Marxian paradigm according to whom nationalism has no place in the industrial economy because economic units are created without boundaries as a result of which nationalism would finally have to exit the historical stage. The recent ethnic and nationalist mobilization is an embarrassment especially for Marxist one can at least point out that ethnic and nationalist mobilization was not expected

democratic system while as democrat by principle always supports democracy whatever the outcome to his/her own party.

⁴¹. Pierre can den Berghe cited in Ibid

⁴². Ibid., at P15

by social scientists of the left in 1970's.⁴³ The Marxian theory that power is the prerogative of the ruling class; and conflict and violence is the result of struggle between the 'haves' and 'have not's'. As such violence may take two distinct forms; one is the reactionary violence of the bourgeoisie controlling means of production at the cost of the poor and the other one is revolutionary violence of the proletariat, the consequence of the exploitation by the latter, which is unavoidable in the process of acquiring power for and by the poor. This would then be sufficient to float a hypotheses that socio- economic theories can still be useful to the study of present kind because the strains of development and socio-economic differences may well help to produce the discontent that spill over into violent separatist movements. The class may not be synonymous with ethnic group but class differences between groups in society can be found to exist in those societies which have an antagonistic relationship. Such a theory while addressed to Kashmir constrains one to study the problem in its historical context as has been argued that the road to modernity leads to situations where traditional ethnic identities may clash when confronted with the demands of the integrative process associated with the modern state.⁴⁴ This view has been reinforced by Samuel Huntington who has argued that the phase between traditional society and the modern—the modernization phase—is associated with political instability.⁴⁵

Kashmiri society is traditionalistic yet it does not concur with Marxian paradigm that violence, is the mid-wife of any traditionalistic society. It is to the credit of sense of solidarity and feeling of oneness that Kashmiri have long back dared to launch a struggle against the exploiters. The peaceful strike of Shawl weavers in 1865 and the Silk factory workers agitation in 1924 clearly bring out the solidarity of labouring masses against the economic and political oppression vis a vis oppressors and confirm Marxist philosophy that economic units are above nationalism and national boundaries.⁴⁶ Tradition is politicized by consciously resurrecting the memories of past struggles and by juxtaposing historical narratives of subjugation and oppression with illusions

⁴³. Widmalm Stein, op cit. P. 19., citing Criag Calhoun

⁴⁴. Widmalm Stein, op cit., at P. 11 citing Clifford Geertz,

⁴⁵. Id., citing Samuel Huntington at P.20

⁴⁶. Wani, Gull Mohammed et. Al., Reflections on Kashmir Politics, (Ashish Publishing House Delhi, 1993)

to mythology and folklore eulogizing heroic conquests and victories against the enemy.⁴⁷ All this may be true to communities other than Kashmiris because in Kashmir Folklore is spread over fantasy than about the victories and subjugation of Kashmir or its people because both Hindu as well as Muslims attributed such events to Karma or (acts done) as such submitted to their fate without being the fatalists. The concept of *Jihad* in Islam and *Dharma Yudha* in Hinduism and the martyrdom of Gurus among the Sikhs are examples of religion legitimizing the use of violence. The same did not break the cultural piebald of Kashmiri people because they in real terms understood the meaning of Jihad and did disseminate the same among their people in the Gurkul, schools and mosques respectively the message that was discernible from Dharma Yudha, and *Jihad*. The same interpreted by these people to emphasise on introspection and self control. This is well discernible from the *Rishi order* which has shaped the Kashmiri mind both of the Hindu's and Muslim's. Within this mind frame both the communities managed to live together because they did not suffer any identity crisis since the land was not molested by the foreigners hitherto. This kind of unison was attributable to Kashmiriyat explicable in terms of piety, honesty, righteousness, and hospitality rather than a culture associated with nationalism, land and language. The same culture is exhibited by these people unconsciously where they speak of themselves even in the contemporary times. This amply shows that the cultural heritage of Kashmiri people is a blend of individuality, independent thought, an emphasis on learning and respect for all religions and equality of justice. The same were the essentials of Kashmiriyat.⁴⁸ This was confirmed by a reputed Hindu Journalist who now a migrant confirming that “ his generation of Hindus and Muslims had always felt a keen sense of unity. Yet the Muslims suffered discrimination, but it was at the hands of the rulers not the people and that distinction has had always underpinned the relationship. Now the Pandits are bitter towards the Muslims he refuses to concede the death of Kashmiriyat.” He is determined and so firm that he observes “ Kashmiriyat can not die, it is in the soul, psyche, culture and personality of the people, Hindus and Muslims and something of it must still

⁴⁷ . Bahera, Navnita Chada, *State Identity and Violence: Jammu, Kashmir and Ladakh*, PP. 21-30 (Manohar Pub. Delhi. 2000)

⁴⁸ . See: Walter Lawrence Bose, Sumantra; *The Challenge in Kashmir—Democracy, Self Determination and a Just Peace*, (Sage Pub. 1997)

survive.”⁴⁹ The extent of Kashmiriyat may be gathered from the observations made by the married Hindu woman who when asked about the terrorists, replied, “ they are my cook’s son, my maids husband, the mali’s brother. They are young men we have known and cared for how can we hate them? They are misguided murderers but they are our own people. We can not hate we weep.”⁵⁰ As such there was no gap between reality and expectation prior to societal violence in Kashmir.

The post independence influences affected people to such an extent that their actual physiological and psychic (spiritual) actualization became less than the potential one. This shows that the abysmal gap between the reality and the expectation is the nursery of the societal violence.⁵¹ But the things worsen when the state power is very described as part of structural violence which without any scrupulosity defends injustice as something normal and natural or in a few cultures divine as well. Thus marginalized through structural violence the people are not rendered only economically poor but also culturally and socially alienated as well thus are driven in a pathological state of dependency.⁵² A civil society requires trusted political institutions as well as interpersonal trust. People socialized into an undemocratic political regime have good reason to distrust the institutions of a repressive state.⁵³ After independence , the spurt in provincialism, often rooted in ethnic and linguistic assertions, found expression in the clamour for linguistic states.⁵⁴ The problem of Jammu and Kashmir needs to be examined within this frame. This is in particular true where violence occurs as a result of mobilization taking place along ethnic lines. Violence in fact may be the result of different factors that initially lead to strong polarization of communities and subsequent emphasis on ethnic identity in politics assumes importance. In this regard a study of historical roots of separatist demands and antagonism among communities in Jammu and Kashmir would prove useful.⁵⁵ This is so required because at the onset of 21st century the state of Jammu and Kashmir has become a

⁴⁹. Alen Campbell, Op cit ., citing Stpal Sahini at p 239

⁵⁰. *Ibid*

⁵¹. Roy Laser A; Wrestling Against Shadows--- Minorities—Globalizations--- Violence, P. 76- 96 (2002)

⁵². *Ibid*.

⁵³. Rose, Richard, Shin, Doh Chull; Democratization Backwards: The Problem of Third World Democracies, British Journal of Political Science, P. 354 (Cambridge Univ. Press 2001)

⁵⁴ Hasan, Mushirul; Making Sense of History, Society, Culture and Politics, P-77 { Manohar Publishers Delhi }

⁵⁵. *Ibid*. P.15 citing Horowitz

cause of nuclear flash point between India and Pakistan thereby not only threatening the stability of South East Asia but the life of the suffering people.⁵⁶ The problem of inadequate representation of the Kashmiri identity continue to plague regional stability in south Asia as a result attention has been drawn by incessant writings on the subject to its constructive nature, to the fact that ethnicity is devised and deployed often consciously as part of an explicit political agenda using whatever is at hand,⁵⁷ be it religious, linguistic or cultural signifiers. This agenda is usually – but not always—implicitly linked to issues of socio-economic and cultural wellbeing. It results in erosion of culture and spiritual wellbeing and hence the need arises to reclaim through awakening or ushering in the renaissance. Where it is not attended to it is likely to result in territorial homeland that would reproduce the dynamics of nationalism itself and the same would become hostage of the subsequent ethnic mobilization by subsets of identities within it self. Thus like nationalism we cannot fix imagination of ethnicity within the parameters of space and time, they are indeed liable to move in response to differing cultural and political contexts. Viewed within this frame specific ethnicity can be a particular form of self-awareness and political representation which in particular circumstances can become extremely polarized against other forms of identities and associations. In such circumstances are deeply paradoxical for it claims for itself permanence, a Primordialism even that is belied by its origins and its own mutability. This can be seen particularly in case of Kashmiri identity within the regional context of emerging (and contested) ideas of what is to be Pakistan or India. It is in the wider context of this competition that the definition of Kashmiri identity becomes factionalized and largely ideological.⁵⁸ The universality of ethnicity in the Indian context warns us of difficulties, if not impossibilities of devising political sentiments on such transient identities especially when it is more connected with the history of state building and formation.⁵⁹ Given the current political climate an enlightened Muslim leadership will certainly develop but Allama Iqbal's requisite of power would have to be satisfied by a collaborative

⁵⁶ . Gangulu Rajat and Macduff Ian, *Ethnic Conflict and Secessionism in South and South East Asia, Causes Dynamics , Solutions ,* (2003)

⁵⁷ . *Id.* , at P59

⁵⁸ *Id.*, P 60

⁵⁹ . *Id.*, at P. 61 citing Ayesha Jalal

effort involving an all party all religious legislature.⁶⁰ The same appears to have been pleaded by scholars while insisting upon that unless a Muslim liberal intellectual class emerges, Indian Muslims will continue to cling to obscurantist Medievalism and communalism, causing their social and cultural death. A worst possibility is that of Hindu revivalism destroying even Hindu liberalism, for the latter can succeed only with the support of Muslim liberals who would modernize Muslims and try to impress upon these secular democratic ideals.⁶¹

⁶⁰. Salman Khurshid, "Islamic Renaissance, The Times of India, 2nd March 2004

⁶¹. Rama Chandra Guha, Double Defect, The Times of India 23rd March (2004) P. 18

CHAPTER 2

Exodus of Kashmiri Pandits

The situation of confusion and chaos imposed upon the simple folks since 1947 gradually made inroads into their cultural bond, which was finally torn apart and thus were born two distinct communities, who respectively began to show extra-territorial loyalties to India and Pakistan in the name of secularism and Islam. The forces behind were mistrust because after 1947 both the communities suffered from a kind of fear psychosis. If Muslims fear of Hindu domination in the guise of pseudo- secularism the Hindus on the other hand fear of Muslim domination and Muslim identity of the state. In any case both the communities lost something more important to any people and race namely the “culture” which revolved around humanism, trust and faith in Kashmiri identity. Amid this crisis was born the militant a product of denials, disappointment, frustration and despair. They had watched the helplessness of Muslim people and potency of the state administration in *Lal Chowk Army* action, when innocent bystanders were bashed by the army and Taxi stand was subjected to grenade attack resulting in loss of human life besides burning of the Taxis. To pacify the public anger Mian Jal u-Din Commission (one man Commission) was appointed, and the report was never made public. With this came to an end the politics of reverence. This incident was followed by a lull, which finally bursted in late eighties, with an attack on the house of a superintendent of police A.M. Watali which was repulsed by the guard on duty and Ashfaq wani a young boy who mounted the attack was killed, and a martyr was delivered. This action was not projected in any religious frame nor did his supporters claim its religious basis. The violence was the outcome of a Lal Chowk misadventure awaiting redressal-- of being heard – that was denied until it was too late to wean the militant away and escape the catastrophe because by now some other elements who were not appreciating psychological contact with India besides some foreigners brought the agitated youth under their influence. Instead of humanitarian and political approach a Military solution was preferred, which imposed unbearable miseries on common masses that are getting crushed between the army and

the militants; and continue to struggle between devil and deep sea. Had there been a safe escape route available and open to Pakistan occupied Kashmir perhaps the armless Kashmiri Muslims might have preferred to migrate the same way as did Kashmiri Hindus and Muslims who shared psychological and other contact with India preferred as some argue or were forced to migrate to different parts of India, without bothering about their property which most of them abandoned just for survival. Thus the issues boil down to human rights violation to ethnic cleansing if we say so that too at the time when U.N Conventions on Human Rights and Convention on Prevention and Punishment of Genocide are being discussed in the nook and corner of the world. Why would militants resort to ethnic cleansing or force migration on Kashmiri Hindus given the fact that it could attract attention of International Community because an exodus of more than four hundred thousand people from Kashmir was sufficient to attract the international press spotlights, that could in return heavily bounce back on militants and Muslim Kashmir and their liberation movement? Why did not International community react to such a grave problem? These are the issues that beg attention and remain un-replied? Perhaps only Government of India has a better answer and understanding of the same.

Be that it may, it is stated that the exodus was the result of concerted effort of militants who carried a military campaign against Hindus to exterminate them physically thereby making Muslim majority districts free from them. The guiding force is listed to be the Hindu opposition to secessionist movement and their resistance to this movement they perceived could be useful to military in their counter operations. A propaganda movement was mounted against Hindus accusing them of a conspiracy to undo the freedom movement. Among the accusations some of them were related back to the past. They alleged that Hindus misled the Muslim conference in 1939 and enticed the leadership to adopt secularism as the basis of its struggle against Dogra rulers.¹ Also that Hindus supported accession of State and its merger with India and worked for consolidation of Indian hold over Kashmir. Besides Hindus were against Muslim

¹ Madhok Balaj, 1972, *1920: A Story of Bungling in Kashmir*, New Delhi, Young Asia Publications, P-55-56.

character of society and administration of state as such they were opposed to Muslim precedence.²

I. Kashmiri Pandits and Accession of State

Accusations against Kashmiri Hindus were not unfounded. They were the people who fought for Indian unity and against foreign rule and worked shoulder to shoulder with the people in Indian states. This is attested by the fact the first ever held Conference of the Indian States convened in 1927 was presided over by a Kashmiri firebrand leader Pt. Shankar Lal Koul³ who had left Kashmir after having been removed from the state services on the advice of British Resident. He voiced the desire of people of the states and provinces against the British rule and denounced the princely of princely order. The same demand was reiterated at Ludhiana Session of the All India States Peoples Conference only a decade later. A close associate of Pt. Jawaharlal Nehru and veteran freedom fighter Pt. Dwarika Nath Kachroo⁴ served the states Peoples Conference as Secretary General during the most formative years of its development. Along with Pt. Nehru he was arrested in the Quit Kashmir movement in 1946.⁵ He also represented the All India States Peoples Conference in the historic meeting of the working committee of the National Conference held on October 1947 in which the Conference decided unanimously to support the accession of the state of India. Hindus in the state extended their support to the Indian national movement right from its revolutionary days and demonstrated their fraternal solidarity with people of India in the Civil disobedience, which followed the Rowlatt legislation in 1919, the Khilafat Movement in 1921 and Salt Satyagraha in 1931. Many of them, including Pt. Kashyap Bandu⁶ joined the revolutionary underground in India, which actually shook the roots of British Empire. The Muslims of Kashmir never lost the sight of their interests with British and spared no efforts to undo Dogras and oppose liberation movement in India. They opposed the State Subject movement led by Hindus. Even in 1931 the Muslims accused Dogra to have connived with Hindus to organize demonstration in support of Congress movement,

² Jagmohan, 1991, *My Frozen Turbulence in Kashmir*, New Delhi, Allied Publishers, P-36-37.

³ See Teng M K., Gadoo C L., 1998, *Kashmir: Militancy and Human Rights*, Anmol Publishers, P-68.

⁴ *Ibid. opp. cit. on p-69-70.*

⁵ *Ibid. P-74.*

⁶ *Ibid, P-76*

which they alleged went against their loyalty against British Empire. As such, it were Hindus who by their exhibition of tolerance and forbearance laid the foundation of a secular, nonpartisan and non-communal movement in the state, that was finally articulated in the Declaration of 1938 and thus formed the basic ground work of the movement for self government in the state. This gave National Conference in 1939. The Muslim Conference was converted into a secular organization in 1939 with the active collaboration and active support of Hindus, who joined National Conference on the terms laid down by the Muslim leaders. Those who did join the National Conference broke away to continue their struggle for the Muslims to align themselves with the Muslim League movement for Pakistan. This was the first division among Muslims that was attributed to Hindu leadership who were hand in glove with Indian National Congress. Even they applauded the role of the Sheikh in the Security Council of the United Nations of Organisation. The Hindus bore the impact of first upheaval, which followed the dismissal of Sheikh in 1953⁷ and paved the way for installation of second interim government towards which Hindus showed solidarity and demonstrated in support of it thus identified themselves as an interest group of government of India in the state. The Muslims opposed to accession fought with dogged Resolution and the movement for plebiscite, which the Sheikh and his plebiscite front led. Since Hindus attributed their impoverishment caused by their exclusion from the economic organisation of the state as their percentage in the services in state was not more than 1.8 percent and the rest being reserved for the Muslims and their discrimination from political processes to the Art 370 therefore opposed it. This opposition to exclusion of state under *Sheikh -Indra Accord*⁸ in 1975 was viewed with distaste as being opposed to Muslim character of state and Muslims. And hence the accusation that Hindus are enemies of Muslims and constitute India's interest group in the state was retrospectively rejuvenated and the same was never washed away. The same indictment thus repeated by the ideologues of Muslim terrorism. As a result Hindus found themselves arraigned against pan-Islamic fundamentalism,⁹ which assumed the leadership of secessionist movement in the state. This time unlike

⁷ Kaw M K., Bhat, Bamzai Gita, 2001, *Kashmiri Pandits*, Publication of Kashmir Sabha, Kolkata, APH Publication, New Delhi, P237.

⁸ *Ibid.*, P-241.

⁹ Lewis Bernard, 2003, *The Crisis of Islam- Holy War and Unholy Terror*, Modern Library Publication, P-11.

1938 they had lost initiative and became the hostages to what was later called “the Muslim identity of Jammu and Kashmir.” As the secessionist forces gained upper hand the pressure was mounted upon Hindus and thousands of them abandoned their homes. During this time many events, which were not in tune with cultural ethos of the Kashmir happened and went unnoticed. Did all this happen to force Kashmiri Pandits to migrate? But it had certainly some kind of tactical advantage for the secessionist forces. It would primarily destroy the secular institutionalization in the state, which would render all ideological commitments to the secular unity of India utterly redundant. It would shatter the credibility of Government of India among those Muslims who identified themselves with Government of India. It would ensure rupture of important communication and feedback channels of the Government of India, which Hindus endeavoured to keep open. This would break the resolve of Hindus as well as that of Government of India to hold Kashmir any further. The exile of Hindus would mark the first step towards the conversion of Jammu and Kashmir into a Muslim state and cause its eventual separation from India. The militants by and large succeeded in their broad designs in eliminating the Hindus, which changed the social morphology of the state by imposing population imbalance and co-ordinate plurality of the state. This was replaced by communal identity legitimized by Islamic fundamentalism. The psychological contact, which had always been vital to the community relations in Kashmir as well as support structure of India, was dissolved. Seeing the apathy of Government of India towards the death and destruction of Hindus even Muslims who did not support secession of the state gave way. This could expose the Muslim psyche to more persuasive fundamentalist indoctrination.¹⁰ The efforts to bridge the gap between the Muslims of Kashmir and the Government of India ended up in fiasco as the delegation of the political parties like Late Rajiv Gandhi, Devi Lal and other left front leaders returned disappointed.

Kashmiri Pandits and their Sufferings

A turning point had reached in 1989 when the rumblings of the storm engulfed the Hindus when notices were served on them to quit Kashmir on account of accusations, which though baseless, that they provided recruits to RSS and Shiv Sena. These non-

¹⁰ Gopal S, Iyengar Uma, 2003, *The Essential Writings of Jawarher Lal Nehru, Vol.2, Oxford University Press, P-78-79.*

Kashmiri Pandit Hindus about thirty thousand in number thus became the first target as the Muslims thought that they had usurped on their trading interest, which was not more than one percent. On their leaving the state Muslims purchased their property for which funds were provided to them by Muslim financial agencies and Organizations. In order to ensure their exit the bomb blasts were caused in their homes and business establishment. However vis a vis Kashmiri Pandits the attitude of parties like Jamat i- Islami, Jamiat ul-Tulba,¹¹ the Peoples League and Muslim United Front was the one of involving Kashmiri Hindus in the movement and promised them minority status in the Muslim state in accordance with the precepts and precedents of Islam. Along side was carried a vilification campaign by the print media of the valley sponsored by the forces ideologically committed to the disengagement of the state from India. Thus was the turn of Kashmiri Pandits who after receiving threats from the militants followed by attacks on business establishments, temples and residential quarters in the wake of all this expecting little help from Muslim run administration they approached the state Governor and conveyed their fears. In the country side their condition was never better the simple folks were inter alia asked to convert to Islam and some of their lands were forcibly occupied. In some cases conditional protection like inter caste/inter religious marriage was offered. As result they quietly left their homes, many of them paid for their freedom, some of them however failed to make good their escape and lost their lives among them included some important members of national executive of the Bharatiya Janta Party like Pt. Tikalal Taploo,¹² followed by broad day murder of the former sessions Judge Pt. Nilkant Ganjoo who had sentenced Maqbool Bhat the founder of the Jammu and Kashmir National Liberation Front to death. The death of Pt. Prem Nath Bhat – an advocate caused ripples in the psyche of Kashmiri Hindus. The death of Lassa Koul, Director Door Darshan served a last blow to Hindu faith and their fears were further strengthened with the circulation of hit list in the villages and townships indicting the Hindus for mukhbari i.e., informers of Indian forces for these even mosques were also used. This constrained ultimately compelled the Hindus to take to their heels. The state government reacted to the elimination of Hindus with utter passivity and indifference. The Junta Dal

¹¹ See Bhat M K., *Kashmiri Pandits for details.*

¹² Qureshi Hashim, 1999, *Kashmir: The Unveiling of Truth*, Delhi Publication House, P-78-79.

government lacked the will to deal with terrorist violence as a result state government could not deal with the terrorist violence with any firmness even the daughter of the then India Home Minister Rubiya Saeed was kidnapped leaving the little moral strength with the state government to face the terrorist challenge. The brief spell during which Mr. Jagmohan tried to correct the situation was a halfhearted endeavour, which ended in fiasco. The Hindus were accused of having entered into a secret conspiracy with Mr. Jagmohan to vacate the valley so as to enable the governor and the Indian forces to obliterate the Muslims. A propaganda war unleashed against, which Hindus had seemingly done in search of greener pastures and better prospects in India. Hindus had evacuated because of their threat perception, which did not necessarily correspond, to the real threat posed to their life and security. The Hindus had naturally to abandon their homes, lands and their professions. In 1990 this process of ethnic cleansing of the Hindus was completed. It is inconceivable that around three lack people would have lifted themselves out of their homes, leaving behind their property and lands, means of their livelihood and their temples, on the bidding of Mr. Jagmohan who paid huge sums for being ferried across the Banihall and to land in the wilderness remains to be answered. How did the whole community suddenly run wild and flung itself into oblivion? These folks had a rich cultural heritage that may be depicted from the temples and shrines besides their religious endowments and places of Hindu pilgrimage like the Amarnath cave, Kheer Bhawani on the outskirts of the city, the Sun temple at Mattan, Sharika temple on the flank of the Hari Parbat hill and Gangabal considered to be as sacred by Hindus in Kashmir as the Ganges. The religious endowments were once rich and were spread over Maufi and Makrari lands now nibbled away by Muslim partisans. Their long history extends into pre-historic, proto-Aryan era of later stone-age culture, formed an inseparable part of cultural identity of Kashmir and its personality. Because of their endocrine cultural patterns, local ritual –structures, blended with Vedic religious percept and practices and their pride in Sanskrit civilisation, they had a deep sense of attachment and belonging to what they had given birth to. How and why did they suddenly tear themselves apart from their racial moorings, abandoned their homes and their temples and quit the salubrious climate in which generations of their ancestors had lived, throw themselves on the charity of the world. They perhaps loved their land with a greater

spiritual commitment than the Muslims because they were not importers and had lived in the valley over thousands of years. They had a greater sense of national belonging with its roots in the geography of the land because they were not the conquerors rather they had risen from the soil. Why did they fall so low in their own esteem that they should have walked out of their homes after all they constituted self-contained class of people who lived at low levels of income compared with the lowest fringes of the powerful and affluent middle class of Muslims. Then why did they migrate? This question would always lurk in the minds of people of ordinary wisdom and would beg an answer? Whatever the answer, yet it is a stark truth that militants had unleashed a spell of terror and the same was multiplied by the state's inaction that failed to discharge its obligation to rescue the minorities by shifting them to safer places and or paying for their transport and other facilities, thus promoted their cause to escape – just a self help as if they were living in a state of nature.

Causes of Violent Separatism

The absence of the ideological content among the militant groups in the valley, it appears, is the most striking feature of the present Kashmir crisis. The crisis is superficially political in nature but a digging at its roots reveals its economic content and cultural identity as well. The same may be pleaded on the basis of some cogent reasoning, which forms a basis to study violent separatism in Jammu and Kashmir. Among the approaches to study and analyse the crisis the most striking are cultural, socio-economic and political approaches that may be relevant and apply to the instant case. The cultural identity “die not” caused the conflict and the socio-economic conditions were at the most secondary factors but the political factors have remained at the bottom as the most vibrant and influencing ones.

Political Explanations

Pt. Nehru while referring to Kaul Von Clausewitz 's definition of war ‘as merely the continuation of policy by other means’ remarks that his insights are anticipated in the

discourse on real politic presented by Chanakya in Artha-Shastra more than two thousand years ago. An understanding of the rational behind the strategy of violence becomes essentially relevant to the study of violent separatism. Because the same, according to Clausewitz,¹³ constitutes a strategy to achieve certain political goals. This does not suggest over emphasizing on the rationalistic approach since violent action by certain groups may also be the only desperate option in some situations, rather than the result of careful weighing of the alternatives and ordered preferences. It is however possible to understand and explain violence in terms of what Atul Kohli, Joel Migdal and Vivienne Shue¹⁴ call a state-society approach which suggests that violence can be a result of choices and also as a symptom of the character of certain institutions in the society. This implies that socio-economic factors should be considered, but all the same the inclusion of state and political parties and their elites should be insisted on to analyse that they exert independent influence in causing revolutions and thus become equally applicable to explain the violent separatism. It may not be out of place to mention that in the study of revolution ideas of anxiety, alienation, rising expectations and like play important role as to cause disequilibrium, role conflict, structural strain and so on yet the factors that play decisive role are on the whole political ones because the structure of power, alternative conceptions of justice, the organisation of coercion, formation of coalitions, the legitimacy of state all these traditional concerns of political thought provide large scale structural changes like industrialization, modernization and urbanization affect the probabilities of revolution as they shape the potential contenders for power and transform the techniques of governmental control and shift the resources available to contenders and governments. This is what Linz¹⁵ has to suggest where he argues that the crucial variables in the political perspectives are the political actors, their capacities, and their formulation of political demands. It undermines the consensus of democratic parties thus affecting their capacity to cooperate. Such crises are the result of the lack of efficacy or effectiveness of successive governments 'when confronted with serious problems that require immediate decisions. In this context breakdown is the result of processes that are

¹³ Widmalm Sten, 2002, *Kashmir in Comparative Perspective – Democracy and violent Separatism in India*, Routledge Publication, P-10.

¹⁴ *Ibid.*, P-13.

¹⁵ *Ibid.*, opp.cit.p-15.

initiated as a result of government's incapacity to solve the problems for which disloyal oppositions offer themselves as solutions. Kohli, while accommodating Linz, attempts to analyse the main threats to the democracy in India including the rise of ethnic conflict and argues that the rise of conflict and uninhibited ethnic mobilization has resulted from the breakdown of institutions and pattern of power distribution in the states in India. The deinstitutionalization of party structures, police and the bureaucracy poses the biggest problem since laws and rules become more difficult to uphold in an atmosphere of fierce political competition. In his view the role of state becomes pivotal in containing or promoting the conflict which revolves around variables considered decisive in the governability of a democratic state are like quality of leadership, leadership choices, prevailing ideology, the degree of intra elite- harmony and the design of such dominant political institutions as the party system and the legislative and executive relations. The same is important because political opportunity structure in which separatism may gain strong momentum is decided not only by the presence of discontent among the citizens or by the resources available to organizations that aim to pursue certain political goals but the extent or success of the advances by the separatists depend on the political environment and decisions by leaders as the same may trigger an unexpected spiral of violence.

The political factor as has been discussed by Kohli refers more specifically to the breakdown of the institutions, and the power struggle among the elites than to the ideological content as suggested by Sharma and Mishra.¹⁶ As such it may be primarily argued that neither the historical and /or cultural background nor outside intervention contains the main explanatory reasons for the discontent. In case of Kashmir it dates back to 1953 and reached its climax only in 1980's. Scholars conversant with Kashmir studies have described the period of 1980's as the key period that finally led to violent separatism. This power struggle can explain, as it was, at least a contributory if not exclusive factor of the crisis. Paul Brass,¹⁷ Ashutosh Varshney and Sumit Ganguly have drawn the same line as early as 1992. Sumit Ganguly¹⁸ supplies credence to this argument and gives support further to Kohli's views where the former pleads that the

¹⁶ *Ibid.*, p-16

¹⁷ *Das Veena, Uberoi, Gupta Dipanker, Pluralism and Identity, Sage Publications, p-61.*

¹⁸ *Ibid.*, p-21.

combination of political mobilization and de-institutionalization produces political violence. One of the causes of such de-institutionalization may be delineated from the casual role of ethnicity. In this context the two perspectives authored by John Stuart Mill¹⁹ in his discussion of political institutions in consideration on representative government. This may be from the “top –down” which is outcome of choice made by decision makers, the second proposes the opposite to the ‘bottom- top’ perspective which lays emphasis on growth of the government, than the government that is being formed. Within this frame the governments are projected like organism that have functional characteristic like human beings. Such governments carry with them the emotions and sentiments of the general public unlike the top-bottom theory. Where these emotions of people are not carried along the crisis is bound to happen that may lead to violent separatism.

However the most vaguely defined but also the most intensively debated nowadays are the cultural explanations. The theories of conflict, violence and separatism that use culturally specific traits as explanatory components usually emphasise the role of ethnicity and ethnic factors. This kind of enquiry has produced variety of suggestions and suppositions, in particular during the last two decades and since the fall of Berlin Wall. The theories of conflict, violence and separatism that use culturally specific traits as explanatory components usually emphasise on the role of ethnicity or ethnic factors. Because it is widely argued that conflicts such as the one like Jammu and Kashmir is ethnic in nature and rooted in cultural difference --- a theoretical proposition – that needs to be tested. At the same caution has to be observed because the theory development in this field has been of varying quality as the literature on ethnicity has expanded so has the usage of the concept. In this regard it may not be out of place to mention that ethnic conflict has also come to be used as a general label of movements with diverse political goals. What used to be called civil war insurgency, communalism or separatism has lately been renamed as ethnic conflict. Actually most authors today consider ethnic identity a characteristic of personal identity that can change to some extent over the period of time. Ethnic conflicts are caused by irrational feelings or some unique form of passion that will inevitably erupt when different groups come into contact. This is not only caused by

¹⁹ *Ibid.*,p-22.

antagonism rooted in history. It is because difficult ethnic identities act as repelling magnets, which make the blood in people's veins to boil. Horowitz²⁰ is of the opinion that an internal dynamic, which is typical of political parties based on ethnicity are the main cause of violent conflicts. He has elaborated it further by the 'conflict promoting character of ethnic party system.' He describes it what he calls the ethnic party system where the competitive behaviour of an ethnic party is limited to its own ethnic group because its members are committed and cohesion is maintained by the centrifugal forces. On the other hand in the 'non-ethnic two part systems,' centripetal forces operate that attract the voters located some where in the middle operating from left and right. In an ethnic party system a defeated ethnic group in the elections would naturally assume to be more prone to take radical and non-parliamentary action. This is a most challenging attempt to grasp certain dynamics that could explain why ethnic conflicts occur and the role of party dynamics has to be kept in mind where we examine the case of Jammu and Kashmir. We can find many cases where party polarization along ethnic lines has led to problems, to say the least. As Horowitz points out that in certain situations parties tend to assume more and more antagonistic positions, which may produce violence. The violence in Jammu and Kashmir confirms this phenomenon because the violence in the valley shows a strong connection with the mobilization that occurred along ethnic lines. But violence then, can be regarded as only as a symptom or outcome of other problems as well. The need arises to determine as accurately as possible the factors that cause the strong polarization of communities and the emphasis on ethnic identity in politics. As a result the culture of the group whether ancient or newly fashioned it has affected a change in values, which was politically induced only to break a homogeneous culture of a society that was pluralistic in nature. This was geared around a basic notion to further promote ethnicity and nationalism, which could be attributed to competition between the elite groups craving for political power in the state. All the same, the mobilization occurs on the basis of political interests as it can be even attributed to socio-economic interests as Carl –Ulrik Schierup²¹ confirms the same. The critique implies that factors other than ethnicity must be examined, too, when analyzing the causes behind Kashmir crisis.

²⁰ *Ibid.*, p-24.

²¹ For details see *Widmalm Sten*.

Can there be some kind of socio-economic causes behind this turmoil in Jammu and Kashmir because unlike ethnic theorists the Marxian scholars generally search underneath mobilization an economic content explicable in terms of a hidden class struggle. Notwithstanding the criticism leveled against Marxian assumptions one feels like agreeing that Marxist-influenced socio-economic theories may still help to study the instant crisis because the strains of development and socio-economic differences may contribute to the discontent among the masses and spill over into violent separatist movement especially where top-bottom based political system is in vogue. Although class is not synonymous with ethnic group yet class differences between the groups in the society produce antagonistic relationships. Thus it becomes imperative to seriously consider between socio-economic development, discontent and the violence.

Notwithstanding the criticism leveled against the traditional /modern clash as a basis of separatist violence, one feels like admitting that modernity leads to situation of instability as Samuel Huntington ²² argues because traditional ethnic identities may clash when confronted with the demands of the integrative process associated with the modern state confirms Clifford Geertz.²³ Further more modernization always eradicates traditional values and creates a gap in identity paving the way for fundamentalist identity which may be religious or otherwise. This is so because lack of economic development or large-scale changes may cause frustration and discontent, which may be expressed through demands for separate statehood. In this regard the views of Robert Gurr²⁴ are relevant who attributes violence to 'relative deprivation' which refers to the gap that may appear between an individual's expected and real well being where from breeds the tension because of a conflict between 'ought' and 'is' which in essence refers to collective value satisfaction and that which disposes men to violence. This can not be possible in vacuum without there being a group to compare with. In such situation the group invokes its own perception in relation to other groups and discrepancy results in polarization that ends up in violence. However a sociologist has to look at the nature of the "gap" which cannot be measured yet it should be justifiable that polarization and violence may be predicted. The same is confirmed by Paul in whose opinion almost in all movements that threaten social

²² *Ibid., oppo. cit. p-23.*

²³ *Ibid.*

²⁴ *Ibid., p-27.*

order the social inequality gives legitimacy to their political goals. This view is by and large supported by Edward Muller and Mitchell Seligson²⁵ who found that inequality in land and income coupled with repressive order promotes high levels of political violence, which can be averted either by total oppression or absolute liberal treatment of political opposition that is the only option in democracy. In the former case, the violence against dissidents, their imprisonment, killing, and torture, is bound to produce violence, and leaves small space to dissidents to organize and express their discontent. The results are same where there is semi-repressive regime that allows some expression of discontent and organisation but fails to give dissident groups genuine opportunities to participate effectively in political decision-making. Kurt Schock has opined that political opportunity structures can have a moderating effect on political violence and the same is confirmed by Gurr where he argues that the state and its institutions can play a crucial role in the development approaches using more detailed case studies like statistical studies can not, though, reveal inner and intricate dynamics that lead to conflict, yet their importance does not mitigate.

Search for Refuge and/or Refugee Status

The aftermath of migration was more painful and disastrous both to identity and the being of Hindu migrants. The apathy of the government vis a vis tribulation of migrants was on account of division in the bureaucracy that was dominated by the Muslims who on account of political favouritism had reached the highest positions toed the official line and supported the processes of Islamisation of the state and its Muslim precedence. The personnel of Indian Administration, too, failed to rise to the occasion consequently the Hindu's sprawling on the streets in the temple city of Jammu were left without any shelter or relief not even a temporary one. The hunger and disease might have taken a heavy toll but for the efforts of the voluntary Hindu organisations, which immediately swung into action.

The exodus of Hindus was followed by wide spread depredations of their places of worship back home. The Hindu religious, cultural and minority institutions were destroyed with greater zeal. The buildings in which the officers of the Hindu social

²⁵ *Ibid.*,p-28.

organisations were located were also burnt down or subjected to bomb attacks. Hindu educational institutions were either burnt down over by desperados supported by militants. Almost entire organisation of the Hindu schools and colleges run by the Hindu Educational Society, the Dayanand Anglo – Vedic Organisation and the Vishva Bharti Trust were either burnt down or ceased by the militant sponsored Muslim organisation in a swift maneuver. The Minister of State for Home stated in the Indian Parliament that 38 temples and Hindu shrines were demolished, damaged and desecrated in Kashmir during the year 1998-1991. Apart from the vandalism unleashed against places of worship the actual figure may be higher. The state government did not bother to collect information about 68 temples and shrines located in the remote villages or more ancient and sacred. The situation further worsened with the demolition of Babri Masjid in 1992²⁶ when traditional Muslim intolerance towards the Hindus erupted into widespread attack on the Hindu temples and places of worship. As a result thirty-nine temples were demolished, burnt and desecrated by frenzied mobs who cried for death to India and the Hindus. The destructions of the temples and religious institutions were evidently aimed to destroy the Hindu religious tradition and culture and to pave the way for total Islamisation of Kashmir. The militant organisations followed a systematic policy to uproot Hindus from Kashmir and inflict economic and social sufferings on them to break their resolve to return home. This policy was followed right from 1989 when they were dispossessed of their land, orchards, business establishments, trade, shops and all that fell within their localities and means of production. This is testified by the fact that between 1990 to 1994 around 18,000 houses were either burnt down or destroyed, many more houses were occupied by mercenaries who served the militant organizations.²⁷ All this happens in the teeth of legislative enactments like the Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act. 1997 which has failed to check the prevalence of fraudulent mutation and distress sale, due to the failure of the state government to protect such properties. The state government without mincing words informed the Jammu and Kashmir Legislative Assembly that 635 houses and 2000 Canals of land of migrants were under illegal occupation. The state government informed the

²⁶ Madan T N., 2002, *Family and Kinship- A Study of the Pandits of Rural Kashmir*, Oxford University Press, New Delhi, (Preface to paper back edition).

²⁷. For Details see Teng and Gadoo 1998, *Kashmir: Militancy and Human Rights*.

National Human Rights Commission too that it had completed the job of making inventories of the immovable property left behind in the Kashmir valley by the displaced persons and that the total number of structures belonging to the migrants is 16979 out of which 5870 structures have been gutted or damaged.²⁸ This has been a mere eye wash because the list does not include the number of apple, walnut and almond orchards nor does it refer to the millions of willow and Poplar trees sold as timber during the past more than a decade.

The displaced community has been living with the most traumatic experience of the destruction of its social fabric, economic, familial and environmental relationship and infrastructure. The adverse social and psychological consequences in-terms of health suffered by this five thousand years old ancient community have been enormous particularly due to loss of their distinct territory, ethno-cultural heritage and identity. With the assistance of Pakistan the terrorists' unleashed terror to deprive the Kashmiri Pandits of their right to the territorial locus in the Indian state of Jammu and Kashmir so that it's social and political order is altered to a mono-ethnic Islamic agenda. In the course they are deprived of habitat, language and culture due to lack of attention by previous Kashmiri Pandit emigrate to the preservation and dissemination of their mother tongue. This is true of all Pandits in forced exile in various part of India. Since language is the most potent cultural marker providing for group identity concerted steps need to be taken urgently to promote the usage of Kashmiri language as mother tongue by all Kashmiri Pandit households. They should also ensure that their number is properly enumerated in the census. At the governmental level Central Government and its institutions like Sahitya Academy should recognize Devnagari as alternate script for Kashmiri language so that the ethnic religious minority of Kashmiri Pandits is not deprived of the patronage given by these established cultural institutions to Kashmiri language and literature²⁹. National Commission of Minorities when felt prompted to take up the issue of more than 300000 remarked, "At the movement every political party is framing its manifesto. So we are going to ask them what their stand on this issue is. If there is a consensus among the political formations on this issue we would press for a

²⁸ *Ibid.*

²⁹ Thomas Christopher, 2000, *Faultline Kashmir*, Brunel Academic Publishers, p-247.

pilot project where in a group of Pandits can be re-settled in a particular area.”³⁰ While reacting to these remarks Dr. Agnishekhar, President of Panun Kashmir said that he fully agrees with these assertions that resettling Pandits would be a test of Kashmiri secularism. But the divisions have become so deep that even the Women’s Wing of Panun Kashmir – Daughters of Vitasta— alleged atrocities by the security forces on women in the valley was a propaganda to gain sympathy. Whether the pilot project would take off shall be no more than an utopia.³¹ Seeing through the foreign hand behind their exodus the Panun Kashmir had urged the Prime Minister Atal Behari Vajpayee to ask Pakistan President Pervez Musharaff at Agra Summit to recompense the Kashmiri Pandits for their extirpation from their homelands.³²

India lacks a national policy or institutional framework concerning displaced persons. Moreover the Government systematically refers to internally displaced persons as migrants. At the same it shuns demands for International Scrutiny and thus any international humanitarian access to internally displaced is denied? This shows the double standard, which the Government of India has hitherto adopted. The government till date has done nothing concrete to substantiate their livelihood. No political party in the government has shown its concern to take up the rehabilitation of Pandits as an electoral issue. May be that as a community Pandits is taken to be in small number and as such their rehabilitation does not matter much. Again their rehabilitation is an uphill task due to the security concerns. Dumping them in one area and asking them to exercise their will within the demarcated boundary is itself a crucial threatening issue.³³ Pandits, too, adopt double standards. On one hand they have remained in the forefront to bring Kashmir within the fold of Indian sovereignty albeit by encouraging systematic erosion of the Article 370, which in its original shape kept the State of Jammu and Kashmir outside the Indian state structure. They exhaled jubilation on any thing that rendered Kashmiri nationality meaningless. By virtue of Indian stand that Kashmir is its integral part any dispute within the state becomes a domestic issue and the United Nations Organisation under Art. 2(7) cannot interfere in its domestic affairs either directly or through any of its

³⁰ www.rediff.com: *Return of Kashmiri Pandits test of Kashmir Secularism: NCM by Basharet Peer.*

³¹ <http://newsachiches.indiafo.com>

³² *Price Susannah, Musharraf's Kashmir Strategy, 12 July, 2001.*

³³ www.Kashmir_pandit.org.

agencies. The Pandits therefore are the Indian nationals who have moved out or were forced out of their place of abode and are accommodated in camps at Jammu and some have migrated to other parts of India. Hence they do not fall within the definition of the *Convention Relating to the Status of Refugee*, 1951 which in *Art. I A (2)* defines Refugee “ As a result of events occurring before 1 January and owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” In order to extend the scope of the Convention beyond its cut date a protocol relating to the Status of Refugee had been added to this Convention on 31st January 1967. This Protocol has extended the protection of Convention to the persons who became Refugee as a result of events that took place after 1st January 1951. As such the refugee as defined under the Convention are those persons who are deprived of the protection of the country of their nationality or where they have no nationality of the country the protection of the country of their former residence is denied to them. It is true that Pandits were forced to leave the place of their abode nonetheless they can not claim protection under Refugee Convention because they are safe in the country of their nationality. However can they claim protection under United Nations General Assembly Resolution [United Nations Action in the Field of Human Rights, United Nations, New York and Geneva, 291(1994)] since the problem of displaced persons being very severe, it attracted the attention of General Assembly and the Commission on Human Rights. The displaced persons being unable to cross borders and reach a territory in which, they could receive protection and assistance, which they urgently need. In order to meet the needs of displaced persons the General Assembly has established some institutions of great significance but their operation is confined to Palestinian Refugees only. Its mandate was extended in 1967 and 1982 to include humanitarian assistance as far as practicable on an emergency basis and as a temporary measure. Pandits have remained in the vanguard to protect the national interest in the Jammu and Kashmir state so they are like soldiers protecting the national cause, even if they suffer they should keep the promise. All the

same the Government at Centre should take all possible measures to minimize their sufferings and rehabilitate them because the issue is the one that concerns human rights.³⁴

Conclusion

On the contrary the Muslim migrants sharing a psychological connection with Indian social structures were helped by none. They could not even plead for help fearing the onslaught of militants on their relations back home and hence continue to suffer in silence. Again, those who on account of poverty and threat of anger can not migrate, their plight is again worst than both the Muslim and Hindu migrants. They soar at the exodus of Pandits because it went against the basic canons of Kashmiri culture that belonged to people not to rulers. These people co-existed in pleasure and pain bore sufferings and persecutions irrespective of fact whether perpetrators were Hindus or Muslims until Kashmir was swept up into regional politics and finally becoming a super power attraction in 1947 when Khrushchev sided with India. The aftermath of exodus of Pandits has proved crushing equally for the populace that stayed behind. This time the gunman is not like one that was seen in 1947 and hence not under the control of local populace which can be ascertained from the fact that the desecration of Hazratbal shrine and burning down of Charar -e- Sharif a place of cultural and spiritual focal point both of Muslim and Hindus of the Kashmir was burnt to ashes and destroyed a homogeneous unit. At least a Kashmiri militant would hardly dare to do it. This was none else than an outsider who was within or from the outside? The core of Kashmiriyat was mutilated once again when in 1995 five western tourists were kidnapped and remain to be traced. Who did it? Government of India can only divulge the truth. The same people have to tolerate the mot Kashmiri administration dipped deep dark in corrupt practices. Money they have to pay at all costs whether it is an appointment to any office like administration, police or getting a kin released from judicial lock up or prison, those in power demand it overtly and /or covertly. The worst and humiliating scenes appear in the season of elections! The poor folks find soldiers on their doors at daybreak to herd them to polling booths on gunpoint in the name of security of voters thus reflecting nothing but

³⁴ Khan Rahmatullah, 1969, *Kashmir and the United Nations*, Vikas Publications, p-80-85.

mock-up of democracy. Kashmir has over the years, turned into a fortress because it is besieged from without and malcontent from within. The simple folks mourn to their kin as and when Para-military and /or police arrests them and takes them away like harpy taking away its prey and not less than 800 people of all age groups including juveniles, old and very old, professionals, lawyers and teachers, businessmen and labourers citizens picked up at random without they having any connection with the armed struggle remain hitherto untraced. Delhi boasts that it has crushed the indigenous militancy movement in Kashmir; no doubt more or less it has done so but only as a military force. Can it crush the grassroots desire for freedom? The process of attrition and elimination was the pattern since 1990 but assumed a new dimension in 1995 when Indian security forces began arming and training local auxiliary forces made up of former militants or renegades who sowed confusion within the ranks of various militant organizations who got engaged in killing each other while the security forces sat back and watched the show. In the course armed freelance thugs were let loose to devour the weak and innocent. Thus has spawned confusion no one know where do they go from here, the same situation as it was appeared at the time of exodus with only difference that they had a hope to come out from this quagmire which is lost to the confusion.

CHAPTER 3

Democracy of Denial: The Right to Self Determination

The state of Jammu and Kashmir has since the day of its inception infatuated both the people and the super powers namely Britain, America, and erstwhile Soviet Union. To some, reason was its scenic beauty, and to others its geo-political significance made it the centre of attraction. In either case the losers appeared to be the simple folks who had a history of their own spread over thousands of years, who consider themselves an Aryan race pure and simple, though extremely handsome and athletic but shorn off martial proclivities. They converted to Islam not as a matter of protest but for acquiring spiritual perfection.¹ As such they constitute a pluralistic society and together with Hindus form a community who always crave for single cultural identity. Kashmir was an independent kingdom for a long time until they fell to foreign invasions at different intervals of its history. The miseries were compounded no sooner Ranjit Singh's army conquered it, which ultimately ended up in "Treaty of Amritsar" a unique deal in commercial terms that resulted in selling humans along with their lands and animals to Maharaja Gulab Singh and his male heir of body from generation to generation, at the same who had in lieu of vassal-ship to British pay annually one horse, twelve perfect Shawl -goats and three pairs of Kashmiri Shawls.² The idea of British Government in India was to give Kashmir an independent status so as to maintain it as a buffer state till the newly acquired province of the Punjab was subjugated and Afghanistan was brought within the British sphere of influence. They were inclined to keep Kashmir because of its strategic importance since the borders of Jammu and Kashmir State connected

¹. Youngusband, Francis, Kashmir as it Was, P. 131(2000)

². Ibid.

three empires of Great Britain, Russia and China and hence its historic strategic position proved perilous to the people of the State. The freedom struggle against the British in India inspired the forces of change in the valley too that no sooner India National Congress gave a call to Britishers to quit from India, in Kashmir the Dogra rulers were asked to transfer power to the public. In the course the agents of democracy in the state and those in power struggled for their survival. The former looking towards grabbing the power and the latter consolidating and defending its power. The choice became difficult where the democratic forces outside the State fell poles apart and two sovereign states namely India and Pakistan espousing different philosophies emerged from the colonial debris both eyeing the Kashmiris to join them. In view of demographic distribution of population and its nature it became difficult to survive both for Dogra rules and local leadership that for the time being had preferred secularist posture after distancing itself from religious or Muslim identity and preferred to adopt cultural identity that was synonymous with 'Kashmiri'. Although it created a wedge among Muslims yet it was acceptable to all minority groups. The urdu speaking Muslims found sympathizers in Kashmir too and hence Muslim league that supported two nation theory survived on the basis of philosophical postulate "Natural Tendency of Muslims". In the course National Conference appeared as a natural ally of India and Muslim League an ally of Pakistan but at the same both were the enemies of Dogra rule. Within this premise the Sheikh and Maharaja Hari Singh the last Dogra ruler became natural ally to the extent both were against Pakistan assisted raid and occupation of the territory of Jammu and Kashmir. Both worked for the common objective namely an "independent Kashmir" but adopted diametrically opposite modus operandi to vindicate their design. If Dogra ruler and the Sheikh acceded to India it was mainly because Pakistan by invading the state of Jammu and Kashmir left them with no option. There were at least three compelling reasons as to why Hari Singh craved for "Independent Kashmir" . He wanted to protect his

legacy so that it could carry it forward to his heir but was at the same unmindful of the winds of change. He had apathy for National Conference and given the proximity between the National Conference and Congress he would prefer none because accession to India would mean transferring power to National Conference. Third, the Britisher's had tamed Dogra rulers only to keep control over the strategically important area that served as corridor to China, Central Asia, Afghanistan and Indian subcontinent, only an independent Kashmir would serve this purpose.³ Maharaja at one time thought of acceding to Pakistan, an idea in its grey stage was scuttled on account of Pakistani assisted invasion of the state that resulted in loss of territory to Pakistan. It led Maharaja to flee Kashmir and take refuge in the Port city of Bombay. This was followed by two important developments firstly saving Kashmir against invasion and secondly evacuating occupied lands from Pakistan. This could not be achieved without pursuing democratic and internationally justified norms. India needed a moral basis to send its troops to Kashmir this could be legitimized only if Kashmiri asked for help thus Maharaja stepped in and acceded to India on Oct, 26th 1947 in respect of three subjects namely defense, foreign affairs and communication on the condition that " Nothing in this instrument shall be deemed to commit me (the Maharaja) in any way to acceptance of any future Constitution of India or to fetter my discretion to enter into arrangements with the government of India under any such future Constitution." The Indian National Congress having remained an ally of National Conference in its freedom struggle so the government of India could not afford to ignore the popular leadership of the people of Jammu and Kashmir on this issue. In the course National Conference was involved that subsequently supported accession to India. In the meanwhile attempt was being made to evolve a constitutional mechanism that would determine the status and relationship of Jammu and Kashmir with India. But the Sheikh, it appears, received the first shock

³. Durga Das, Sardar Patel's Correspondence

were he appears to be quite soar about the way Article 370 was incorporated in the Constitution and complains about it quite bitterly in his letter to Sir N. Gopaldaswamy as “ My Ayyangar that day “ while we were still discussing the matter in the lobby amongst ourselves, the draft article 306-A (Article 370 in embryo) was moved by you in the Constituent Assembly.” He discovered that the explanation clause defining the Government of the state had been altered contrary to the accord.⁴ Article 370 finally geared around six special provisions for the state namely its own Constitution, limiting powers of Parliament to three subject, empowering the President to extend to the state the other provisions of the Constitution in mere consultation with the state to provide a Federal framework and in case of other matters the prior concurrence of the state government was required and subsequently the same to be ratified by the state’s Constituent Assembly and Article 370(2).⁵ Again the life of the Article depends on the discretion of the President subject to the assent of the Constituent Assembly.⁶ The whole show virtually revolves around the President because Constituent Assembly was unlikely to meet after the drafting of the Constitution.

On international front the newly formed United Nations Organisation was fully braced up to listen and Respond to Indian complaint on Kashmir against Pakistan. In the course both India and Pakistan agreed to concede the right to self determination to the people of Jammu and Kashmir which was pleaded by Pakistan representative in the Security Council should be limited to acceding to Pakistan or India. The UNCIP Resolution of 5th January 1949 in which Kashmiri people’s right to exercise full right of self- determination was limited was applicable to whole of the state which constituted the erstwhile Jammu and Kashmir State. The UN Security Council Resolutions on Kashmir are very clear that elections whether fair or rigged could not be a substitute for the right of self

⁴ Wani Gul Mohammad, *From Autonomy to Azadi*, pp118-121 (Valley Book House 1996)

⁵ See: Article 370 (1) and (2)

⁶ Article 370 (3)

determination. The Kashmiri people could not exercise their right of self determination because both India and Pakistan failed to agree on issues relating to demilitarizing, the consequence is subjugation oppression and forced division of Kashmiri people. Both the countries fail to appreciate that the meaning of right to self determination which under the United Nations Charter is recognized under Art. 1(2). It defines the right as “ the ability of a people to collectively determine its political status and to pursue its own economic, social and cultural development.” Similarly the Resolution of Un General Assembly Resolution 2625 of 1970 stated “every state has the duty to promote, through joint and separate action, realization of the principle of equal rights and self determination of peoples.” The right of self determination over the years has changed it has internal and external dimensions because denial of right of self determination is a denial of all other human rights as it is through this right only that people could give meaning to all other rights. In the light of UN Security Council Resolutions it is impossible for a government that may have come to power by fair or foul means to protect the aspirations of its people since they shall be pursuing their own vested interest and not the policies of their subjects.

The local conditions apart international environment complicated the problem further. The World War Second did not only establish the super power status of America but the same was legitimized by United Nations Organisation under its Charter. This brought Americans to the forefront that they were prompted to take over from British the kind of role they hitherto had played at international level as they had their colonies scattered the world over. Seeing the Britisher’s winding up from Asia the Americans thought of filling the vacuum. This had become necessary for America because of Cold war between America and its allies on one hand, the Russia and its allies on the other hand essentially required to contain Russian influence and control of geographic areas. All this required to keep Russia and its allies under some sort of surveillance. The control

over Jammu and Kashmir would fit in this strategy Americans believed. Around the same time the American print media came up with stories about strategic importance of Kashmir because of its proximity to Soviet Union and its industrial centers.⁷ The New York Times published a map captioned “The West’s Programme for Containment and gap”. Rosinger indicated “the interest of United States presumably arose in part from Kashmir’s strategic location, close to USSR and bordering on Afghanistan, China, Turkistan Sinkiang Tibet, India and Pakistan” Consequently Americans eyed the Sheikh, who had a meeting with Adlai Stevenson the leader of America’s Democratic Party and who stated in Srinagar that the best solution for Kashmir might be to remain independent both from India and Pakistan. Delhi began to suspect that Washington favoured an independent Kashmir. This produced two important effects one that the Sheikh was arrested and the second was that USSR aligned itself with India that would stand on India’s side in case Pakistan resorted to some kind of misadventure because of her alignment with CETO and CENTO thus complicating the problem further.

The period that followed was full of mistrust and animosity instead of cooperation and friendship. In this environment was fought the war of 1965 which brought no fruitful results to either. Only six years later one more war broke out between the two neighbours that ended up in Simla Agreement which if called an unequal treaty may not be an exaggeration. However under the Accord India succeeded to reduce the issue to a mere dispute between the two countries and leaving quite a little scope for international mediation.

With the disintegration of erstwhile USSR and fall of Berlin wall the bitterness about India had deepened on account of forget elections making the government a top-bottom affair. The erosion of reluctantly accepted Article, 370 produced further mistrust in the minds of majority Muslim

⁷. New York Herald, Tribune

population who realized the pseudo-secular philosophy of the Indian state and had become apprehensive that after Pt. Nehru India may become a Hindu state and the future of Muslim majority in the would become unsafe. The reaction of minority groups towards the Sheikh –Indira Accord in 1975 brought the conflict and division within the Kashmiri people to the forefront and the minority came to be blamed for the role they played as an Indian interest group since 1938. Apart from this alienation of the people of the valley is the most serious problem in Jammu and Kashmir. The people influenced by the global winds of change were emboldened to pitch against the government and Indian forces. As a result of the discontent of the local population insurgency, terrorism, mass protest of random violence flow from alienation. Evaluating the situation in Jammu and Kashmir retrospectively it appears that since 1953 onwards anti Indian sentiments though openly expressed the people were not pro-Pakistan. It was only from 1990 onwards that the sense of alienation grew stronger and genuine desire to attain freedom was born and an intellectual lobby based in Kashmir University in Srinagar highlighted dander to religion, customs and culture privations of the common man. Slowly the professionals like doctors, lawyers, and teachers joined the lobby and expanded its base.⁸ Within this crisis in Kashmir, problems both of national and international significance like exodus of Kashmiri Pandits and Indian Army on the international borders with Pakistan were likely to push the two nations to the brink of nuclear holocaust that the United Nations and its members persuaded both the countries to settle Kashmir dispute but the much pressure was generated within the Country where intellectuals began to oscillate between independence and full autonomy for the state of Jammu and Kashmir. While commenting on Kashmir says Ajit Bhattacharya that “ more is at stake in Kashmir than holding to a relatively small piece of real estate. At stake are the underlying basic democratic and secular values of the Republic if these are sacrificed by

⁸. Karim Afsir, Kashmir: The Troubled Frontier, P101 (Lankar Publishers, 1994)

reliance on military force to keep the country together, we will lose the underlying justification for the national struggle for independence. For India will revert to an empire ruled by force not by consent.”⁹ Hence the solutions began to float as he further suggests, “ it may not be too late to begin talks on a limited association with the union a confederal relationship or even on independence in stages on the model of Bhutan.”¹⁰ So did V.G Verghese float five core ideas for the solution of Kashmir problem? “First a soft state frontier across an adjusted line of control should become the international border between India and Pakistan within the state, and being soft it should allow easy movement of commerce both ways. Second each of the two parts of the state should negotiate greater autonomy within the governments of India and Pakistan respectively. Third both parts should then be allowed to federate around the developed subjects, while each gives regional autonomy to its regions. Fourth India and Pakistan respectively should then confederate with its side of the state. Fifth is what should then emerge an autonomous Jammu and Kashmir with further regional devolution within an Indo- Pakistan condominium.”¹¹ So did elite in Pakistan impress that to resolve Kashmir dispute Buch formulae be adopted that suggests that in the initial phase while leaving the existing administrative machinery in place in both Indian held and Azad Kashmir, the two governments should agree to pull back their forces to an agreed distance from the border, drastically cut the size of their forces in the state (both IHK and Azad Kashmir), start demilitarizing Saichin, urge their nationals who support insurgency to leave the state, facilitate the return of conflict displaced citizens, release all political prisoners in the state and declare complete freedom of speech and movement from one end of the state to another.”¹²

⁹. See for details Wani Gull Mohamad

¹⁰ Ibid

¹¹. Wani, Gull Mohd and others, Kashmir Politics: Problems and Prospects, pp 137 -159 (Ashish Publishing House, New Delhi 1993)

¹². Hassan Khalid, The Buch Formulae to Resolve Kashmir Dispute, 9th Sept. *Pakistan Urdu Press Review* (2003)

Commenting further on the forceful displacement of Kashmiri Pandits, one should be intelligent enough to relate consciously to ethnic agenda of the issue making the symbolic relevance of religion, linguistic or cultural signifiers with the explicit political ideology of the secessionists¹³. Possibly, what every man ought to think about the debate on Kashmir is what exactly resulted into such turmoil setting beside the political manhandling and manipulations? The answer as per best to my interpretational analysis shifts to the distrust of the unpopular undemocratic regime of all those who ruled in Kashmir from Hindu Maharaja to Muslim Leaders and the centrally government employed.

It is beyond doubt that socialization into a collectivist culture can make people fetter a lot of the nuisance that often accompanies rancorous debates¹⁴. But why is it that the Muslim brethren have developed a soft corner and an ideological hold to the one of secessionism and not nationhood within India? Perhaps the deciding factor must be their interpretation to the group interaction they built in turmoil period in various social situations and the individual interpretation they owe but to the dominance of the religious sanctity they received to all above¹⁵.

Henceforth the point to argue comes towards the authenticity of ideological base as against moral and secular principle of India as a union of cultural and religious and linguistic diversity in question?¹⁶ Reclaiming further in this direction the definition provided by *Michael Freedon*¹⁷ may seem helpful “*Ideologies are those systems of political thinking, loose or rigid, deliberate or unintended, through which individuals and groups construct an understanding of the political world they or those who pre-occupy their thought, inhabit and then act on that understanding*”¹⁸. As such *Mc Lellan*¹⁹ may seem rational if not altogether right while holding “*pale view of the omnipresence of*

¹³ *Ganguly Rajat and Macduff Ian, 2003, Ethnic Conflict and Secessionism in South and South East Asia: Causes, Dynamics, Solutions, Sage Publications, New Delhi, P-59.*

¹⁴ *Rose Richard and Shin Doh Chull, 2001, Democratization Backwards: The Problem of Third World Democracies, British Journal of Political Science, Cambridge University Press, P-334-35.*

¹⁵ *Roy Laser A, 2002, Wrestling Against Shadows- Minorities Globalization- Violence, Published by Jeevadhara Office, Kottayam 41 by J. Constatine Manalel, P-79-80.*

¹⁶ *Oommen T K, 1993-94, The Shifting Saliency of Religion in the Construction of Nationalism, Peace Studies, Vol.1, Published by the Center of Peace Studies, New Delhi.*

¹⁷ *Ibid, p-85.*

¹⁸ *Ibid.*

¹⁹ *Ibid, p-87.*

ideology” has the dangerous implication of “reducing all social phenomena to the status of mere propaganda”²⁰. Reflecting further on understanding the realistic basis of the Psychological affiliation to the emotional turned violent struggle for freedom of the Secessionists. Pocock²¹ in 1971 claimed ‘ that the paradigms which order reality are part of the reality they order, that language is part of the social structure and not epiphenomenal to it’²². Primarily after forceful exodus and resultant internal displacement of the Kashmiri Pandits Community, a loss of identity and cultural ethos has been experienced at wide scale because of the worst repercussion being extinction of the race as a matter of assimilation and cultural homogenization.²³ Argumentatively and interestingly too if Oommen’s²⁴ claim to the secessionists movement be regarded as moral then would it be relevant further to accept that it is moral on the ground that India can never provide authentic content to nationalism, particularly after being a religious diversity. He logically holds that the claim can only succeed if there is a conterminality between religion and territory and the homogenization of the society by religious collectivity assertion thus establishing the hegemony over the dominated religious collectivity.²⁵ But if such so then will it be out of place to ask for a right of Self Determination to the people of POK and all the legitimate Hindus, Sikhs, Baluchis living in Pakistan who have till date been denied an identity and a proper status as a matter of Civil Right if not Fundamental Right much to the annoyance of Dictatorship regime evident in Pakistan?²⁶

²⁰ *Ibid.*

²¹ *Ibid*, p-88.

²² *Ibid.*

²³ Sender Henry, 1988, *The Kashmiri Pandits: A Study of Cultural Choice in North India*, Oxford University Press, p-137-147.

²⁴ Oommen T K, 1993-94, *The Shifting Saliency of Religion in the Construction of Nationalism*, Peace Studies, vol. 1, Published by the Center for Peace Studies, New Delhi.

²⁵ *Ibid.*

²⁶ Parihar Parul, Research Scholar, Jawaharlal Nehru University, New Delhi.

CONCLUSION:

The present ongoing movement in Kashmir contains both territorial and ethnic components. The three great empire of Great Britain, Russia and China met on the border of Jammu and Kashmir State and hence the historic strategic position of the State. The late Maharaja of Kashmir and Sheikh Mohammad Abdullah who had little in common, shared and worked in their own way for a similar objective, namely an "Independent Kashmir". The Britishers wanted to dominate the strategic area directing through an "Independent Kashmir" and thus tamed the Maharaja accordingly. The independent Kashmir basis its claim both on peculiar geography and political remoteness of the State from the Centre of power as well as cultural distinctiveness. It is a sense of cultural distinctiveness, which lead to ethnic movements making their claims by virtue of an alleged "Community of Culture". They possess and share the culture by a State of Unitedness. Thus, ethnic separatism in contrast to Islamic separatist movement, is based upon cultural differences, as the members are different not only from their rulers, but also from their neighbours in one or more significant cultural dimensions. Thus, the uniqueness of each ethnic community demands political separatism so that it can run its own affairs according to inner laws of the cultural community, uncontaminated and unmolested by external differences. All the same International intervention and support cannot be ruled out for national sovereignty so as to protect the internal right of self determination which includes the right of ethnic groups, minorities, fundamental rights, empowerment of the people through fair elections, federalism and non centralization. To all this, secession is an exception because secessionist movements, which deny these very rights, lack moral legitimacy to that extent. However, if internal rights are implemented in letter and spirit the legitimacy for the external right of self-determination in the sense of secession and independence not being ruled out in extreme cases – the same may not be considered desirable and necessary. The former US Deputy Secretary of State Stroke Talbot had aptly remarked that endeavours are made to define and apply the concept of self-determination in a way that is conducive to integration and not disintegration in a way so as to lead to lasting peace than recurrent war.

Self determination is a principle of internal policy and to that extent a principle of democratic government but a question of primacy looms large as to whether the people should be given the right to ratify the Maharaja's accession or be allowed to

opt out to join Pakistan? And if so under what conditions? The principle refers to maintenance of international relations among states based on mutual respect thus preserving their sovereignty.

Marxism – Leninism has a proletarian – revolutionary presentation of the question of national self determination: that it is not a right to autonomy or cultural autonomy, but a right to state secession: the right to secede is dependent upon the expediency to secede and is subordinate to the struggle for the class aims of the working class, the struggle for socialism. It implies a consistent expression of struggle against all national oppression. It is for one thing, means of implementing another very important principle – the principle of proletarian internationalism – and serve as a tool in the establishment of conditions of peaceful coexistence in the world.

The decision about Kashmir will have to be political and economic and not on the basis of religion. Accepting the Pakistani thesis that Kashmir being Muslim must be presumed to go to Pakistan tantamount to giving up every principle that we have stood for and making the position of 40 million Muslims of India very difficult. T.K.Oommen advances an argument in this regard by saying that religion cannot provide authentic content to nationalism, particularly in a society featured by religious diversity. Admitting that states are formed on the basis of religion means going back to the Middle Ages in Europe or elsewhere.

However, if the self-determination movement does not believe in the values of freedom and as it happened in some cases, becomes intolerant, fascist and terrorist in character, democracy and federalism can satisfy the urge of self-determination better than cession or independence. Moreover, should not the right of the dominant ethnic identity be limited to the extent it respects the rights of sub identities and freedom of individuals within it? As Suzuki argues (1996): “It is fundamental to self determination that the power demanded by a group must be shared”. Thus Kashmir's right of self-determination, whether within or outside India would have legitimacy to the extent it is willing to share its powers with Jammu and Ladakh.

The closing decade of the last millenium saw the greatest division among the Kashmiris who had held together despite minor provocation and war of words. The new generation was born in the age of contradiction and brought up on ideological conflicts and Kashmiriat or regional patriotism meant nothing to them in the changing times. Most of them were for wild excitement, adventure and easy money and it did

not take them long to fulfil their dreams in the company of those who wanted to hold the weak in terror. It was at this point of time that impoverished by their exclusion from the economic organization of the State and their alienation from all political processes, the Hindus of Kashmir lost the initiative and became the hostages to what was later termed as "the Muslim identity of Jammu and Kashmir". As the secessionist forces gained the upper hand, pressure was mounted upon them and thousands abandoned their homes. No wonder that during the last four decades about two lakhs of Kashmiri Hindus quietly migrated to other parts of the country. The traditional population balances, which formed the bases of coordinate plurality of the state, was being replaced by a communal identity of the Muslims which found its legitimacy in Islamic fundamentalism. Even the Muslims who did not support the secession of the state gave way after they saw the apathy with which the Government of India watched the death and destruction of Hindus from Kashmir. The policy of denial of employment avenues to the displaced persons has been wrecking havoc on the very survival of this community. This community has thus been living with the most traumatic experience of the destruction of its social fabric, economic, familial and environmental relationship and infrastructure. The adverse social, psychological and health consequences suffered by this 5000 years old ancient community have been enormous, particularly due to loss of their distinct territory, ethno - cultural heritage and identity. This displaced community is a victim of sinister design unleashed by Pakistan sponsored terrorists to deprive the ancient and indigenous Kashmiri Pandits of their right to the territorial locus in Kashmir, so that its social and political order is altered to a mono-ethnic Islamic extremist agenda. This minority community has been deprived of its ancient habitat, language and culture in the Kashmir valley.

India lacks a national policy or institutional legal framework concerning displaced persons. Moreover, the government systematically refers to internally displaced persons as "migrants". At the same time, India shuns international scrutiny over the Kashmir problem and as such denies the international humanitarian access to internally displaced persons. Lamenting upon the pathetic role played by the Indian Government for improving the plight of Kashmiri Pandits, the less said the better it will be. No political party in Jammu and Kashmir Government or centrally influenced one takes up the rehabilitation of Pandits as an electoral issue. Its so because Pandits as a community are taken to be in small numbers and as such their

existence or elimination does not seem to bother them. Moreover, their rehabilitation or favouring their resettlement is an uphill task for both State Government and the central one. It's so again due to the fact that this endangered community is beyond doubt pro Indian in soul and Kashmiri in constitution. The Government till date has done nothing concrete to substantiate their livelihood economically and socially. Then of course there is the security concern. Dumping them in one area and then asking them to exercise their will within the demarcated boundary is itself a crucial threatening issue.

The most serious problems surface by virtue of the flaw in basic assumption underlying the dichotomy between refugees and internally displaced persons, which threatened the very basic sanctity of the realm of human rights. It has been said that internally displaced persons suffer more than refugees. This may be because refugees, by definition, have already their own country – the locus and source of their persecution – and may be benefiting from the international assistance and protection, which are inaccessible to the internally displaced persons.

There are, to be sure, arguments in far of maintaining the status quo by having one regime (refugee law) for the victim still within the bounds of their own state. The fear has also been expressed that a synthesis could result in dissipation of funds and goodwill for refugees in the face of growing compassion, fatigue and retrenchment in refugee policy. Is not sovereignty still a potent force that can deny international protection to internally displaced persons no matter how degrading or genocidal their treatment? (*Luke T.Lee; Internally Displaced Persons and Refugees: Towards a Legal Synthesis?, Journal of Refugee Studies, Vol.9, Oxford University Press, P-27-40, 1996*).

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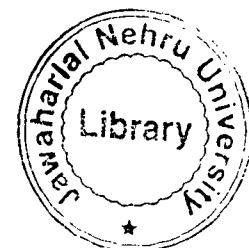
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