

TERRORISM AS A WARFARE METAPHOR :
An Analysis of Terrorism in Jammu and Kashmir

Dissertation submitted to Jawaharlal Nehru University
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Submitted by

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CERTIFICATE

This is to certify that the dissertation entitled
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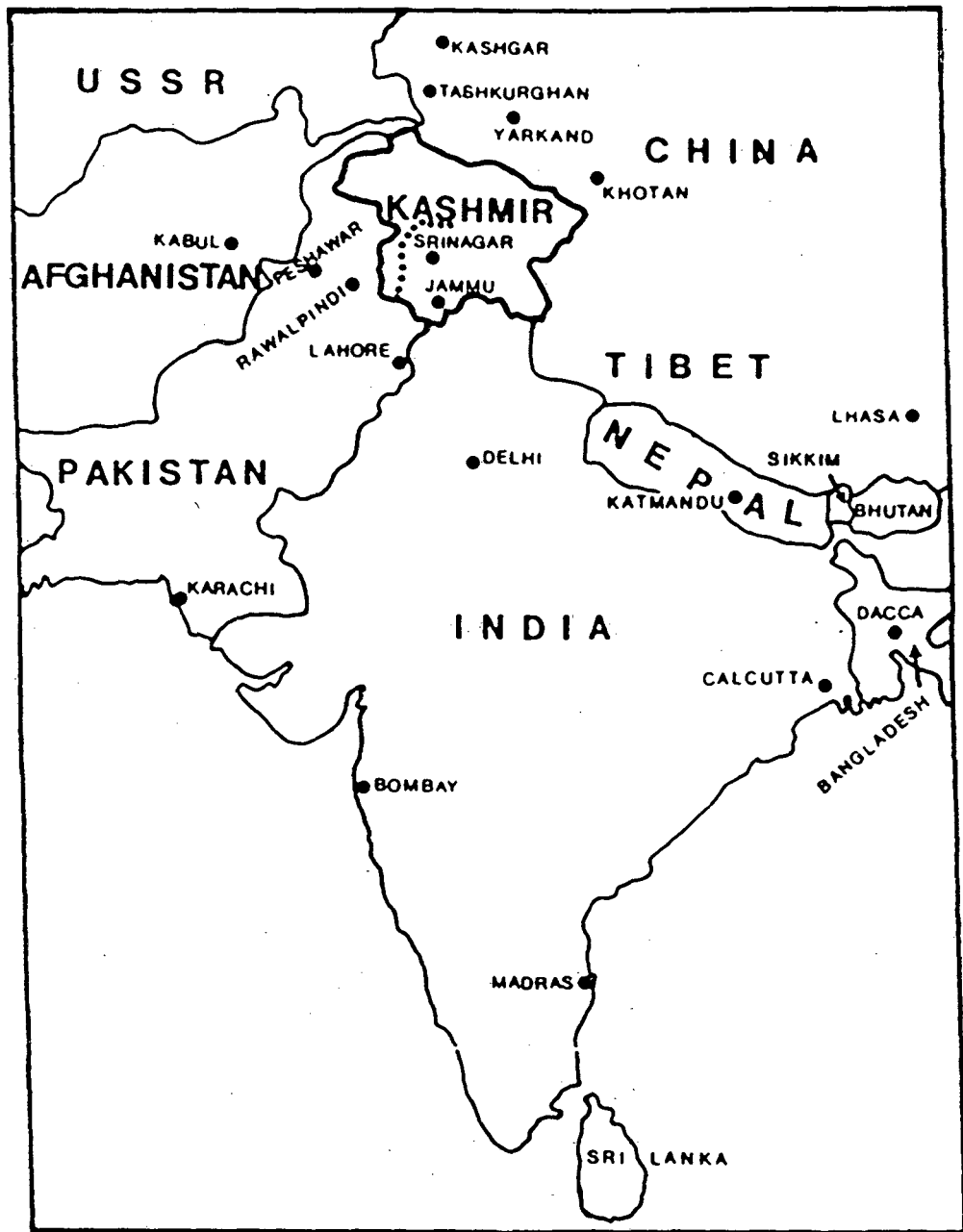
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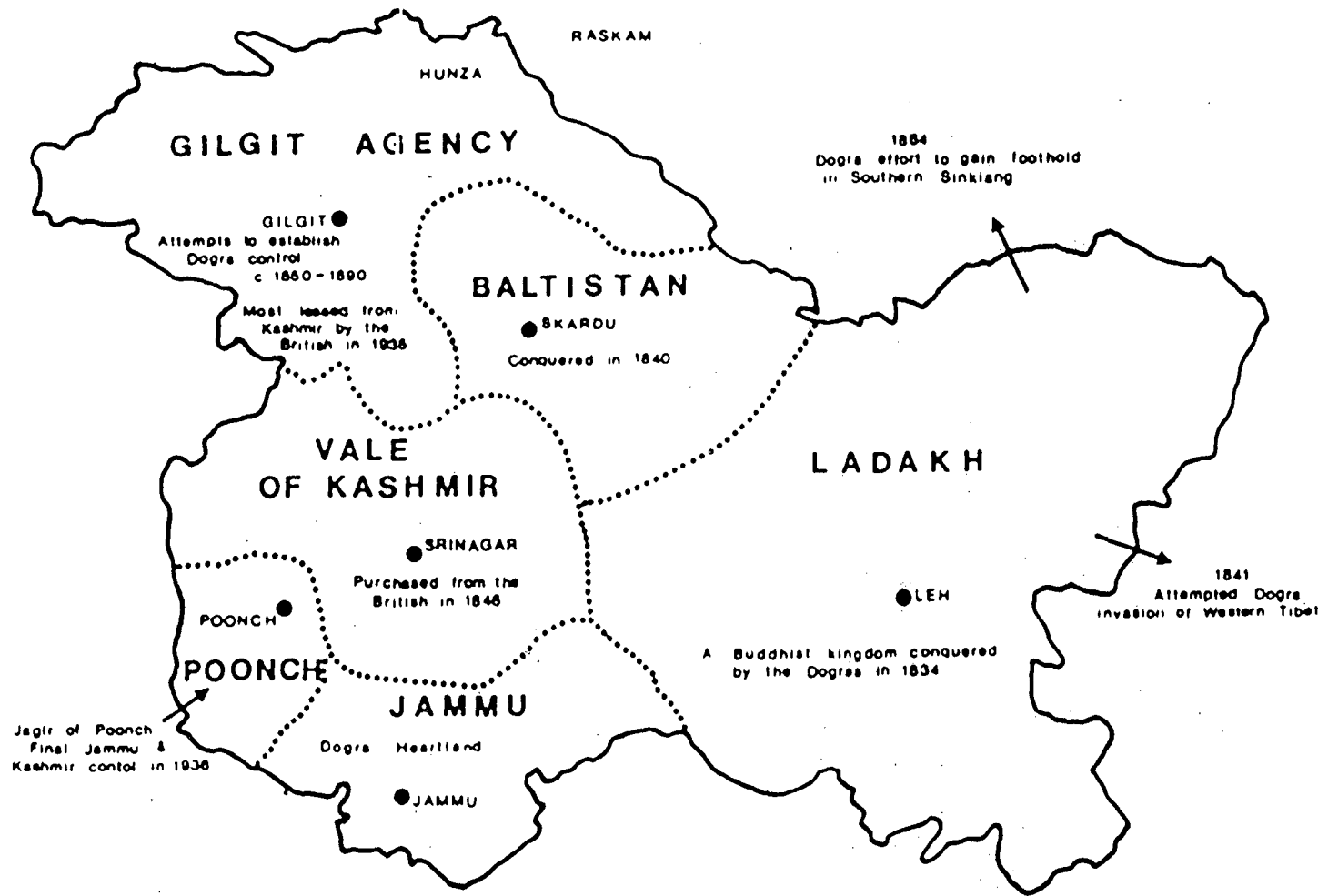
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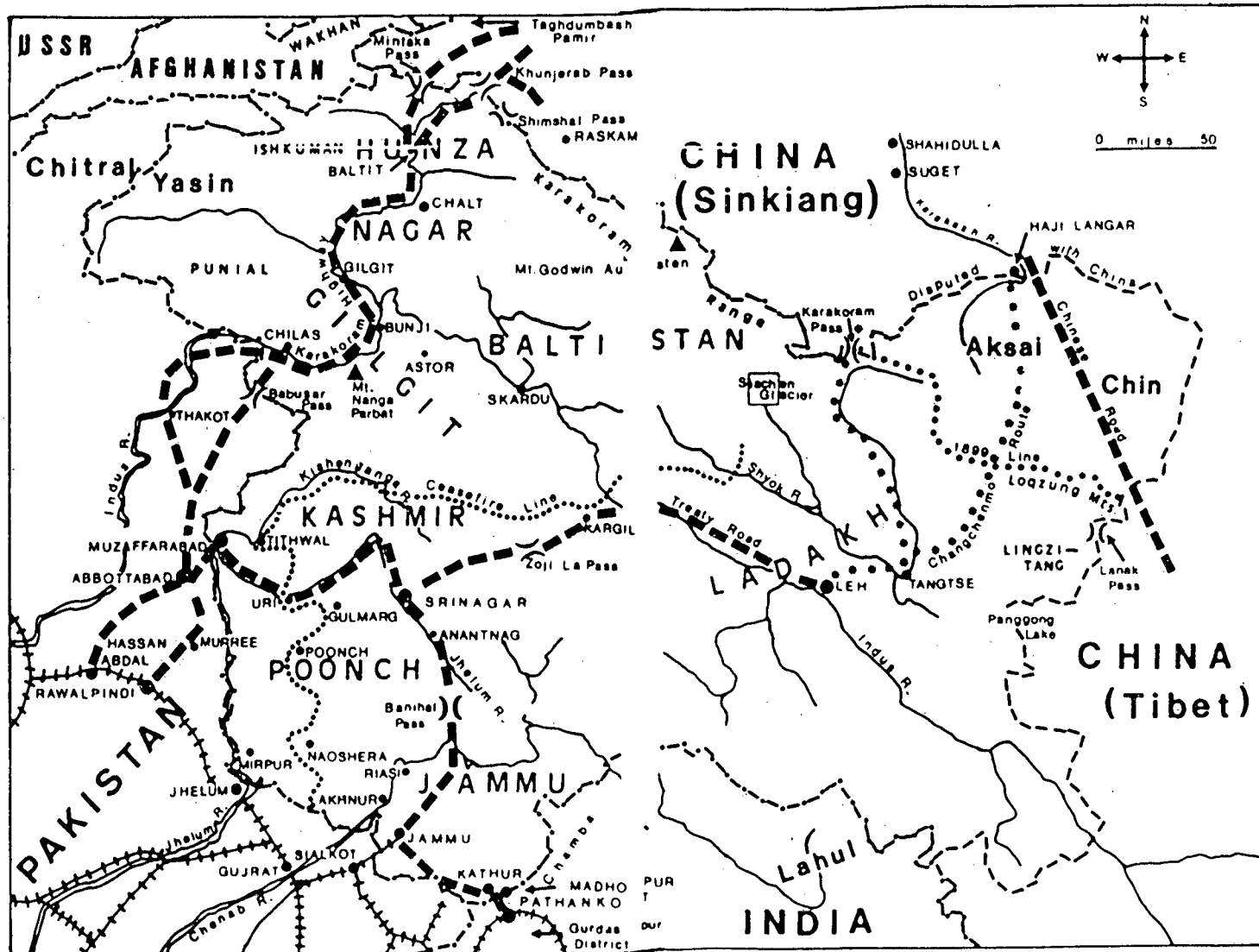
Map. 1. The State of Jammu and Kashmir in relation to its neighbours.

Source:- Kashmir - A Disputed Legacy 1846-1990, Alastair Lamb, Karachi, Oxford University Press 1992.



Map. 2. Stages in the creation of the State of Jammu and Kashmir.

Source:- Kashmir - A Disputed Legacy 1846-1990, Alastair Lamb, Karachi, Oxford University Press 1992.



Map 3 The State of Jammu and Kashmir

Source:- Kashmir - A Disputed Legacy 1846-1990, Alastair Lamb, Karachi, Oxford University Press 1992.

Preface

War is an activity that employs lethal force on the moral and physical planes to achieve a political goal. It is within this paradigm that we aim to define terrorism as a warfare metaphor.

State Sponsored Terrorism is a form of war. Although the sponsoring State does not necessarily enjoy absolute control over the sponsored terrorist faction, that faction represents an active agent allied with the sponsoring entity. This alliance constitutes a supra national political structure having its own political agenda. The sponsorship of terrorist elements represents not a form of social warfare but represents one of the few practical efficient and safe means of achieving political ends involving conflict between two nuclear capable political entities. The ultimate purpose of the sponsor's use of such means is to weaken the cohesion of the targeted entity, making it more vulnerable to being compelled. Finally, given that the terrorists constitute one element of the military instrument entity, any use of these forces against any other political entity-state, empire represents political entities. It is therefore a form of war.

In this work, we adopt the category of terrorism as a warfare metaphor as different from it being a crime

metaphor. The latter is more statist and legalistic in approach. We begin by delving into the definitional problems and opt for the facility of the typological approach, after having gone into a historical and theoretical discussion. We then apply this typology to a concrete contemporary case of Jammu & Kashmir. We do this to open the key to what terrorism does to all the issues of national security, i.e. from values, institutions to territorial integrity.

This is followed by a Chapter on National Security. Here Security is not seen in the Western paradigm. This is done more in the context of new states. The "New States" are products of national liberation revolutions and are in unique environments. Here the internal factors have linkages with regional and extra regional factors. We draw upon the concept of 'Security Complexes' to understand the case of South Asia in Cold War and post Cold War phase.

From chapter three onwards we begin to apply our paradigm of terrorism as a warfare metaphor in the state of Jammu & Kashmir. Chapter three delineates the geographical and natural contours of Kashmir. It also attempts to gain insight into the composite culture of the hill people. It demonstrates how adverse climate on one hand binds people into a composite grouping, but also attempts to grant them a feeling of being different.

Chapter four goes a step further into analysing this compositeness through Kashmiriyat. It makes an attempt to study how this culture was evolved over a millennium. And how at the behest of Pakistan threatens to be ruptured. We look at its interpretation from the communal angle.

Chapter five deals with Article 370 with the aim of showing the growing political alienation as a consequence of subversion of this unique provision to meet a unique situation. That political alienation has been as much caused by its communal negation as by its terrorist subversion. Conceptually it is an elaboration of subversion of political institutions in Kashmir.

Chapter six and seven deal primarily with the military dimension of security. We maintain that the 1947-48 tribal attack was in fact an intended proxy war to wrest Kashmir from India. It was a counter productive move as this attack sent Maharaja Hari Singh running to the Indian fold. While the 1965 war was a direct attempt to gain Kashmir, the 1971 war further deprived Pakistan of its Eastern wing. This loss added fuel to the already simmering embers. It paved the way for an unconventional proxy war. In military terms, the 1965 operations set the tone for subsequent operations in the late 1980's.

In Chapter seven we outline the various terrorist organizations operating in the valley. How they were conceived and what is the scope of their activities. It also gives an account of their leaders and their training centres. An effort has been made to list out the weapons used by the subversives in their attempt to create terror in the valley.

The overall scope of this dissertation is to prove that terrorism in Kashmir has to be understood in terms of a warfare metaphor. A war which is sponsored and sustained by an external force. We are trying to establish terrorism as a deliberate attempt to create terror through a symbolic act involving the use or threat of abnormal lethal force for the purpose of influencing a target group. Terrorism represents a specific method of force employment. Given this definition of the role of force in the terrorist process, we can thus identify state sponsored terrorism as a form of war. Here government of a sovereign nation state provides overt or covert support to terrorist organization that operate within the enemy's camp for the purpose of undermining the regime of another state. This form of terrorism is actually no more than a sub type of social warfare, wherein one state targets the socio political cohesion of a second state to weaken it, so that it will divert its resources' into defensive measures and, or, to

make it more vulnerable to an offensive attack. This clearly represents the use of force for a political objective. Moreover, given that the socio political cohesion of the targeted entity is being attacked, this means of force employment also represents the use of force on the moral plane. It is in the context of the principle of engagement that state sponsored terrorism may not qualify as a form of war. This question arises because terrorists are not subject to the absolute authority of the sponsoring state. Consequently, we have to ask if sponsoring a terrorist organization represents the employment of lethal force by the sponsoring entity against the target. Here again, if viewed from the perspective of social warfare, the answer has to be that, indeed, a clash of arms between two political entities does occur. Thus state sponsored terrorism is a form of war. The entire dissertation is an exercise to prove this point.

I take this opportunity to thank Dr. Rakesh Gupta, who is the guiding spirit behind this work. A truly dedicated guide, friend and philosopher, he painstakingly and tirelessly went through the entire work several times. His drive and quest for excellence remains unparalleled.

The endearing support of my family too has been great help in accomplishing my task.

I would also like to thank the staff of the Jawaharlal Nehru University library, Institute of Defence Studies and Analysis library and the Nehru Memorial Museum and Library.

Last but not the least I am grateful to Mrs T. Kameshari and Shri K. Sree Raghu for painstakingly word processing my work. Their help in finishing my work was tremendous.

However none of them collectively or individually are responsible for the inadequacies and I am responsible for them.

July 1995.

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CHAPTER I

TERRORISM AS A WARFARE METAPHOR

- A THEORETICAL PERSPECTIVE

The open societies, as distinct from ones with authoritarian regimes, are confronted with an unprecedented form of warfare. This warfare is unique in dimension and its linkages. Its linkages and dimensions provide a common thread to episodic violence threatening stability in South Asia, Middle East, Southern Africa, Western Europe and the America's. It affects intra and inter-state politics.

This dissertation deals with the threat that terrorism poses in inter-state politics, without ignoring the internal dimension, since it focuses on State Sponsored terrorism as distinct from State Terrorism. We adopt the category of terrorism as a warfare and are reluctant to treat it as crime since the latter is too much of a statist approach.

Terrorism is like the face of the masked terrorist blotted out, unidentifiable and awesome.¹ It is in the need of being unmasked, identified and analysed. Terrorism deals with Politics and particularly with the way politics is conducted. Harold Lasswell feels that terrorists are participants in the political process who strive for political results by arousing acute anxieties. Illegitimate violence is resorted to against political and civilian targets to influence the political process so that the legitimacy of the "in group" is caused to decline and that of the "out group" (i.e. the terrorist organisation)

is sought to be enhanced in the same proportion. In a democracy, where mass participation is higher, it is difficult for the terrorists to gain legitimacy, as well as difficult for the government to succumb to authoritarian practices. Thus consequences of terrorism for the terrorists in the political field are miserable. Analysis of terrorism, whether radical or conservative, agree on certain common characteristics of terrorism.

Thus the approaches to the study are varied and need to be adapted creatively to validate terrorism as a warfare metaphor. Before arriving at this validation, we take detour into some historical antecedents and theoretical difficulties of the subject.

HISTORICAL DIMENSION:

From Jacobian terror to rape as terror in Bosnian ethnic cleansing, terrorism covers a period of two hundred years of variety of terrorist efforts to gain legitimacy in modern times.

The terms 'Terrorism' and 'Terrorist' are of relatively recent date. The meaning of terrorism was given in the 1798 supplement of the Dictionnaire of the Academie Francaise as "systeme, regime de la terreur". According to a French dictionary published in 1796, the Jacobians had on occasion used the term when speaking about themselves in a

positive sense.² Only later did it become a term of abuse with criminal implications.

It did not take long for the term to reach England. Edmund Burke in 1795 wrote about "thousands of those hell hounds called Terrorists, who were let lose on the people". terrorism during the French Revolution was more or less a synonym for a reign of terror.³ Subsequently it meant a system of terror. A terrorist was any one who attempted to further his views by a system of coercive intimidation.

No definition of terrorism can possibly cover all the varieties of terrorism that have appeared over history. Peasant wars, labour disputes and brigandage have been accompanied by systematic and sporadic terror, and the same is true of general wars, civil wars, revolutionary wars and resistance movements against foreign occupiers. Terrorist activities have been and are contextual in time and space. However, in most cases terrorism was one of the strategies to achieve ends. It was and is, difficult to define it. There were two categories - State Terrorism and Oppositional Terrorism. For the purpose of our study, State Terrorism is terrorism from above, and oppositional Terrorism is terrorism from below.

Terrorism from below has emerged in many different forms out of such various motivations as religious protest movements, political revolts and social uprisings. One of

the earliest known examples of a Terrorist movement is the Sicarli⁴ - a highly organized religious sect consisting of men of lower orders active in the Zealot struggle in Palestine in A.D. 66-73. (Background information regarding the Sicarli is limited). But it is known that they used unorthodox tactics such as attacking their enemies by daylight, preferably on holidays. They destroyed houses of priests, dynasts, eager to annihilate the bonds of money lenders, sabotage Jerusalem's water supply, burn granaries. They were extremists, nationalists anti-Roman party, and victimized the moderates. Some regarded Sicari as a movement of social protest intent on inciting the poor to rise against the rich. Some claim they were robbers out for personal gain and manipulated by outside forces with patriotism as a mere cloak. Nonetheless, it was accompanied by a frenzy of religious expectation.

A similar mixture of messianic hope and political terrorism was the feature of another group — The Assassins⁵. They were an offshoot of the Ismailis who appeared in Persia in the 11th Century and were suppressed by the Mongols only in the 13th century. Their style is akin to contemporary terrorism. They felt that a small group could not confront an enemy in an open battle, but a planned systematic long term campaign of terror carried out by a small disciplined force could be a most effective political weapon. They operated in secrecy and for them

murder was a sacramental act. They followed an ascetic discipline and coveted death. Seen in historical perspective, their struggle was a fruitless attempt by a small religious sect to defend its religious autonomy against the Seljuks who wanted to suppress them.

Secret Societies of a different kind existed for centuries in India and in the Far East. Anglo-Indian authorities denied the existence of Thugs⁶ until Captain William Sleeman studied and finally destroyed them. The Thugs strangled their victims with a silk tie. Their choice of victims was indiscriminate. Its devotees thought its origin was derived from an act of sacrifice to the Goddess Kali. Their political aims, if any, were not discernible.

Indian terrorism was infrequent and ineffective. More often than not, they managed to kill some innocent bystanders, rather than their intended victims. The ideology of Indian terrorism was a curious mix of Indian traditions and western influences.

Thuggi was an early manifestation of terrorist ideology. It instilled a dreaded fear in the hearts of many a traveler. The 'Thug' or the 'Phansidar' as he was called, was a member of one of those hereditary criminal castes, which has been a predominant feature of Indian life. The Phansidar was unusual because his invariable procedure was to murder before robbing. They worked in

gangs which were bound together by strict religious vows to the Goddess Kali. The Phansidar would ingratiate himself with the travelers, thereafter strangling them with a red silken cord.

They formed a powerful confederacy operating over the whole of North India. They were supported by many landowners through whom they disposed of their booty. Thuggi had no political aim.⁷

Secret societies in China existed among river pirates and the outlaws both in the hills and among city dwellers. Each Society had a trained boxer as its enforcer. They engaged in criminal extortion, and smuggling of salt. Some of them had distinct political aims. They were anti-Manchu and loathed foreigners. They were the force behind the Boxer rebellion. Another group called The Red Spears⁸ of the 1920s resemble more the mafia than political terrorists.

The interest of the Ku Klux Klan in Politics was more pronounced but it was still not in the mainstream of Terrorist movement.

There is hardly any society - ancient or modern - that does not show signs of terrorist activities - sporadic or more organized, non-political or political, social protest or criminal.

Systematic Terrorism⁹ began in the second half of the nineteenth Century. These were of a different mould. The Russian Revolutionaries fought an autocratic government in 1878-81 and again in the early 20th century. Radical Nationalist groups such as Irish, Macedonians, Serbs, Armenians used terrorist methods in their struggle for autonomy. Then there was the Anarchist Propaganda by deed during the 1890s in France, Italy, Spain and USA.

Seen in historical perspective, the various manifestations of terrorism, however, varied, had a common origin. They were connected with the use of Democracy and Nationalism. All the grievances existed before, but as enlightenment spread, oppressive ideas became intolerant. Terrorist groups could hope to tackle only non-terrorist governments with any degree of confidence. This was the paradox facing modern terrorism.

Russian Terrorism has always been the most important by far. The first wave was from January 1878 to March 1881, The second wave was sponsored by the Social Revolutionary Party in 1902. The third wave was a small wave of political terror after the Bolshevik coup of November 1917.

Thus the origins of terrorism are of an ancient vintage and so cannot belong to the terrain of either

national liberation theology or Marxism. In most societies, terrorism is linked to their hoary past and ideological predictions. As for State Terrorism, the Roman Emperors, Ottoman Sultans, Russian Tsars are known to have used this method against their opponents. Machiavelli praised the policy of Caesar Borgia who used deceit and terror to outdo his enemies. Terrorism referred also to that period in the French Revolution between March 1793 and July 1794 in which a "Reign of Terror" was unleashed by Robespierre. This marks the beginning of modern terror.

Terrorism from Oppositional Politics is not linked to either the progressive revolutionary or nationalist cause. Similarly, systematic modern terrorism¹⁰ cannot be traced to national liberation or Marxism; even though both of them do not suffer from the moral cant of violence, that is a usual refrain of many others. It was Karl Heinzen and not Karl Marx who provided for a full fledged theory of terrorism. Walter Lacquer claims Marxists reject terrorism as unsuitable for advanced European countries.¹¹

Contemporary Terrorism has more to do with the alienated educated youth. It is a movement of small groups who have developed special ethics, different from mainstream, who may have a strategic logic of their own, who may make their own rational choice, and who are not psycho-pathological cases.

DEFINITION:

Defining 'Terrorism' in recent years has become a serious issue. Schmid and Jongman¹² discovered more than a hundred definitions. Walter Lacquer finds it so vexing that he refuses to provide one. Many circumstances contribute to this confusion. Primarily, there has been a multiplication of terrorist forms. More important the experience with terror has given the term abusive connotations creating such political liabilities that no one admits to being a terrorist. Earlier terrorists proudly declared themselves as such but the last group to do so was Lehi¹³ - the Stern Gang - a participant in the fight for Israel's Independence in the 1940s. Later rebels always characterized their enemies, the governments which opposed them, as such - a charge which sometimes had an element of truth, if only because in every struggle combatants tend to adopt similar tactics.

Immediately after World War II terrorists struggling for independence against a colonial power were often called freedom fighters. Later in the public discourse of the Third World and communist countries, the two terms became mutually exclusive meaning in effect that no matter what methods rebels employed, they could not be terrorist, if they struggled against Western influence, a position which impeded International Cooperation on the problem.

In the 1970s, the media corrupted the language further. An American convention was to describe identical persons in the same account alternatively as Terrorists, Guerrillas and Soldiers. Similar inconsistencies plague academic accounts also, noble causes may be pursued by terrorist means but it is difficult to describe a group as terrorist if one sympathises with its cause.

Credible contemporary definitions focus on means and not purpose as the distinguishing criteria. The principle difference between the definitions is that some distinguish terror as a distinctive form of violence, while others minimize differences.

Terror is extra normal violence one which goes beyond the informal and formal rules which govern coercion particularly in the explicit refusal to distinguish between combatants and non-combatants, guilty and innocent. The target is not the victim, but the public as a whole. This definition conforms to the conceptions the original terrorist had of themselves, provides a good link to various forms, allows one to anticipate the direction in terrorist activity. The objection is that it is difficult to determine the meaning of extra normal.

In a second view, terrorism is synonymous with all forms of illegal rebel violence.¹⁴

Terrorism because it is approached from different angles viz., legal, academic, philosophical, the confusion gets compounded.

It has a pejorative connotation if applied to an individual; governments increase their power when they label somebody as Terrorist. Thus a thin boundary exists between terror of the State and oppositional Terrorism. Terrorism can thus only be identified and not defined.

A common definition is violence or threatened violence intended to produce fear and change. Jenkins¹⁵ and Lacquer also view it as illegitimate force to be applied to innocent people for certain ends.

A legal definition which the Germans and the Reagan administration favoured was criminal violence, violating legal codes and punishable by the state. Such definitions do not explain the social or political nature of the act. Violence is the result of complex social economic, political factors that are beyond legal and foreign policy restrictions. Political violence occurs during the struggle for legitimacy. This implies that some groups must be in power to label.

Martha Crenshaw¹⁶ gives an analytical definition. For Crenshaw terrorism means socially and politically unacceptable violence aimed at an innocent symbolic target

to achieve a psychological effect. For Crenshaw specific social and political factors are behind individual acts. The normative and analytical aspects should be taken into account. The act, the target and the possibility of success are factors that should be analysed before using the term. Also revolutionary violence should not be confused with terrorism.

Another set of definitions¹⁷ describe terrorism as State Sponsored Warfare. Terrorist groups are used by small states to attack western and other interests. The Reagan administration cast terrorist acts in nationalistic terms. It was defined as intentional enemy policies designed to attack the United States by means of terror. This was propounded by Neil Livingston in 1983 where he said "terrorism is a cheap strategic war. " In the 1980's, it was nothing but State sponsored, low level, military activity.

James Adams feels that large terrorist groups are not sponsored by States. But according to Michael Stohl, States may heavily finance terrorism, but low level warfare is insignificant.

Another definition of terrorism was by Prof. Edward Herman who described real terrorism as the network of repressive Latin American governments supported by the US. This focuses on state terrorism with external linkages.

Problems also arose in the United Nations¹⁹ definition that was adopted by a resolution in 1985. The General Assembly said "acts which endanger or take innocent human life, jeopardize fundamental freedoms and severely impair the dignity of human beings, and covered by the existing conventions relating to various aspects of the problem of terrorism.

Ronald Crelinstein²⁰ defines it as a particular strategy of political communication. It utilizes a combination of violence and the threat of violence.

Raymond Aron²¹ describes Terrorist acts of violence as one, whose aim is, to have a psychological effect out of proportion to its purely physical result.

Jay Shafritz calls it highly visible violence directed against randomly selected civilians in an effort to generate a persuasive sense of fear and thus affect government policies.

The United States Department of State called "it pre-meditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups, or clandestine state agents usually intended to influence an audience".

Ted Gurr²² calls terrorism a state of mind of political actors who are paralysed by the threat of

unpredictable attack. The definition should include three objective elements (i) destructive violence is used by stealth rather than in open combat; (ii) it has political targets; (iii) it must be carried out by clandestine groups in a sporadic fashion.

For Richard E. Rubenstein²³ terrorism, is produced by a moral and social crisis of the intelligentsia, has local roots and is not a mere product of external forces.

Since all the definitions are viable they raise, rather than solve the problem. Most definitions are tentative. But all have two aspects in common (i) some one is terrorized; (ii) the act's meaning is derived from its targets and victims. Most authors agree that terrorism is the use or the threat of the use of violence, a method of combat, a strategy to achieve targets, it aims to induce a state of fear in the victim, that it is ruthless and does not conform with humanitarian rules and that publicity is the core of its strategy. Beyond this point definitions diverge. All specific definitions have their shortcomings simply because, reality is always richer, more complicated than generalizations. There is no such thing as pure, unalloyed, unchanging terrorism, but there are varied forms of it. The issue of State terror also features in this context.

Thus while a comprehensive accepted definition does not exist, a working definition, however, is not beyond our reach. Terrorism is a method of combat, in which victims are a symbolic target, where violent actors are able to produce a chronic state of fear by using violence outside the realms of normative behaviour. This produces an audience beyond the immediate victim and results in a change of public attitudes and actions.

Another way of understanding terrorism is to look at it, as typologies that will transcend the limitations of cryptic descriptions and definitions.

TYPOLOGIES:

It has been accepted that instead of definitions, terrorism would be better understood in terms of typologies. terrorism is a tactical process. Tactically, it is defined to influence the behaviour of target audience through the use of violence.

The advantage of using typologies are many. Primarily since terrorism ranges from individual acts to sophisticated operations enjoying the support from highly organized political groups, only typologies can present it broadly. Secondly, the level of the problem can also be introduced, for terrorism can be local, national and international. Thirdly when the level of occurrence can be

classified, so also the level of response be determined. Typologies can thus help in deciding policies. Fourthly, typologies can be used to increase understanding. Terrorism can range from restaurant bombing to training camps. By focussing on the type of violence and the social meaning of tactics, typologies avoid heated political debates on the meaning of terrorism.²⁴

Yet, each terrorist incident must be understood in its specific social, economic, historical and political circumstances. Typologies only lay bare the broad pattern. They also try to limit the understanding of the events in straight jackets since they are flexible. They may conceal details. Typologies only produce patterns not specifics. Finally they do not remove the pejorative connotations of the word.

Typologies thus help in identifying a more tactical problem.

Scholars have provided for typologies on the basis of their specific interests. There are some who differentiate between out group and in group terror. British analyst Paul Wilkinson has provided a typology on the basis of the type of action involved. Three types of terror emerge from his analysis:

(i) Criminal; (ii) Political; (iii) State sponsored.

He also makes a distinction between internal and external terrorism.

J. Bowyer Bell²⁵ described six basic types of terrorism and their corresponding purpose:

<u>Type</u>	<u>Purpose</u>
a) Psychotic	Psychological Gratification
b) Criminal	Profit
c) Vigilante	Retaliation
d) Endemic	Internal Struggle
e) Authorized	State Repression
f) Revolutionary	Behavioural change through fear.

These typologies offer an approach to the tactical process of terrorism. They can address to the tactics adopted by the terrorists which definitions cannot. There are five tactical forms of terrorism. They are:

- (i) Criminal; (ii) Ideological; (iii) Nationalistic;
- (iv) State Sponsored; (v) Guerrilla.

Criminal - It involves the use of terror for profit or psychological gain. It is a low form of political terror and is illegitimate. It's propounders prescribe State responses which rely on coercive aspects of the State machinery. The social and political aspects are given due importance. Counter terrorism is regarded as a law enforcement activity.

Ideological - It aims to change the ideological framework of political power. Ethnic and nationalistic goals are relegated to the secondary plane. It may and usually does involve a revolution and can have a variety of goals.

Nationalistic - This is for a nationalistic cause that was supported by the super powers and thus soon get translated as a weapon.

State sponsored - These are low intensity conflicts that move beyond the realm of criminal activity. It is a form of warfare. The use of threat to use violence in International affairs outside the scope of normal diplomatic protocol.

Guerrilla - It is closely identified with State sponsored terrorism. It is akin to a commando type of activity used to destroy the government's base of support.

The tactics of terrorism must be distinguished from the tactical form of terrorism. Brian Jenkins²⁶ mentions six tactics of the terrorists.

(i) Bombing; (ii) Kidnapping; (iii) Arson; (iv) Hijacking; (v) Ambush; and (vi) Hostage taking.

STATE SPONSORED TERRORISM :

State sponsored terrorism is the only broad category which explains our study. It is comprehensive and yet all pervasive to include all aspects of terrorism occurring on the Indian soil.

State sponsored terrorism involves the use of terrorism across International borders for the purpose of destabilizing the borders or weakening the cohesion between the people and the parent country.²⁷

Acts of terrorism sponsored and launched by one country against another by using violence and lethal force with a view to achieve long term political or strategic objectives is a facet of modern warfare.²⁸ The State sponsoring it is waging an unconventional warfare in which terrorists are used as convenient tools. They could have divergent aims. The sponsoring country provides financial help, weapons, training for launching operations. Terrorists thus have a symbiotic relationship with the sponsors. This is an unequal relationship because the sponsor decides the course of operations, though may not directly control the actual operation in the targeted area. This gives the local terrorist leadership a false notion of independence and autonomy. Terrorists are here only substituting regular enemy troops and are an instrument of

war as regular forces are in a conventional war. It is an ingenious method of warfare where an element within the target country has been brainwashed to perform the role of enemy forces. This method if efficiently used is an ideal way of furthering political and strategic interests, without directly confronting an adversary. A nation defending itself cannot comprehend the ramifications and concentrates on the elimination of terrorist groups. This results in internal turmoil and loss of credibility.

Thus State sponsored terrorism could be defined as the deliberate employment of violence, or the threat to use it, by sovereign States to attain strategic and political objectives by acts in violation of law.²⁹ These criminal acts are intended to create overwhelming fear in a target population larger than the civilian or military victims attached or threatened. Its main goal is to undermined the psycho-social stability and political governability of pluralist states, with representative governments.^{30x}

When terrorism is state sponsored, it is plainly in some sense a form of secret or undeclared warfare that is inconvenient, internationally, to designate as such.³¹⁺ Peace on the other hand is a euphemism. In conventional phraseology it is the absence of declared war and not the absence of violent conflict.

Clausewitz³² commented that War is a mere continuation of policy by other means, an act of violence intended to compel our opponent to fulfill our will. State sponsored terrorism is precisely such a pursuit of policy or it is such a policy which is a continuation of war by other means.

This is the rationale of State Sponsored terrorism because it has as the ultimate objective, the compulsory submission of the enemy to the will of the aggressor. Thus, it is an instrument that can be brought into action whenever a state wishes to project its power into the territory of another, without accepting the responsibility, accountability and risks of avowed belligerency.

NATURE OF STATE SPONSORED TERRORISM:

State sponsorship is the direct or indirect instigation by a government of official and non-official groups to exercise psychological or physical violence against political opponents, another government, or other entity for purposes of coercion and widespread intimidation, to bring about a desired political and strategic objective.³³ What distinguishes state sponsored terrorism is the extent to which the groups carrying out the violence are furthering the policy of an established government outside the territory in which the conflict



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occurs. What sets it apart from conventional forms of coercive force is the option of a plausible denial or lack of public accountability.

The degree of State involvement includes direct or indirect moral and material support. Psychological conditioning and political indoctrination are important supplies too

Robert C McFarlane³⁴, Assistant to the President for National Security Affairs, on March 25th, 1985 summed up the nature of the United States view of State Sponsored terrorism as the following. Terrorism is a revolting phenomena undertaken by those who by choice stand outside the pale of civilized people. It is a form of warfare directed against an acceptable schema of political and cultural life. We have no realistic choice but to meet it, and that means head on. The aim of the terrorists and the ultimate objective of those who sponsor and train them is to undermine our values, to shatter our self confidence and to blunt our responses.

PROS AND CONS OF STATE SPONSORED TERRORISM:

State Sponsorship of a terrorist group plays a critical and essential role in augmenting their capabilities and level of threat. The new ingredient making terrorism of the 1980s and 1990s so ubiquitous and destructive is the infrastructure of State Sponsorship.³⁵

But there are vulnerabilities inherent in such linkages and capabilities. Only a limited number of personnel from a certain terrorist group is likely to undergo advanced instruction. Their international travel can facilitate their detection and identification. Their arrest can contribute to the liquidation of the group. Exposure of linkages between the sponsor and the group can undermine its popular support.

Thus State sponsored is the best suited typology which gives an all inclusive definition of terrorism. It comes to include almost all aspects of the phenomena called terrorism.

WARFARE METAPHOR:

The approach which provides a greater rigour to our understanding of terrorism is to regard it as warfare with double aspects - internal and external.

To review terrorism³⁶ as a warfare phenomenon has many advantages. First it would lay bare the foreign and domestic linkages. It would thus help in understanding the geo-political games that nations play in the nuclear age. Secondly, it would expose the problem of balance of power, not merely among nations but also within nations. Thirdly it would be possible to understand terrorism as a process that may begin with sporadic acts of violence and may

achieve the proportions of a mass movement. One has to look for that point of isolation, desperation and special ethical framework which may prevent terrorist acts from becoming a movement, for terrorism is precisely a failed attempt on the part of the alienated section of the society to achieve mass mobilization.

The advantage of looking at terrorism as a warfare metaphor is double. At the theoretical level, it would cover a larger canvas and more complex linkages among International, regional and domestic politics. At the empirical level, it will help understanding the developments in India in the late 1980s and early 1990s, taking into account the strategic and sociological dimensions.

Many noted authorities have examined in depth if terrorism is a form of war. Donald J. Hanle³⁷ has sought to establish common denominators to define war and thereafter correlate these to various types of terrorism. If we study the history of war, we can safely conclude that it is a dynamic process based on some unchanging fundamental principles. Classical military thinkers like Sun Tzu, Clausewitz, and Liddlehart considered war a unique human activity which follow certain criterion regardless of time and era. Based on those criteria, Hanle formulated three basic questions to classify different types of

terrorism to establish if they would qualify as a 'form of war. These are as follows:-

- (i) Does the activity involve lethal force by a political entity for a political end?
- (ii) Does this activity involve the employment of lethal force against the cohesion of the targeted political entity?
- (iii) Does this activity involve the reciprocal use of lethal force by both sides employed in accordance with the Principles of Combat?

EXTERNAL DIMENSION:-

Terrorism is an unconventional war. Unconventional in terms of not being positional, with no rear and advance, no systematic clearly demarcated strategy and plan of action. It has been resorted to by both the Western world and the erstwhile Soviet Union. A number of theories ascribe its growth to the erstwhile USSR. The red network theory - of the communist States acting as external³⁸ sponsors as being primarily responsible for the wave of terrorism since 1960s. Michael T. Clare proves that coexisting with a network of formal military alliances by the United States, an informal alliance system of proxies and surrogates also exists.

In conditions of nuclear weapons and its potential of human annihilation, ecological disasters, unwinnability of

war under modern conditions, unconventional war is being resorted to. The aim is to create conditions of political instability, violence, and insecurity internally and thus to serve the strategic interests of the sponsoring nations. Usually in the Third World, countries that have opted for the path of development, with limited resources, low technological development, strains of transition have manifested along with the persistence of traditional cleavages. Issues of poverty alleviation, technological advancement have combined with the limited percolation effects of the developmental strategies and acquisitive politics, combined with these are old passive ethnic cleavages. External States fan both the old and new cleavages into violent expression of insurgency, counter-insurgency and terrorism, that is related to small group violence for their strategic interests. This is also called Low Intensity Conflict. A fiery medium of racial, tribal, religious and regional struggles manifesting in wars short of undeclared confrontation.

Apart from the three questions posed by Hanle to describe terrorism as State Sponsored Terrorism, the preparations for sponsoring it can also be taken into account. This kind of exploration will demarcate the new kind of war.

The terrorist attack creates psychological attitudes on a whole range of issues from bread, brain to brigandage, than a traditional conventional military intervention. The methods of attack are unique which traditionally trained forces cannot handle. Terrorist attacks should be seen in concentric circles, that is, they may as prolonged strategy incite sectional groups to come out politically in their defence. Different means will be necessary to deal with this aspect of warfare, in which terrorists may engage. Therefore, the core of the warfare metaphor as laid out by Hanle will have to be fine-tuned with the preparatory and the accompanying stages in order to have an adequate response. A cumulative effect of the protracted warfare as in Jammu and Kashmir is that the continuous induction of sophisticated weaponry may start an arms race relevant to the new kind of warfare.

A wholistic approach is required to take out the controversy of terrorism as a warfare metaphor. This is brought out by the nature of responses that are needed. Pentagon list shows that forces should be deployed quickly and made so responsive as to adopt to wide ranging environments.

As a warfare metaphor, terrorism should be seen as a complex and multilayered phenomenon - in both external and internal dimensions.

INTERNAL DIMENSION:

The internal dimension needs to be analysed in order to put the phenomenon of terrorism in perspective of internal dynamics. History proves that the terrorist campaign which begins as a continuation of struggle under adverse alienated circumstances with unconventional means of mobilization, is always an actor in the political process of the country along with being an actor in the inter-state warfare.

The internal dimension³⁹ would be covered in later Chapters, for it is a separate issue which raises a different set of questions. States sponsoring terrorism like Pakistan, for reasons, of geopolitics, ideology and identity, would like to disrupt the democratic political and electoral process. The internal crisis and population in the border regions around it could be distortedly utilised against India. It is a case of a fragmented society⁴⁰ using terrorism against a plural society for various reasons.

There are plenty of grievances in the world that hostile states are willing to sponsor. Terrorism can be exploited to persuade violent people, they will benefit from terrorizing and tearing down open societies. The only way to stop this process is to take measures to expose the harm that is being done, to prevent terrorist acts from

being successful and to bring criminals to justice, by force if necessary. The plague of violent crime by trained terrorists aiming to destabilize governments is a threat to the survival of civilized societies and free political systems.

State sponsored terrorism is such a fundamental challenge that a major effort must be launched to adopt clear definitions and doctrine to establish an active counter terrorism policy and a deterrent strategy that imposes high costs to terrorists.

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CHAPTER II

NATIONAL SECURITY

With the end of the Cold War, regional security problems have become paradigmatic, whereas they were once seen primarily as functions of - or in some cases even epi-phenomenal to - superpower rivalry, they are now central. International Security is largely regional security in the absence of a global, strategic conflict. As a result, attention has shifted from consideration of the global strategic balance to local conflict. Broadly, these conflicts are a function of two factors: regional distributions of power but also animosities rooted in ethnic religious, territorial and irredentist contestation. The problem for policy is that the latter factors are more intractable than the former; distributions of power are more amenable to management than are animosities based on, or evocative of seemingly old quarrels and fears.

PERSPECTIVES:

National Security ranks prominently among the problems facing humanity. States seem unable to coexist with each other in harmony. Historically proven, states are made insecure by the existence of other states and by the action of each in pursuit of its own national security. These have combined with those of others to produce war.¹

National Security is a Western concept that emerged in the post World War II period. As the international environment grew in complexity and it became necessary to

integrate military, diplomatic, intelligence, technological, economic and other diverse data at the apex of American decision-making, the American President in 1949, launched the national security apparatus. The nature of the apparatus has changed over the years. But in recent years, the concept of national security has attracted attention from the Third World as an analytical and management formulation.² But the literature is produced in the West and appears to suffer from relying on the Western experience to understand and apply national policy and security. This literature has focussed chiefly on the military dimension, doctrinal responses, security resources and capabilities to meet external threats to the state. It has clearly underestimated the salience of domestic political structure, policy making fragility, economic, technological under-development, ethnic, religious and social cleavages in the ever expanding population and the severe eco-political pressures affecting the Third World. Most of the literature on the Third World focuses on the internal aspects without looking at the external dimension of security of the Third World example - cold war, arms race, geo strategy, military alliances. After the collapse of the iron curtain and the Berlin wall, the process of capitalist globalization has added new insecurities - ethnic and economic, apart from terrorism, drug trafficking and small nuclear weapons.

But before getting into the nitty gritty of the Third World, let us analyse the concept of national security in a broader perspective.

There are two approaches that dominate the thinking about the national security problem. One is based on the concept of power. They derive their thinking from the traditional Realist School of International Relations pioneered by E.H. Carr³ and Hans Morgenthau⁴ and more recently Kenneth N. Waltz⁵. They argue that realism and structural realism leads to anarchy, balance of power and nuclear deterrence. In the post Cold War era, it leads to multi polarity with managed nuclear proliferation and missile deterrence.⁶ For them, power is closely related to scientific rationale and military technology.

Those who favour the approach to peace are more loosely associated to the idealist school. They argue that their concept leads them not only to see the problem wholistically as opposed to the fragmented view of the Realists, but also that it focuses attention directly on the essential matter of war.

The peace and green movements, Non-Aligned Movement, Six Nations Initiative, Resolutions of the UN General Assembly, Peace research Institute, Nuclear arms controls and their lobbies moved on the metaphysical vision of peace

offering the perspective of security through the understanding of disarmament and development.

In the Post-Cold War phase, the School of interdependence⁷ talks of economic collaboration among nations for peace and security. Barry Buzan adds a British dimension to it, by suggesting that these should be looked at, as a movement from the international system to international society; the former having anarchy and the latter rule abiding behaviour.⁸

But the problem with these approaches is that they see security playing a subsidiary role. It is either a derivative of power in the sense that an action has enough power to reach a dominant position and will thus acquire security as a result. Or it is a consequence of peace in the sense that a lasting peace would provide security for all. But the concept of security is much more powerful. A more fully developed concept of security can be seen to lie between the extremes of power and peace. It is argued that Security should be viewed as a companion, to rather than a derivative, of power; and that, it is more useful, if viewed as prior condition of peace, than a consequence of it.⁹

Initial discussions on national security were held by Arnold Wolfer, in his book *Discord and Collaboration*; then Hedley Bull, Bernard Brodie, Frank Trager, Frank Simone, made useful contributions. But they were narrow, hollow

and gave a militarized interpretation of security. The common theme underlying these voices was that a notion of security bound to the level of individual states is inherently inadequate. At best this notion produces the dangerously ambiguous symbol which, while appearing to offer a basis for consensus, may permit everyone to label their policy with an attractive though deceptive name. At worst it drives the security dilemma to such a pitch that it begins to resemble the model of those who see international relations as a unending struggle for power. Thus security is seen primarily in national terms by both policy makers and strategists. This becomes problematic.

Recent studies have made efforts to broaden the horizon of national security in view of the changing international environment. The definition is beset with a number of internal contradictions and a host of nuances all of which cause confusion to the definition. Contradictions include between individual security and national security, between national and international security and that between violent means and peaceful ends. The character of security as an essentially contested concept defies the pursuit of an agreed general definition. But we can make an attempt to do so.

U.S. VIEW: Since the concept emerged in the United States, the definitions are inextricably linked with their interest.

The US approach to National Security is apparent in the document, National Security Council Paper No.68 which placed on the President the need to view the Security of the free world as synonymous with America's security¹⁰. The area of national security remained undefined as far as the US was concerned and NSC 68 added the areas of free world to its definition. So, the land mass of North America, South America, Pacific, Atlantic and the free world from Phillipines to Iceland, Japan to Europe became a part of America's concern for national security. This view of National Security can be the raison d'etre for the US policy of intervention in Korea & Vietnam, destabilization in Chile and Cuba, military blocs in the Atlantic, Middle East, South East Asia and South Atlantic.

COMMON SECURITY:

Cyrus Vance provides a global dimension to the understanding of national security. He said "The Security of our allies is synonymous with our own." He further says that during the days of Truman, Japan, Korea and Europe were security interests, where the Truman doctrine and the Marshall Plan operated. During Kennedy, Johnson and Nixon phases, Vietnam was a Security concern. During Carter & Vance, it was South West Asia and Persian Gulf. During Reagan & Bush years, it was Afghanistan and Iraq.

George Brown, Chairman of Joint Chiefs of Staff puts it in a subtle way — "The basic National Security objective of the US is to preserve the US as a free nation with its fundamental political institutions and values intact, which means, that an international environment must be maintained in which US interests are protected, and US freedom of action is assured."¹²

Vance went on to propose a common security along with national security and collective security. For him, the supreme issue is security from nuclear war.

Harold Brown, Secretary of Defence in the Carter Administration, defines National Security as the ability to preserve the nation's physical integrity and territory; to maintain its economic relations with the rest of the world on reasonable terms, to protect its nature, institutions and governance from disruption from outside and to control its borders.¹³ This view is all inclusive, by emphasising physical territory, external economic relations, nature of the institutions of governance as objects to be protected from external threat. Though he does not include it in his definition, he does refer to internal causes of disruption. These short term threats are, slackening of economic growth, dissipation of natural resources, loss of domestic cohesion owing to ethnic conflicts, fragmentation into special interests, a decline of ties of the family-religion

and place without the appearance of other loyalties to take their place, an erosion of the education system, a decline in the work ethic, a feeling on the part of the poor, old and minority groups that they are being abandoned and a loss of confidence in the national political leadership.¹⁴ These according to Brown could pose real threats to domestic security. He also argued that conflicts involving the Third World like Arab-Israeli conflict, Palestine Iran revolution, Iran-Iraq war make the situation dangerous for the US.

Browns' diagnosis of the national security challenges of the US is that among all the threats, the part played by the erstwhile Soviet Union, given its military and industrial power, must be seen as a major national adversary to the US.¹⁵

CORE AND PERIPHERY:

Lawrence Martin conceptualizes National Security concerns as those of the core and the periphery. The core must be immunity of the US from direct military attack. The second circle in the core would be its extended security interests in Western Europe and the Far East. Beyond this inner ring lies the so-called peripheral zone of Afro-Asia, with special appendage in Latin America.¹⁶

COLD WAR LOGIC :

In all the above references, erstwhile USSR was considered with hostility, though its intensity varied. The perception of this national adversary determined their policy prescriptions in the core, covering ring and peripheral ring of national security areas. Whatever the case, if the understanding is kept in view, that in the United States perceptions of challenges to their security, the erstwhile USSR was the ideological spectre that haunted the globe, their response was based on the view that USSR was a global adversary.

Ever since the successful Russian Revolution, United States viewed USSR with distrust and hostility, United States participated in the imperialist encirclement of USSR. Harding, Coolidge, Hoover administration refused to recognise the USSR because its disowned all debts owed by the Tsar to the US. Till the first phase of the War, their relationship was neutral. USSR's successes in the battle field led to militarist thinking about it and United States's relations with it. Internal and external McCarthyism are the militarist thrust of the national security state created by the Truman doctrine. Soviet threat as a myth played a significant role in the internal and external politics of the United States after the Truman doctrine. The Korean venture was undertaken to deter the

Soviets in Asia and Europe and was only ideologically intended to challenge the United States in terms of threat to the free world.

United States allowed itself to be enmeshed in Vietnam. It went to fill in a power vacuum in the context of the colonial system cracking up.¹⁷

In the following years, the main course of United States policy was to block communist expansion in Asia. This continued till Nixon's time, who have pulled out the United States from Vietnam without a win. Thus both Korea and Vietnam add to the expanding perception of United States national security.

Thus the United States perception of national security during the second World War was imperative because it was interested in the freedom of its outposts in the Pacific and Atlantic. National Security perceptions in the post-War period added a global dimension with the ideological reflex of anti communism. Yet, there is a continuity - containment, liberation, the long twilight struggle, detente, cooperation and competition, negotiation and strength.¹⁸

The Vietnam debacle eventually led to the initiation of detente, which emerged as an adaptation of imperial strategy to changing patterns of world power, taking

account of certain constraints that even a super power can't ignore. This rationalist approach brought the United States and USSR on the negotiating table. Carter administration felt the desire for common security. Some quarters alleged that this misled to the lowering of the nuclear threshold and making United States vulnerable to attack by Soviet Inter-Continental Ballistic Missiles (ICBMs).

Carter had also brought about changes in the State apparatus to manage economic and technological interdependence. The emergence of the New Right in United States, insisted on the military and economic pre-eminence of the United States in order to meet the challenges posed by the Third World, a common security on the grounds of historical societal and ideological incongruence between the United States and USSR. They, thus supported Reagan's Security perception, for it too rung the chauvinist bell like the New Right. It looked upon the Soviets with total distrust and emphasised the development of Ballistic Missile Defence and took national security to the fourth dimension, to outer space.

Thus, Western national security perceptions are the products of the expansionist and imperialist schemes couched in ideological rhetoric propounded by the United States power elites.

EMERGENCE OF THE THIRD WORLD:

But of late, this Western perception of National Security is not apt for the entire world. Ever since the emergence of the Third World, there has been the emergence of states who had just thrown off the colonial shackles. Under developed both economically and militarily, yet with a strong urge for independence, they could not be fitted into United States perception of National Security. For them, national security had a different meaning, in keeping with their distinct socio-cultural proclivities. Being a product of decolonization, the enemy was not the Soviet Union. They were anti-West despite economic, political and military constraints. The Cold War which saw great power rivalry at its zenith, had a tendency of pushing all conflicts to either of the camps. But the end of the cold war has not seen the end of the conflicts. They still persist for various changing reasons. They cannot be brushed aside. It is in this context, national security has to be perceived.

The national Security problem cannot be understood without reference to factors at the three levels of analysis - Level 1, is of the individual, level 2 is of the State and level 3 is international, through the regional. Although the term national security suggests a phenomenon on level 2, the connection between that level and level 1

and 3 are too strong to deny. The concept of security binds all three so closely that it demands to be treated in a holistic perspective.

The security of the individual is locked into an unbreakable paradox in which it is partly dependent on and partly threatened by the State. Individuals can be threatened by their own state and also through their state in the international system. Pressures from individuals bear upwards strongly into national security though their impact on the state also influences the international system. Individuals can pose such serious threats that they can corrode the existence of the State as a meaningful entity. But the question of national security cannot be reduced to the individual level because each of the other levels has characteristics which make it more than the sum of its parts.

National Security makes only limited sense as an idea confined to level 2. The self help image of the State as an actor trying to use its own resources to reduce its vulnerability in the face of threats, provides only a narrow view of the national security problem. The structure and character of the State on one hand and international system on the other, are opposite ends of a single political phenomenon. To consider States as the prime focus of the national security problem, is useful

because it concentrates attention on the principal source of power and policy. But the problem which that policy seeks to address can only be defined in terms of the State system nexus as a whole.¹⁹

Patterns in the structures and dynamics at the system level defined many essentials of the national security problem. Also these patterns were conditioned by the character and behaviour of states. The analysis focuses on a single point that national security can only be understood by reference to the national and international level combined. The security problems of states can't be assessed without reference to the system and the character and dynamics of the system cannot be understood without reference to the state.

The concept of security can be understood only by integrating the three levels. Though the three provide valuable starting points, they do not go beyond it. A full meaning of the concept can only be found in the interplay among them. Major security phenomenon like terrorism, deterrence can't be fully understood without a full appreciation of their sources, effects, dynamics at and among the three levels. Thus the national security problem turns out to be a systemic security problem in which individuals, states and systems all play a part.

What is the Third World? If the Third World has any clear connotations, it is that of a certain separateness from the two dense networks of international relations centered on Washington and Moscow (till recently). It refers to countries that are relatively peripheral to these two core Security Communities.²⁰ Relative integration - a cultural affinity, political empathy, common institutions, active exchange relationships among members of these communities distinguish them from the Third World.

Third World countries suffer from regime instability, problems of national integration, territorial integrity and high levels of societal violence. Given the limited base of legitimization of regimes, resource crunch, narrow indices of power, plural societies and higher possibilities of alienation from the people, a small group, howsoever open, may not be able to define national security incorporating the interests of all segments of society.

States can be variously categorised in terms of socio-political cohesion, (Bary Buzan), tranquility (Azar and Moon), poverty (Ayoob), Science and Technology backwardness (One World System theorists), and Political Consciousness (NAM).. Therefore, national security policy is bound to be different, more inward, not exclusively inward looking.

Security policies of developing nations during the nation building stage (1950s) were aimed at avoiding the serious repercussions of super power competition. The creation of an international environment conducive to cooperation and stability was the proper way for these nations to achieve their security aims.²¹ Their leaders have pursued, their policies by building their military strength, following NAM and exercising their economic power through the group of 77.

The emphasis was on military build up in the cold war context and civil war conditions internally, in the face of under development. It led to an arms race. The flow had been from military build up to economic independence. This led to an acceleration of internal threats to national security.

The proliferation of new nation states after World War II reshaped the global landscape. Their diversity notwithstanding, these new nations may be seen as a distinct collective entity. Collective expression of their solidarity and perceived unifying grievances through Non Aligned Movement and the pursuit of New International Economic Order (NIEO) has elevated the Third World to the centre stage. In the shadow of flamboyant rhetoric and gestures of bravado, most Third World nations, have suffered persistent and pervasive insecurity. About 90% of

domestic conflict, regional crisis and overall international violence has been concentrated in the Third World. Of the 120 wars recorded since 1945, 119 have taken place in Third World.²² Overt violence and conflict aside, most developing countries are insecure because of chronic poverty, crime, pollution, famine, population expansion and deteriorating quality of life.

In the Third World, the security problem is commonly understood in terms of physical protection of the state from external threats, which are predominantly military in nature. External aggression involving war and border conflicts, espionage, sabotage, subversion and other threats operationalized by actual or potential adversaries are the immediate concerns of national security. Diagnosing Third World national security in terms of external military threats has produced a predictable prescription in an anarchic world, where self help is the name of the game. Security is measured by the ability of the State to protect State sovereignty, to preserve territorial integrity and to maintain autonomy. The behavioural and coercive nature of external threats, demands the accumulation and exercise of the same kinds of force to resist or deter attack or other hostile behaviour. Such logic dictates that each nation develop, maintain, exercise coercive and behavioural power. Any shift triggers off new security problems. This coercive

dimension of power is clearly manifested in the form of military force. The capacity to coerce, kill and destroy becomes the important source of power, thus the pre-eminent safeguard for national security. Military component becomes the ultimate criterion by which overall levels of power potential and national security capability are measured and judged. Human material and technological resources and constraints are all tied to this military power.²³

Some authors²⁴ feel that imprecision and diversity in the application of the concept of national security make it difficult to conceptualize Third World national security in a meaningful way. These can be overcome by differentiating actors, context and processes. Subjective interpretation of national security too can be used. An operational definition of national security is contingent upon, policy maker's judgement about the significance and probability of some foreign acts of commission or omission and about their leverage in encouraging or restraining this act. They have desegregated the Third World into 4 sub-categories²⁵. Achievers - who occupy the semi-periphery of the world economic system and in relative terms have substantial human, economic and military capabilities; Goliaths - they stand above the global median in population and military spending, but below it in per capita wealth; Davids - stand above the global median in per capita wealth and

military spending, but below in population size. The Weak include all those who rank low on the three dimensions of power namely (size by population, economic development by per capita, Gross National Product, military capability by defence spending). The achievers being Algeria, Brazil, Iran, Korea, Saudi Arabia, Mexico, Taiwan, . Goliaths being China, India, Egypt, Pakistan, Thailand; Davids being Israel, Kuwait, Libya Singapore. The rest are Weak States. This appreciation would look at security as a wholesome concept.

SECURITY COMPLEXES :

The basic need is, to treat Security broadly than is conventionally done to capture the full implication of its contradictions. Another fundamental issue is whether national security is divisible or indivisible in character. If divisible, then a policy emphasis on the international level is essential. While Realists assume that Security is divisible and consequently place their policy emphasis on the State, the Idealists stress on its indivisible nature and concentrate on policy made at the international level. Both present a logic which is internally correct, but too narrowly based. Security is partly divisible and partly indivisible and the issue is not to emphasise one aspect at the expense of the other, but to find a balanced and workable blend.

The most difficult requirement is that States assess and acknowledge the threats they pose to others. If they are intended, they need to be controlled in relation to the desired effect. If unintended then their effect on the system must be assessed in relation to the domestic costs of what ever reform would be required to remove them. It is here that the use of security complexes as a framework for analysis offers one useful technique for avoiding the normal excesses of both ethno-centric policy and utopian prescription and for moving towards a holistic view of national security.

The concept of security is not useful either at the state level (both in terms of national security policy and situation analysis of trouble spots) nor at the grand abstractions of systems analysis. Only in the middle area does security find a useful application. Because security encompasses both subjective and objective factors, it directs enquiry more towards the nature of relations among States.

Security implications of the anarchic structure do not spread uniformly throughout the system. Complex patterns of enmity and alignment develop from historical conditions in all anarchic systems. These patterns are fairly durable features of the international system and they define the security environment of most states. Buzan coins a term

"security complexes" to label the structures at this level of analysis.

A security complex is defined as a group of states whose primary security concerns link together sufficiently closely that their national securities cannot realistically be considered apart from one another. Security complexes tend to be durable; but are neither permanent nor internally rigid.²⁶ The international system as a whole contains a large number of security complexes. Some of which either fit inside each other, or overlap or intersect. Because of these complicated patterns, it is difficult to precisely define the boundary of any one complex. The use of this concept requires sensitivity to the situation of those states which occupy positions in more than one complex. The links which tie a security complex together may be of many types - geographical, political, strategic, historical, economic or cultural. States outside the complex may play a major role within it, without the complex itself being central to their security concerns.

INDIA AND PAKISTAN:

An illustration clarifies Security Complexes as an analytical tool. India and Pakistan offer a tragic case of structural, political threat²⁷ i.e. it results more from the nature of the situation rather than the intentions of

one actor towards another. It arises when the organizing principles of two states contradict each other in a context where the States cannot ignore each other's existence. The achievements of one automatically erodes the political status of the other. India and Pakistan's historical, cultural ties do not allow them to ignore each other; but their organising principles pose a permanent threat to each other, making both politically vulnerable. Pakistan is organized on the principle of Islamic Unity and the State is defined in exclusively theological terms. India is constituted purely on secular federative lines and can only exist by cultivating harmony among the various religious groups within its border including Muslims. The principle of India thus threatens Pakistan's *raison d'etre* and provides ground for Pakistan to fear absorption by India. Likewise the principle of Pakistan threatens India's *raison d'etre*, raising the spectre of a breakdown of the Indian Union into a number of independent single religion successor state. Their tension is neatly institutionalized in their dispute over Kashmir. Since the majority population adheres to Islam, both states view their claims to it in the light of their national integrity. Kashmir is a classic case of flawed Pakistani application of their principle. Both in history and culture, Kashmiriyat has stood for intermingling of people - Hindu, Muslim, of values, Vaishnavism, Shaivism, Sufism and Islam. The

political threat defines a central element in the national security problem of each of them and illustrates the extensive ground for confusion between internal politics and national security. During the Cold War period, the extra regional factors contributed to the security dilemma of the region - arms race, aid, trade and gratis. The trends became more sinister since 1979 with the Afghan syndrome playing havoc with the Pakistani society through drugs, Kalashnikov's, and Mujahideens of the fundamentalist variety. After the Cold War, the same factors are playing havoc, in as far places as Tajikistan in South Asia. It is evident that fragmentation of Pakistani Society is leading to its governability crisis specially in Karachi and Sindh. Part of the logic of drugs, weapons Mujahideen is now active through the Inter Services Intelligence Agency in Kashmir.

South Asia as a whole provides a clear example of an important middle level security complex. The heart of this complex is the rivalry between India and Pakistan. Their insecurities are so deeply intertwined, that their national securities especially in terms of political and military security, cannot be separated. A number of less powerful states are bound into the complex, for geographical reasons - Bangladesh, Bhutan, Nepal and Sri Lanka. China, although an important actor in the South Asian context, is not part of the security complex because South Asia is apparently

peripheral to its primary security concerns.,
Traditionally, Chinese interest in South Asia can be seen
from the following:

- a) Pakistan and China's strategic collaboration can be seen in the development of the Karakoram road through Pakistan Occupied Kashmir;
- b) When Pakistan was snubbed by USA it befriended China as a counterpoint to Indo-Soviet Friendship Treaty;
- c) China has helped Pakistan in acquiring nuclear capability;
- d) It is alleged that China has helped Pakistan's missile programme.

However, even by the reckoning of New Left Theorists, India cannot be regarded as a periphery. It is semi-periphery. Its clout can be seen in its industrial infrastructure, scientific personnel, licenced production, drive for technological self reliance, space programme and food self sufficiency. Pursuit of defence preparedness has not led to a negative effect on development efforts or to what is popularly called a security dilemma.

What brought the South Asian security complex together is the dominant role of local issues and relations with cold war calculations in the region which defined the

national security priorities of the states within it. None of the South Asian states is strong as a state and consequently most of them face substantial security threats arising within their own boundaries.

Above these domestic problems, lie local inter-state disputes which defines the principal binding insecurities of the complex as a whole. Most important being between India and Pakistan over Kashmir. It has also symbolized a power rivalry between the two, in which Pakistan has tended to assume nuclear status to offset its perception of India as a regional hegemon. The nuclear issue adds to the global dimension to the local issues. The stockpiling of F-16s only adds to this dimension. It has bandwagoned with extra regional powers in trade and military blocks and brought in the global factor into the region.

American, Chinese and Soviet influence on the South Asian complex has been in the context of rivalries with each other. The main features were that the initial impact was made by the cold war. India for its own reasons chose to become non-aligned during the 1950s culminating self reliance and in the process rather alienating itself from the United States. Pakistan by contrast, saw United States containment policies against USSR as an opportunity to increase its military strength against India, and thus joined in a network of anti-Soviet alliances. This free

flow of arms had a greater impact on Indo-Pak relations than it did on USSR and exacerbated tensions between India and Pakistan. It also opened the door to Soviet wooing of India. During the 1960s, the United States impact on South Asia declined. The 1965 Indo-Pakistan war saw cessation of arms to Pakistan and United States pre-occupation with Vietnam. The 1962 Sino Indian War not only rushed military aid to New Delhi but changed attitudes towards military defence in India, resulting in a rapid doubling of man power and expenditure and adoption of serious long term plans for upgrading domestic defence production and procurement policies.²⁸ These alarmed Pakistan. A classic Security Dilemma for Pakistan was in the making with outside powers amplifying local patterns of insecurity. On one hand, India grew concerned at the prospect of a two-pronged attack by China and Pakistan. Thus, it moved closer to USSR to increase its arms supply. On the other hand, Pakistan saw the growth of Indian arms, wholly in relation to itself, worrying not only about its military security but also the declining prospects for resolving the Kashmir dispute in its favour. China and Pakistan, thereafter, began moving closer.

The 1965 Indo-Pak war deteriorated into a military stalemate, but its political impact was to consolidate the intrusion of the Sino Soviet complex into the South Asian complex. Because of the War, United States and United

Kingdom imposed an arms embargo, thereby opening the door for Soviet and Chinese influence. India and Pakistan were in desperate need for arms and Soviet Union and China fulfilled this need. Thus two security complexes were locked together by alignments between two weaker and two strong powers in each complex. The 1971 war added further layers of external intrusions. The United States came back on the South Asian scene. The balance of external powers prevented any one of them intervening directly in the war, but their presence constrained the range of possible outcomes.

Patterns of alignment have not changed thereafter. The United States influence over Pakistan has increased, and the dismantling of USSR has been a loss to India. But nuclear rivalry between India and Pakistan continues to grow. Pakistan is effectively playing its Islamic Card in its continuing search for external support to offset the greater relative weight of India e.g. economic, political, and military ties with the Gulf countries and Organization of Islamic Countries.

Thus, South Asia has been lucid example of security complexes. Security complexes are a typical product of an anarchic international structure and they come much closer to reflecting the operating environment of national security policy makers than do higher level abstractions

about the distribution of power in the system. Moreover, every country can relate its security perspective to one or more complexes and thus the concept provides a useful tool for organizing patterns of relations. Security Complexes offer an approach to security which requires attention to both the macro level of great power impact on the system and the micro level of local state relations. In focusing attention to both levels, security complexes emphasize the mutuality of impact between them with external influences tending to amplify local problems, and local problems shaping and constraining external influences.

An approach based on security complexes focuses attention on sets of states whose security problems are closely interconnected. Ethnocentrism is avoided because one not only has to view one's own state in the context of the complexes of which it is a member, but also has to apply the same logic to other states. An extreme ethnocentric perspective centered on Pakistan, for example tends to see India as the problem and a powerful Pakistan with more allies as the answer. If this is viewed through the security complex lens, the analysis centers on the whole relationship as a problem and emphasizes the way in which increased strength and the pursuit of external alliances amplifies the problem rather than solving it. Thus, they provide useful reference on which policy can be focussed or which can be used to evaluate policy proposals. They

provide a much more subtle and balanced image of day to day crisis than does the conventional model of power struggle.

CONCLUSION:

India's national security scenario should be seen through three prisms. Fragmentation vs. Plurality, Authoritarianism vs Democracy, and Theology vs Secularism.

Pakistan is a primarily fragmented society. It includes part of the world's largest tribal society. Most of its population belongs to a linguistic or cultural group that ties in neighbouring countries. The Punjabi domination is increasingly challenged by people of other groupings. Sindhi, Baluch, Pushtoons have no say in the power structure. Whilst on the other hand, India is a plural society. Different groups exist, each with a platform to vent their grievances. No opportunities are withheld. It is this plurality which Pakistan aims to disrupt.

Pakistan has authoritarian structures. With a very strong military, fledgling democracy is conditioned by an efficient military machine, weak bureaucracy and declining civil society and role of external powers like the USA. Universities, Courts and the Press have rarely showed their autonomy, as roles for eliciting accountability do strengthen participation.

Moreover, Pakistan in contrast to secular India is a theological society. It was created as a Muslim state. Pakistan always cherished the hope that Islam would be the glue to keep it together in times of crisis. But instead of a cementing force, there arose sectarian and theological differences among the Pakistani Muslims. Political groups urge greater Islamization but these groups also profess ultra conservatism in their social and economic outlook, thereby antagonizing a large number of muslims who have a relaxed view of the ideal of an Islamic state. What unnerves them is secular India, where a variety of religions co-exist without its dominance over the State.

It is thus this dichotomy between Pakistan and India, which contextualises the further subversion of India's national security interests.

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CHAPTER III

***COMPOSITE CULTURE I -
A HISTORICAL EVOLUTION***

"When secular customs breakdown, when traditional ways of life disappear, when the old solidarities crumble, it is indeed frequent that crises of identity arise.¹

This can be aptly used to describe the prevalent condition in Jammu and Kashmir. The Indian sub-continent enjoyed a socio-cultural cohesiveness with its diversity of distinct people's cultures and traditions. But as a whole, it carries a larger common racial, cultural, historical identity and experience. Hence Nationalism and attitudes towards Statehood tend to be coloured by perceptions of one's identity that are based on religion or linguistic ethnicity or an over-arching Indian historical and cultural experience. Thus, India simultaneously is one state, as also a cluster of several religious and linguistic groups in the process of integration and assimilation in federal framework.

The overlapping religious linguistic and cultural affiliations make the creation of new states arising from partition and secessions difficult to deal with, since different sides make different claims based on different overlapping cultural and religious affiliations. Nation building is as much politico economic as national integration and class-cohesive process. The national identity is, through a web of cohesively evolved identities in regions. Hill peoples evolve their own patterns of

diversity and integration as do plains people or as do agrarian or industrial communities. Whether people of Kashmir developed such cohesion or not will provide an answer to their remaining with India, going over to Pakistan or remaining independent.

In Kashmir, we can identify its basic secular character. If the commingling is ignored then Kashmir has people mainly Hindu descendants influenced by secular Hindu tradition or Kashmir has Islamic character since the majority population is Muslim and therefore, may perceive closer religious and emotional links with Pakistan. If we retain common bonds, its essential Kashmiri character which is an amalgam of Muslims, Hindus, Pandits, Buddhists, of a different culture called Kashmiriyat,² will be the focus. The present violent uprising would thus indicate that the Indian and Kashmiri characteristics are becoming cloudy under threat. Even if only the Islamic character of Kashmir is evident, it does not mean the total eclipse of the other two. The essential tripartite character and consciousness of the peoples of the sub-continent are implicit in determining the identity of Kashmiris.

At the time of Partition in 1947, the State of Jammu & Kashmir³ was one of the Princely States of India, which, constituted one-third of the British Indian Empire. They were to become by all intents and purposes, independent and

were given the option to join whichever regime they wished. But the entire system of Princely States was peculiar. For within the apparatus of British imperial administration, there existed a genuine desire for the creation of representative institutions with self-government as the ultimate goal.

The State of Jammu and Kashmir was created in the first half of the 19th century by a Dogra Chieftain Gulab Singh who won the favour of Ranjit Singh. In 1820, Ranjit Singh confirmed Gulab Singh as the Raja of the State of Jammu, who then proceeded to build an empire. The Treaty of Amritsar of 1846 in return for his help during Anglo-Sikh War, awarded him the entire region for a sum of 75 lakhs rupees.

Since assembled the State of Jammu and Kashmir is one of considerable complexity. It was in the context of the broad sweep of Indian history, a totally new polity. Jammu and Kashmir was the largest Princely State and in 1947, had an area of 222,870 sq.km. It formed the north west corner of India before partition. Now it has a total area of 2,22,236 sq.km. Including 78,114 sq.km. under Pakistan Occupation, 5,130 sq km illegally handed over by Pakistan to China and 37,555 km. The area on the Indian side of the Cease fire line, which was effective from 31st December, 1948 was 1,38,124 sq km. It meant a change due to realign-

ment of the border and the conversion of cease fire line into the line of actual control (LOAC) following the Simla Agreement. The net area at present is 1,01,387 sq. km.³

In 1947, the population was 38,66,243 and the density was only 17 persons per sq. km. It had 39 towns (with a population of 3,62,314) + 8,903 villages (population being 35,03,929)⁴.

The population according to the 1981 Census was 59,87,389. Out of which, 31,64,660 males and 28,22,789 females. The density increased to 59 people per sq. km. Still the lowest in India. The increase in population during 1971-81 was 28.71% while during 1961-71 was 29.65%.⁵

As regards the Muslim Population, they form 64.10% of the total population. The percentage of Muslims in Kashmir to the total population is 49.72%. The percentage of Muslim population of Kashmir to the total Muslim population of the State is 77.45%.

Likewise the Hindus form 32.27% of the total population of the State. There are only 2.07% Hindus in Kashmir of the entire Hindu population of the State, while they form of 6.07% of the entire State. The population of Kashmir Hindus was 1,24,078 in the 1981 Census. The 1991 Census could not be held due to disturbed conditions. But their numbers have dwindled due to forced migration.

Table 1

Area Population and Religion in Jammu & Kashmir 1981, the 1991 could not be held due to Distrubed Conditions

Region	Area Sq/Km	Population	% Mulsim	% Hindu	% Other
Kashmir Valley	8,639	3,134,904 (52.36%)	94.96	4.59	0.05
Jammu	12,378	2,718,113 (45.39%)	29.60	60.25	4.15
Ladakh	33,554	134,372 (2.24%)	46.04	2.66	51.30
Totals	54,771	5,987,389	64.19	32.24	3.57

Source: Ministry of Home Affairs, Government of India, Census 1981, Government of India.

The state of Jammu and Kashmir has 14 districts. The Kashmir Valley has 6 districts- Anantnag, Badgam, Baramulla, Kupwara, Pulwama and Srinagar.

Jammu too has 6 districts- Doda, Jammu, Kathua, Poonch, Rajouri, Udhampur.

Ladakh has two districts. Kargil and Leh.

Census reports also showed an increase in literary levels. While it was 18.3% in 1971, it increased to 26.67% in 1981.

The State occupies the North West niche of India. Bordering the States of Himachal Pradesh and Punjab in the South, by Pakistan on the West and South West. By Chinese

Turkistan and Russian turkistan in the North, by Tibet in the East. It thus strategically borders on the territories of two powers namely Pakistan and China.

The mountain ranges divide the State into 3 clear cut geographical regions (i) Jammu and the Outer hills; (ii) the Kashmir Valley; (iii) the high mountainous region of the north.

Jammu province consisted of the area lying between the Punjab border and the Pir Panjal range. It consisted of the plains and the outer hills. The plains are at about 366 m. in height and fertile. The outer hills rise a to height of 610m. to 1220 m running in numerous ridges, parallel to the Pir Panjal range. These ridges often sloped up gradually from the South and presented a sheer cliff face from the north. It was a prosperous town and was the winter capital of Jammu and Kashmir⁶ It was a Hindu dominated area and the homeland of the Dogras. Dogri was the language spoken, interspersed with some pahari dialects. It was written in Devnagari script.

The valley of Kashmir was a level stretch of alluvial soil running south east to north west. It had a length of 135 km and a width of 32km-40 km. Jhelum ran through it leaving it in a south westerly direction through the Wular lake towards Baramulla, Uri, Muzaffarabad and into Pakistan. It begins at Verinag at Anantnag district and

ends at Khodanyar in Baramulla. Once a seat of Sanskrit learning now it is a predominantly a Muslim area.

The Northern region was separated from the Kashmir Valley by the great Himalayan Range. It sloped from North West to South East and was drained by the river Indus. There are three subregions to it. The Eastern region bordering Tibet is known as the Ladakh province. It is an extensive plateau, the population is primarily Buddhist, though the Kargil district has a Shia population, the language being Ladakhi or Bodhi. Leh is a prominent town. The entire region is very sparsely populated.

The Western region constituted the Gilgit Agency with a predominantly Muslim population. Also known as Dardistan, it includes the townships of Hunza, Nagar, Chilas, Punial, Ishkuman, Kuh and Ghizar. The population is of the Dardic race and followers of the Ismaili sect. This region has merged with Pakistan and is governed by the Pakistan central government.

To the West of Ladakh lies another province of Baltistan, which was run over by Pakistan in 1948.

Another major region is the Azad Kashmir area, consisting of Mirpur, parts of Poonch and Muzaffarabad.

All these regions of Jammu and Kashmir have a common link. A shared past, a shared culture. These divisions

are a result of the post Dogra, post - accession period. Geographically diverse states, but culturally a product of one region. The sole inhabitants of a region guarded by steep mountains, icy winds and harsh climate.

Today the agenda of international relations sees the revival of ethnic, religious and nationalistic passions, even where the case may be purely vested national interest. All conflicts have assumed the category of ascriptive identities of religion, ethnicity and nation. The ethnic and religious passions have gone beyond all expectations.

But the question is why are people defining themselves in ethnic and religious ways rather than pragmatic and rational terms. The post modernists argue that modernity,⁷ by threatening to denude human beings of their roots, sets off an ascriptive reaction. Ascription thus is inherent in the "project of modernity" which is an umbrella term for rationality. Secularism and nation state all of which tend to eat into the intrinsic and meaningful cultural and political differences between group and individuals, seeks to flatten them in the image of dominant groups and cultures. On the face of it, ethnic resurgence would support this view. But not everywhere has modernity led to ascriptive revival. It depends on the state of politics, political institutions and instigation from elements external to the State.

The ethnic and nationalist revival today is marked by four factors. First, several ethnic groups, not all, cut across international boundaries constructed to represent juridical statehood or are spread across regional boundaries within a nation state, eg. Kurds, Tamils, Muslims in South Asia. They seem to be demonstrating the most virulent form of nationalism or are objects of a terrible nationalist repression.

Second, Partisan intellectuals and leaders are reconstructing national histories with a litany of inter-ethnic charges, with tales of broken promises or stories of ethnic ingratitude. This mode of selective retrieval, and tales of betrayal are threatening to push out a shared heritage of communal coexistence from collective memories.

Giving marked virulence to these traditional attributes of ethnic struggle are two new factors. Weapons of deadly potential are plentifully available, in many parts of the world, making ethnicity and the response to it violent and brutal. The violence raises serious concerns of civil rights, order and national integrity in the decision making realm.

Finally the spread of information technology is imparting a new emotional intensity. To see one's own

community on an insurgent path or puzzle the security forces for the world to see, is not the same as reading about it. Kashmiri militants show video films of the para-military crackdown. Not only can the victory of Mujahids in Afghanistan produce a new resolve in Kashmir, it can also embolden the militants.

The Kashmir problem shares some of these properties of the new ethnicity. It is a disputed territory between India and Pakistan. Kashmir has led Pakistan and India to war in 1947, and 1965.

An armed insurgency in 1990 brought the two traditional forces very close to war. Till today, a proxy war is being carried out in Jammu & Kashmir at the behest of Pakistan. In a place known for its quietistic, syncretistic Islam, Sufi traditions and Vedantic philosophy, militant Islamic fundamentalism has acquired a beachhead. A valley so exquisite in its beauty, has been charred by the fires of nationalism, ethnicity and religion. Burning down Nund Rishi's shrine at Charar-e-Sharief is just an example of Pakistan acquiring a beachhead.

At its core thus, the Kashmir problem is a fiery combination of the three factors of communalism, secularism and ethnicity meshed into a geo-political game. Each has serious internal contradictions. Also built into the

evolution of the Kashmir problem is a profound paradox. The unrest within the valley is not religious in origin. But has taken the overt pillar of religion to make itself successful.

The demands may not have been secessionist, but for the variable being, a border state. Political alienation of the young men, owing to rampant corruption, may not be the mid-wife of a pro-Pakistani political culture. Rigging of elections elsewhere may not lead to calls of separation or to a crisis of a religious nature like the disappearance of the Holy Relic from Hazratbal in 1963, or the destruction of the shrine at Charar-e-Sharief in May 1995.

All this can lead to dismay, discontent, opposition politics, but not to anti-systemic segmentation. Varshney's ⁸ analysis may dissect the problem for academic purposes as that of New Delhi, Islamabad or Kashmir's. But Kashmir is not a dead body. It has a value system to talk of, to protect i.e. Kashmiriyat, a peaceful co-existence of communities.

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CHAPTER IV

COMPOSITE CULTURE II -

KASHMIRIYAT

The essential tragedy behind the crisis in the valley of Kashmir is that it originated in positive developments that strengthened the forces of secular democracy at a crucial time in newly independent India and introduced a new level of flexibility in federal relations. These developments were inter linked. The special status given to Jammu and Kashmir and the limitations originally placed on central intervention in the State, enabled Kashmir's leadership to counter the religious appeals of Pakistan to the State's Muslim majority. Sheikh Abdullah was able to stress a common Kashmiri identity and the promise of radical socio-economic change to end centuries of oppression and exploitation. It was seen more like a partnership with an India pledged to secularism and democracy than a Pakistan using religion as a cloak for autocracy.¹

The valley itself, its long history and the unique social and religious practices of its people gave promise of their following their own eclectic path, if given the opportunity. Kashmir's haunting beauty is unparalleled. The blend of Sanskrit, Buddhist, Tibetan, Sufi, Persian and Arabic cultural and religious influences is equally unique. The evolution of Kashmiri Shaivism with its emphasis on monism and egalitarianism, minimized friction with the teachings of Islam when Islam first entered the valley.

Unlike most of the sub-continent where Islam came through conquest, it came to Kashmir largely through conversion, through the influence of the gentle, meditative order of sufis, escaping from Persia in the 14th century. They were led by Sayyid Ali Hamdani. The valley still resonates with the songs of the wandering mystic Lal Ded and verses of Sheikh Noor-ud-din who founded the Rishi order. They spread their message of universal love and brotherhood. They were revered by both Hindus and Muslims and took inspiration from both religions. The iconoclastic excesses of a local despot, Sultan Sikander reduced the number of Brahmins who had resisted conversion. But his successor Zain-ul-Abidin (1420-70) made up for his excesses. He united them back, rebuilt their temples and participated in their festivals.

The four million Kashmiris seemed ideally suited to resist the pull of religious fundamentalism, though they were good Muslims in their own fashion. Kashmir became a test case for India, of its ability to nurture the allegiance of an Islamic people who joined a Hindu majority nation, believing in its commitment to the values of Democracy, and Secularism, despite the communal carnage preceding and following partition. Natural linkages of terrain also favoured Pakistan.

Kashmir was originally called Kasmira. In its original Sanskrit form it has been used as the sole designation of the country; throughout its known history, it has been uniformly applied by its inhabitants and by foreigners.² It can boast of a recorded history of further than that of most races. A history that is as uneven as its mountains, yet as rich as its fertile valley. It is the history of the evolution of a people isolated by geography in a narrow valley that became reputed for its beauty.

Through a kaleidoscopic mosaic of the past, one can glimpse the growth of a common culture, a native pride, a togetherness and a mutuality that has been called Kashmiriyat. It is local and indigenous to the valley. This sentiment has overcome religious and sectarian divisions and impelled people to defend against invaders. One of its greatest rulers, Zain-ul-Abidin, though a Muslim, revitalized Hindu art and scholarship. Even more pervasive was the influence of mendicants who caught the imagination of the people by renouncing the world and singing devotional hymns in Kashmiri rather than Persian or Sanskrit.

There are geological and mythological reasons to believe that the Kashmir valley was once a vast span of water. Neelmat Purana outlines the mythological creation of the valley.

The Nagas were the initial inhabitants. Other tribes like the Khasas, Dars, Bhuttas Damars, Nishads, flourished later. Later the Aryan dominated and set up institutions of governance. Recorded history claims that Gonanda I, was the earliest ruler. After him, 43 weak and insignificant rulers sat judgement over Kashmir. The first major historic rule was that of Ashoka (274-237 BC). He was a Buddhist ruler who extended his empire up to Kashmir. He respected all religions and introduced a regime of tolerance. Only to give way to Shaivism by his son. Buddhism got a fillip with the Kushan ruler Kaniskha (78 - 123 AD).

Buddhism did not enter Kashmir abruptly by royal fiat or under threat of force. One of the unique features of the valley was that religious conversions were largely gradual and voluntary in nature; with one set of beliefs leaving its footprints, even after giving way to another. Till date, traces of Naga culture are found in the valley. In almost 500 places relics are still dedicated to the Nagas.³ The process of conversion also began with the less privileged sections of society who welcomed a belief that does not reinforce and justify social injustice, as traditional religions tend to do. Vedic Brahmanism, had replaced animistic Naga worship when it allied itself with cruelty and suppression, the humanist, egalitarian message

of Buddha, spread by devoted monks, found ready acceptance. When Buddhism itself became corrupted by ritual doctrines, Brahmanism staged a come-back. This was followed by the adoption of Islam. Buddhism reigned supreme from the third to the twelfth century.⁴

The Sixth century saw the invasion by the White Huns led by Mihira-kula, whose rule was repressive and sadistic. Thereafter, the Kashmiri nobility organized themselves and popular rule followed. For the next 1400 yrs. Kashmir went through benevolent rulers and those who took persecution to new heights. The rule of Lalitaditya was the most eventful, followed by the Karkota dynasty which saw the Golden period of Kashmiri Buddhism. Utpala dynasty with Anantivarman's rule saw the revival of Brahminism. The Gupta dynasty, vitiated the atmosphere. Buddhism received royal patronage. But it had lost its mass appeal. It was decadent and trying to survive against the engulfing Brahmanism.⁵

A series of inept rulers, victims of palace intrigues saw the first of muslim invaders. Mahmud of Ghazni tried to enter the valley, but was repelled due to high mountains and intense cold. He made two infructuous attempts in 1015 AD and 1021 AD, but could not cross the Pir Panjal range.

The rule of Ananta (1028-63 AD) (he repelled the invasion from the North), Harsha (1089 - 1101 AD) (who

though a great patron of learning was cruel), Uccala (1101 AD - 11 AD) (capable and resourceful) set Kashmir on the path of degeneration. This coupled with floods and famine further deteriorated conditions in the valley. This process was hastened in the next 200 years with the rule of weak and selfish kings. The inadequacy of rulers had tragic consequences. No attempt was made to defend the valley against Mougul hordes led by Dulacha who laid it waste in 1320 AD. An era ended. Hindu society in Kashmir had degenerated and the land was ripe for Islam.

In the centuries that had passed, Kashmir had gone through periods of intellectual and cultural excellence unequalled in the region. Women enjoyed a high status and equal civic rights.⁶

Literature and philosophy flourished; Kalidasa's Shakuntalam has several references.

Kashmir enjoyed a unique social structure and a rich cultural heritage. The peculiar character of its people has to be understood not only in terms of its antiquity, but also in terms of an amalgam different ethics, religions and cultural influences working on them through the slow process of time. The persistence of tribal survivals and their influence on Kashmiri social structure, also the interaction of complex historical forces from the Nagas contributed to the creation of Kashmiri society. Thus what

it presents is a composite entity that has absorbed cultures of many races. Foreigners did not alter their basic way of life. What makes this culture distinct is that on account of high mountains, these influences did not flow out to other parts. Climatic conditions too restricted the flow of ideas.

Brahmins occupied a privileged position. Land grants from the Palace, sacrificial fees/gifts, accounted for their earnings. Consequently it led to inequalities, Brahmins flourished at the expense of the working population. But this in no way led to a strict Varna system Kalhan's Rajatarangini rarely uses the terms Kshatriya, Vaish, Shudras, but makes repeated references to Brahmins and their elaborate rituals and their clear monopoly over them. This is the reason of their unimpaird hegemony, despite the absence of rigidity in the overall social system.

From the socio-economic point of view Kashmiri society was based on private ownership of wealth and property. Agriculture was the mainstay. Trade was prosperous. On the basis of this, society was split into many classes. Very rich to very poor, respected to despised. Inequality of status, was the distinguishing feature of the social and stratification during the Hindu rule.

Religion exercised tremendous influence and contributed to its ethnic, cultural and social development, silently and subtly. Religious conditions have oscillated. Naga worship continued even after the Aryanization of Kashmir. Conflict arose but soon became reconciled. When Buddhism held sway, there was confrontation between the Nagas and the Brahmins. Later, the Nagas and Brahmins joined hands to rout The Buddhists.⁸

Buddhism came into Kashmir in protest against increasing ritualization, hegemony of Brahmin priests, Buddhism promised freedom and equality of status. Ashoka helped establish it, Kanishka took it to pinnacles of glory, as he held the third Buddhist Council. But it soon saw decline with the rise of Shaivism and Vaishnavism. It disappeared inspite royal patronage. It disappeared by the end of the 13th century A.D. Its spirit of tolerance, compassion, fellow feeling survived and got absorbed.

Brahminical faith, was an amalgam of traditions from the pre-Dravidian, Dravidian and Indo Aryan sources. Its elements included deference to Brahmins, rituals in honour of a deity, belief in reincarnation, sacredness of cattle, pilgrimages, and salvation. The concept of the Triad formed by Brahma, Vishnu & Shiva dominated its doctrine.

The emergence of Shaivism and Vaishnavism in Kashmir is shrouded in a mist. Shaivism is of pre-Aryan origin, as mythology claims that Kashmir was called Sati desa⁹ or Sati's abode. Sati was Shiva's consort. Kalhan also refers to the shrine of Shiva Vijayeswara in the pre-Ashokan era. Subsequent rulers too patronised it. But its form kept changing. Early Shaivism belonged to the Pasupara sect - lord of cattle, meditation, repetition of "OM". It then degenerated to Tantrism. To be followed by pure Advaita Tatwa or idealistic Monism.

The essential feature of Kashmiri Shaivism is based on Tantras, which have been classified as Bhairava (Monistic), Rudra (mono-dualistic) and Shiva (dualistic). However, as the idealistic monism of the Trika system was exclusively philosophical and ethical, it was confined to a particular class of learned religious minded people only. The masses were attached to the old form of Shaivism.

Under the Karkota dynasty Vaishnavism gained ascendancy and reached its zenith during Utpalas. Its popularity can be attested by the number of temples, shrines and images of various Vishnu incarnations at Verinag, Martand, Anantipur, Baramulla, Andarkot, Huskapura¹⁰. Vaishnavism was a synthesis of different Vaishnav cults, in Kashmir.

Thus Kashmir witnessed the gradual evolution of a religious philosophy which embodied the fusion of the ancient Vedic with the Buddhist belief. It came to be known as Kashmiri Shaivism or simply as Trikha.¹¹ It was founded in the eight century by Vasugupta. He was followed by a succession of scholars who elaborated on the theme and left erudite commentaries on Shaivism. Islam came to exercise its influence on Kashmir in the middle of the Eighth century. During Ananta's rule, this influence was more marked. He gave refuge to Sahi prince's who had fled from Punjab after its occupation by Ghazni. They soon acquired hold over the king and tried to introduce many Islamic beliefs. Lohars consolidated this influence which finally gained prominence in the 11th century. Harsha's rule made the maximum advances in Islam.¹²

Economically too Kashmir vacillated between prosperity and misery. Natural calamity worsened the situation.

The Hindu rule was followed by a series of Muslim rulers, who gradually wove into the prevalent culture threads of Islam. Politically by the end of the 14th century, Kashmir was a hotbed of intrigue civil strife and struggle for power. The advent of Muslim rule was facilitated by internal dissensions. Shah Mir took advantage of these and became Sultan Shamsuddin. His rule

saw Hindus and Muslims with benevolence. These internal intrigues took place when Kashmir faced invasions from without, e.g. Kajjalain (1286) A.D, Dulacha (1320) A.D, Achala (1325 A.D). This was accompanied by an economic drain. Faulty land revenue system, suzerainty of the Brahmins and heavy taxation of the non-Brahmins worsened the situation.

Shihab-ud-din's (1354-73) A.D rule was the most glorious in the history of the Muslim Sultanates in Kashmir. Feudal power was curbed, prompt relief was provided during floods, and Hindus and Muslims were respected alike. But it was during his brother's rule (1373-89) A.D that Sayyid Ali Hamdani came to Kashmir and thus began a strict adoption of Islamic practices. This Islamic zeal assumed fanatical proportions during Sultan Sikander's rule (1389-1413) A.D. He attempted forced Islamization. If Hindus were favoured by the State in matters of revenue earlier, now they were discriminated against, through Jaziya. His Prime Minister Malik Saif-ud-din a recent convertor zealously unleashed a reign of terror against those who resisted conversion. It is from this period that the predominance of Muslims in the valley begins. Locals were offered 3 choices - death, conversion or exile. It was for the first time that the State machinery was used for conversion. Initially Islam was accepted by Hindus without coercion. Once used, force

had to be used repeatedly, for the faith of the peace loving Hindus in Islam had been shattered and willing conversions ceased. Sikander and Saif-ud-din did a great disservice to Islam.

That Islam came to Kashmir initially by peaceful rather than enforced conversion was of significance to its future history. The form in which it made its first impact on the valley also eased its passage. Sikander's rule saw the entry of Sayyid Hamdani and his followers, escaping from the cruel intolerance of Timur, they left the Persian city of Hamadan for Kashmir. Theirs was the gentle meditative eclectic order of Sufis, originating in Bukhara, whose way of life evoked admiration rather than fear. The sufis emphasised meditation and contemplation in common with the Hindu and Buddhist practice. They stressed the universonality of all religions which did not endear them to conservative muslims.¹³

Another Sufi divine from Turkestan, Sayyid Bilal Shah left an indelible mark on Kashmiri history. He was soon revered in the valley and made several converts, the most eminent being Rinchin, who captured power in 1320 A.D, to become its first Muslim ruler.

Then there were the mystics, teaching all those who would listen, in a mixture of song and verse. They were both Hindu and Muslim, in origin, but their belief had much

in common. The first and best known was Lal Ded, born in 1335 A.D into a Hindu Pandit family. She synthesised in her verses the philosophy of Trikha, and Islam. It was a blend of both religions and likewise was revered by Muslims and Hindus equally. Hindus remember her as Lalleshwari or Lalla Yogeshwari, while to Muslims she was Lalla Maji. But is popularly known in the valley as Lal Ded.

Lal Ded greatly influenced Sheikh Nooruddin a muslim divine. Born in 1377 A.D he disdained the orthodox Islamic schooling and religious formalities. He contemplated till a point where he was filled with self doubt, until he learnt from Lal Ded to have faith on himself and his destiny and not to depend on the mercy of higher powers on whom the mullahs and priests preached reliance.¹⁴ Popularly known as Nund Rishi he founded the austere tolerant sufi order of Rishis and his mystical teachings spread widely. His grave at Charar-e-sharief was a place of sanctity and pilgrimage till it was burnt down. The magnificent wooden structure with exquisitely carved latticed windows which alongwith the adjacent mosque was gutted in a devastating fire on the 10th of May 1995. The shrine epitomized the spirit of Kashmiriyat. As flames swallowed the shrine of the Sufi saint Nooruddin Noorani in Chrar-e-sharief, the irony could not have been more tragic, more symbolic. Built more than five centuries ago, it was a monument to the secularism and tolerance of sufism, the

bedrock of Kashmiriyat. Situated in a bowl shaped valley in central Kashmir Badgam district about 45 km from Srinagar, the shrine was a veritable fountain of hope for people of all faiths. To the muslims Noor-uddin was Alamdae-i-Kashmir and Nand Rishi to Hindus. Founder of the rishi cult, he preached non-violence and religious tolerance. The shrine houses the tomb of Nooruddin and his eleven caliphs. It is also a repository of several religious relics, including Prophet Mohammed's daughter Fatima's Arabian dress.

Owing to its proximity to the Line of Control and a dense forest that rings it, the town became a haven for infiltrators.

The possibility of becoming a Muslim without being forced or evoking public ostracism came to the hinge on which the change from Hindu to Muslim rulers turned smoothly. The architect of the change was a Buddhist Chieftain Rinchin from Baltistan who captured power in the valley, in a palace coup in 1320 A.D. After him, Shah Mir (a Muslim adventurer) and Kota Rani, organized a limited resistance to Dulacha's hordes. Rinchin was an effective and popular King.

At that period, Buddhism had a limited following in Kashmir and Rinchin needed as much popular support. This led to his change of religion. His first choice was

Hinduism. but was declared as impossible by the head priest. It proved a turning point in history. He thus embraced Islam after being impressed by Sufi Bulbul Shah's austere life style.

His rule was followed by his queen Kota Rani. Finally, Shah Mir, (Shamsuddin) was crowned King in 1339 A.D. Thus he was the first of an uninterrupted chain of Muslim rulers until Maharaja Ranjit Singh annexed Kashmir 500 years later.

Islam thus made its way into Kashmir by gradual conversion for which the influx of foreign adventurers from both the South and Central Asia had prepared the ground. The adoption of Islam by the great mass of the population did neither effect the independence of the country nor at first change its political and cultural conditions. The administration remained as before in the hands of the traditional official class, the Brahmins, for whom a change of religion presented no advantage and who, accordingly, retained their inherited status, together with its literary traditions.

Traditional architecture in Kashmir is also a blend of Hindu, Buddhist and Islamic influence, which is unparalleled. The mosques are unique with their wooden spires, raised on the pattern of Buddhist Viharas. This is what is unique. Charar-e-sharief is thus not a symbol of

Islam. But an epitome of this Kashmiri culture. What is destroyed or humiliated is not Islam, nor was it an assault on Muslims. It was a dent on the distinct Kashmiri culture. An assault on the values which are amalgam of Hinduism, Buddhism and Sufism.

Like Charar-e-Sharief, there are innumerable shrines revered by both Hindus and Muslims.

All this confirms the positive interface between Hinduism and Islam. P.N.K.Bamzai claims that the influence of Islam penetrated, the valley long before a Muslim King ascended the throne. It grew for it found fertile ground, as the people were groaning under the misrule of later Hindu rulers, where trade languished and agriculture was at a standstill. Added to it was the burden of rituals dominated by the Brahmins. Since the shackles of caste had snapped as a result of Buddhist thought, it was easier for the masses to embrace the new faith and its projections of social and religious humanism.¹⁶

P.N.Bazaz emphasises not only the peaceful transition to Islam but also its regenerative impact. Rapid and peaceful conversion to Islam was facilitated by the spread of the cult of Religious Humanism taught by Lal Ded, Nund Rishi and their followers. Islam as practiced in the valley though is based on the Koran, it has been influenced by ancient Kashmiri culture. A Kashmiri Muslim shares with

his Hindu compatriot many inhibitions, superstitions, idolatrous practices as well as social liberties and intellectual freedoms which are unknown to Islam. Even, Islam has not left Hinduism unaffected in the valley.¹⁷

There were blood thirsty and iconoclastic Muslim conquerors also like Sikander (1389-1413 A.D) who in his zeal to obliterate all traces of Hinduism forced conversion on the pain of death. But only to be followed by a benevolent rule by his second son Shahi Khan, who, assumed the title of Zain-ul-Abidin (1420 - 70 A.D). He is fondly remembered as Bud Shah. Only eleven families were said to have been left when Bud Shah took over. He persuaded them to return and engaged in activities which encouraged them to return built temples, celebrated their festivals, banned cow slaughter, undertook a pilgrimage to Amarnath, encouraged scholarship in universities. He balanced the interest by inviting even Islamic scholars. Arts and Science flourished, the home industry expanded, justice and prosperity prevailed. He was one of the rare medieval monarchs who appreciated the philosophic essence of religious teachings and was able to surmount the crude antagonisms cultivated in its name. He did not try to evolve a distinct religious faith like Akbar's Din-i-Illahi, but represented a distillation of the two religions and cultures. He was essentially a Kashmiri who built a progressive and secular state on the foundations of

the composite Kashmiri culture which had been evolved through thousands of years till his own day.

However, his son proved to be a transformation in reverse. Kashmir was back to the unhappy times of despotic rule without institutions to maintain administrative continuity, there was no protection against the uncertainties of dynastic succession.

The concluding years of local muslim rule in Kashmir was unsettled and unhappy as the last years of the Hindu rule. Different groups fought to wrest power. Shias and Sunnis frequently came to blows. But there was enough local patriotism, for Kashmiris to unite in repelling the forces of Babar who tried more than once to include it in his dominion. The last attempt was in 1529 A.D. However, politically the valley degenerated. Conspiracies and court intrigues worsened the situation. Sayyids, Magreys, Chaks, Dars were all weak and petty rulers.

Kashmir, however, continued to fascinate the Mughals. Mirza Haider Dughlat tried to persuade Humayun to consolidate his forces here when he was on the run, but failed. Dughlat attempted to capture the valley in 1532 A.D but was repulsed, but nonetheless succeeded eight years hence when the nobility was divided. He ruled effectively through Nazuk Shah. But in the course of time, he injured Kashmir sentiment by placing Mughals in senior posts.

The locals were further upset when he minted coins in the name of Humayun, who was the ruler in Delhi. He persecuted the Shias and Sunnis. He ill-treated and banned the Sufi order, the Nurbakshias. This religious fanaticism generated resentment in the minds of the majority of Kashmiri muslims.

Mirza Haider's death saw the return of local factions scrambling for power. One of the last Sultans of Kashmir Yusuf Shah Chak of the Chak dynasty, created conditions which paved the way for Mughal intervention.

Foreign domination of Kashmir in the real sense of the term began under Akbar. To be followed by the Afghans and Sikhs.

Akbar's rule ended discrimination between Hindus and Muslims. A uniform administrative and tax structure revival of the handicrafts, all mitigated the chronic poverty of the valley. Jahangir, and Shah Jahan, apart from order and stability brought elements of leisure and festivity to Kashmir. Although a better administrator, Aurangzeb's stern religious temperament began the undoing of what his predecessors had achieved in terms of winning the loyalty of their subjects irrespective of religion or sect. In Kashmir, it was not only the Hindus who found themselves again subjected to unfair laws, but the Shia

community was also persecuted by Aurangzeb's Governors. Aurangzeb being a staunch Sunni was not given to enjoyment and visited the only valley once. He changed his governors frequently and the people became restive. Once again there was civil disorder. This was followed by a series of inept lesser Mughals as a result of which the valley suffered greatly. The Kashmiris began to look to other rulers in the vicinity. By 1752 A.D, on the insistence of two Kashmiri nobles, Ahmed Shah Durrani established the Afghan rule. They proved to be even more exacting and tyrannical than their predecessors. Temples were desecrated, and the economy was at a standstill. Every one suffered. Though Hindus and Shias were the main victims. Afghan rule was predatory and sectarian and was brought to an end by the advent of Sikh rule.

In 1813 Sikh soldiers despatched by Maharaja Ranjit Singh joined Afghan troops in attacking the valley. But Afghans got in first and installed their Governor. Ranjit Singh tried again but failed, only to succeed in 1819. Birbal Dar, a Pandit landowner was instrumental in this process. This marked the end of muslim rule in the valley after nearly 500 years.

Before the Sikh rule, there was gaping chasm between the affluent aristocracy and the local masses. The Economy was ruined. Natural disasters worsened the situation. But

the 27 year rule restored the confidence of the people. Victimization and suppression came to an end. But no system was adopted which would have assured permanence to this era. Younghusband, a British political resident in Kashmir, observed that the Sikhs were not so barbarically cruel as Afghans but were hard and rough task masters. Extraction was their aim.

The advent of Islam in Kashmir resulted in the development of a unique social order. Among the Hindus, the old liberal Varna system gave place to a rigid caste system owing to the conservative attitude of the Brahmins. (Their refusal to admit Rinchin is a pointer in this direction.) With the spread of Islam, priveleged posts came to be occupied by Muslims, Brahmins were relegated. They stuck to their own religion, while the rest, slowly embraced Islam. While Islam permits no caste system, many Hindu converts did not give up their old surnames. Thus Kauls, Bhattas, Mantus, Rainas and Pandits among the Brahmins and Dars, Magreys, Rathors, Thakurs, Nayaks, Lens, Chaks, among the Kshatriyas retained their names even after embracing Islam. Those who abandoned these names after conversion began to be called after their profession.

With large scale conversion to Islam, the spirit of the old Varna system was revived and a new society based on class distinctions came into being.

In the hierarchy of power and prestige, the Sultan and the royal family were at the top. Followed by the nobility (Chaks, Magneys, Dars, Rainas). The religious classes too flourished alongside, among the Muslims being the Ulemas, Sufis and Sayyids. Ulemas being the learned doctors of Islamic law and interpreters of religious dogma/shariat. More than them, the Sufis and Pirs influenced the religio-cultural life. There were six chief Sufi orders in medieval Kashmir - Qadriya, Suhrawardiya, Kubraviya, Naqshbandiya, Nurbakshiya and Rishi.

The spread of Islam owes much to the work of these ascetic sufis. They acted as social reformers. They preached the gospel of other worldliness, and initiated voice against oppression and injustice.

Thus the Muslim period witnessed the evolution of a unique culture.

The collapse of the Sikh rule left a vacuum in Kashmir. The British were not willing to govern it for their resources were drained following the Sikh and Afghan wars. Distance and geographical location proving another disincentive. So it was preferred to place Kashmir under a local boss of proven reliability. The Dogra Raja Gulab Singh was ready and willing. He proved his reliability by aiding the British in the Battle of Sobraon in 1846. Being

a soldier of fortune par excellence, he worked his way up, through Ranjit Singh and the British.

The treaty of Amritsar of 16th March 1846¹⁹ which handed Kashmir and its adjoining areas, ceded after their defeat by the Sikhs, to Gulab Singh, was a result of many crucial factors. British owing to the financial and administrative constraints on the East India Company., were hesitant to take over Punjab and Kashmir, yet wanted to extend their sway. Gulab Singh too was an opportunist and with right timing was able to garner a potential kingdom for himself. The deed was finalized over an absurd sum of Seventy-five lakhs of rupees, while accepting Britain's over-arching supremacy. Thus Gulab Singh established a new Dogra dynasty for the people of Kashmir, who had not been consulted, it was the beginning of another era of exploitation. The Kingdom of Kashmir now was the largest princely State. It stretched to Ladakh and Baltistan, Kishtwar, Bhimbar, Rajouri and Poonch, along with Jammu.

The State of Jammu and Kashmir, as it was called now, had become a mini empire with variation of religion, language, race, custom, status and economic advancement, as diverse as its landscape, stretching from the plains to the highest mountain and Gulab Singh was an autocratic ruler and his method of imposing authority was barbarious. He wanted to regain his seventy five lakhs and thus indulged

in undue extortion and taxation. But he was an able and energetic ruler. After Afghan and Sikh uncertainties, he revamped the administration. But its residents continued to be discriminated against those of Jammu. This began to take a communal complexion because the Maharaja was an orthodox Hindu (as the people of Jammu) whereas Kashmir had become entirely Muslim dominated.

Gulab Singh's son hastened to follow his father's policy and helped the British during the 1857 Mutiny. He was awarded by an amendment in the Treaty of Amritsar which authorized him to adopt a male heir not being born to him. He outdid his father as an orthodox Hindu. Substantial amount was spent in propping up Dogra culture, and Dogra people all over the valley. This was worsened by the impact of repeated famines, epidemics and earthquakes.

While allegations against Ranbir Singh indicated mounting dissatisfaction in the valley, they were also seized upon by the Viceroy to increase pressure on him to fall in line with the British imperial policies. In spite of all out support to the British, Maharaja Ranbir Singh resisted moves which amounted to interference in the State administration including the suggestion to appoint a Resident. With Ranbir Singh's death pressures mounted and on his son Pratap Singh was forced a British Resident. After a series of intrigues to annex the State, Pratap

Singh was required to step down in favour of a Council of Regency, over which the Resident had control, in 1889.²⁰ The Viceroy was now able to interfere in the State administration whenever he chose without the responsibility of direct rule.

Efforts to improve and strengthen the administrative services created resentment among the Pandits, who had earlier dominated the jobs. The Court language was now Urdu (earlier Persian). But the valley's Muslims lagged behind; both in education and jobs.

Pratap Singh's reign, despite its inadequacies brought Kashmir into the Modern era. His nephew Hari Singh succeeded him. Kashmir languished under his rule, absolute illiteracy among the Muslims, poverty, low standard of living, no forum for representing grievances. Kashmiris were not recruited in the army.

The Dogra rule finally set the Hindus and Muslims on a confrontationist path. And did not help strengthen the forces of composite culture.

But all this helped create an ethos which was unique only to Kashmir. There was no discord or confrontation. An encouraging aspect of this ethos or Kashmiriyat is that its compositeness and unity was a result of different castes and communities. Kashmiriyat today has no

independent existence. It is not a product of one religion. It is a composite convergence of sects and cults of Nagas, Shaivites, Vaishnavas, Buddhists, Sufis, Rishis. The spread of Islam too, despite all the bigotry of some rulers and plunder of Abdali, helped positively in the evolution of this composite culture. The traditions followed by Kashmiri Muslims, the indigenous methods of practicing their faith, following the customs, to the extent of modifying the rules of Islamic jurisprudence makes them distinct from their co-religionists elsewhere. Similarly the Hindus of Kashmir developed their own indigenous philosophies, devised their own symbols and created their own traditions, which distinguishes them from the preponderant majority of their coreligionists in the sub-continent.²¹ They wrote their own Vedas and Shastras, discovered their own Gangotri at Gangabal and their Haridwar at Shadipur in Kashmir.

The lineage of Kashmiri people had given their distinctive looks; the fusion and assimilation of varied faiths and cultures had resulted in their specific ethnicity. The land, the climate, the geography also shaped the evolution of their particular ethnic profile. A common language bound them closer into a distinct cultural grouping. In case religion is taken to be the main ingredient of ethnicity, then the Kashmiri people had evolved their indigenous religious practices by

assimilating the religious practices of varied religions; the Rishis had put a final seal to this mutual understanding long ago.²² They evolved a common platform and enunciated a new phase of cultural evolution. Baba Nasir-ud-din, Baba Bom-ud-din, Shaikh Hauza Makhdum, Sayyid Ahmed Kirmani, Sayyid Hisari, were some important rishis.²³ G.M.D. Sufi observes, the cult of Buddha, the teachings of Vedanta, the Mysticism of Islam have one after the other found a congenial home in Kashmir on account of its cultural homogeneity and geographical compactness all who emigrated to Kashmir merged their individual identities into one.²⁴

One fundamental attribute characterizing Kashmiri behaviour is ethnocentrism. Ethnicity permeates beyond the horizon of the Kashmiri personality to that of Kashmiri identity. While scanning the pages of Kashmiri history, the inevitable multifaceted dimensions of its culture emerge. This composite cultural mainstream can be broken up into two variables that interact with each other and avoid falling into the extremes of either regional chauvinism or religious intolerance. They being the regional linguistic and cultural dimension and religious urges cum Pan Islamic tendencies.²⁵

Kashmiriyat which thus was manifested in the solidarity of different faiths and ethnic groups in the

State had the vitality to resist tribal invasion in 1947 which was aided and abetted by Pakistan to forcibly occupy Kashmir. Again in 1965, armed infiltration from Pakistan followed by a direct Pakistani military thrust failed to arouse the people.²⁶ Kashmiri identity has been developing signs of exclusiveness for some time now, which apart from placing this identity under strain has been creating fertile ground for suspicions, disenchantment and political machinations to thrive. The religious edge in its exclusive form has been getting sharper, which in turn has been diluting Kashmir's ethnicity.

In the post Independence era, Kashmiri Hindus, who had laid the foundation of this ethnicity and who had played a pivotal role in developing Kashmiriyat, started identifying itself with the larger Hindu majority of India. For various political and economic reasons, they abandoned their indigenous beliefs and started merging with India's majority community. They began to seek greater political and cultural integration between the state and the Union of India.

The Muslims likewise influenced by events taking place beyond the Bannihal Pass (India) and partly by the winds blowing across from the Haji Pir Pass (Pakistan), too are diluting the ethnicity of Kashmir. They appear to have been led to a course, where the religious edge of Kashmiri

identity in its exclusive form is getting more and more sharpened to the detriment of Kashmiriyat. They are being encouraged by Islamic fundamentalists in Pakistan and discouraged by Hindu nationalists in India.²⁷

A section of Kashmiri Muslims appear to be living behind a smoke screen and they seem to be missing the ethnic complexities of the essence of Kashmiri society from which Kashmiris have always drawn inspiration. This smokescreen is due to the ruptured political developments in the State to which has been added a sustained campaign by a group with a particular political outlook and approach to religion.

Kashmiri identity has been under attack from many directions and from different quarters. From within the State and outside, from both India and Pakistan, from both Hindus and Muslims. The Pandits as well as the Muslim clergy have vitiated the environment and helped rupture the fabric of Kashmiriyat. Both Hindus and Muslims in the valley have attempted to provide a communal spirit in the valley.

RE-INTERPRETATION OF KASHMIRIYAT:

The Kashmiri Pandits are linked with the cultural, spiritual legacy and caste recognition. In Kashmir most scholars were referred to as Pandits. Pandit being one who

possessed and imported knowledge. It is wondered why the Hindus of Kashmir are entirely composed of Brahmins. Kashmir was always an open society. Brahmins were a privileged class and later brought into the doctrine of Hinduism an element of rigidity.

Kashmiri Hindus form about 3% of the population of the valley.²⁸ They are the original sons of the soil, tracing their origin back to thousands of years. Though Hindus, they have developed a distinct sub-culture of their own. Their language is Kashmiri, originally based on Sanskrit, it was influenced later by Persian. They have their own 'Prayag' and 'Ganges' in the valley. Some of the most sacred places - Amarnath, Khir Bhawani, Sharda Bhawani are all located in the vicinity of the valley. They further hold the existence and survival of Kashmiri Pandits, as a sub-group of Hindus, is so closely dependent on their geographical surroundings in the valley that they will become extinct as a distinct community if remained away from the valley. The Pandits reside within a radius of 15 - 20 Km in the valley and are a closely knit community.

In the past, the Kashmiri Pandits, a minuscule minority lived in harmony under Muslim predominance, without facing any threat to their survival as a community.

Turbulent environs over centuries have inculcated survivalistic tendencies in the Hindus of Kashmir. As a

single ethnic group they evolved an exquisite cultural pattern with the strand of the principal religion. They made efforts to maintain a separate Kashmiri identity. In the process, they dominated the economic and political scene.

Another point of view is prevalent that the relationship between the Hindus and Muslims of Kashmir is a complex one, based on a love-hate syndrome. They share a common culture. Yet, there is a chasm which raises questions about reasons for the present condition.²⁹

Both communities, have been bereft of riches. The Hindus maintained their traditional occupation with the written word. They learnt the languages of the rulers - Pathans, Sikhs, Dogras and English in order to maintain their supremacy and be visible in the job market, while their Muslim brethren were conservative and depended on agriculture and trade for sustenance.

Muslims held sway as long as Persian and Arabic language held sway. With the advent of Urdu and English, they passed into the hands of the maulvis. Thus the mass of Muslims were kept away from the benefit of government services. Consequently, the Kashmiri Hindu became visible as a Munshi, Patwari or Girdwar in the government hierarchy; thereby earning the envy of his Muslim neighbours. When the ruler came down with a heavy hand on the masses, the Hindus became the instruments of the

government policy, further enhancing the sentiment of relative deprivation. Another reason for the growing disaffection was the widening gulf between the rich and the poor. A new class of wealthy people emerged, who soon lost touch with reality. The deprived sections unfurled the flag of militancy in the valley. The first brunt of this new revolution had to be borne by Kashmiri Pandits and the wealthy Kashmiri Muslims. Panun Kashmiri - a Pandit based organization of Jammu stated that there was 80% literacy among Kashmiri Pandits as against 26.6% in the State. Yet, they did not fill up more than 4% posts in the State Services. Kashmiri Pandit account for only 8,500 out of 2,10,000 employees of the State Government.³⁰

Power was in the hands of the Muslims after accession. There was no Kashmiri Pandit in the executive committee of the National Conference in 1990. P.L.Handoo, a Kashmiri Pandit, was only a special invitee to the meeting. He represented Anantnag as a National Conference Member in the ninth Lok Sabha. A section of politicians surge that Kashmiri Muslims have been denied a share in State Services. But the fact is though Kashmiri, Muslims lag behind in their educational qualifications, their representation in State Services is proportionate to their population.

Table 2

Percentage of Each Community Employed in the Government Department as on 1.7.1987.

Category of Service	Hindus	Muslims	Sikhs	Others
Gazetted	51.18	41.71	5.82	1.59
Non-Gazetted	37.89	56.23	4.23	1.64
Inferior	29.42	65.52	2.06	3.00

Source: Ministry of Home Affairs, Government of India, Annual Report 1991.

Table 3

Percentage of Employment and the % of Each Community

Name of the Community	No. of Employees in Govt. Service	% in Employment	% in Population
Hindus	70382	36.59	32.24
Muslims	110931	57.67	64.16
Sikhs	7282	3.79	2.23
Others	3764	1.95	1.34
Total	192359	100.00	100.00

Source: Ministry of Home Affairs, Government of India. Annual Report 1991.

Table 4

% of Employment and % of Population

Name of the Community	No. of Employees	% in Employees	% in Population
Hindus	10,398	33.75	32.24
Muslims	18,733	60.80	64.19
Sikhs	1,499	4.87	2.23
Others	178	0.58	1.34
Total	30,8008	100.00	100.00

Source: Ministry of Home Affairs, Government of India. Annual Report 1991.

Table 5

Employment of different communities in Officer category in Central Government establishments in Kashmir on 1.1.1989

Category of Service	Community	Number	%
Officer	Hindu	1,613	83.661
Officer	Muslim	133	6.89
Officer	Sikh	161	8.35
Officer	Others	21	1.10
Total		1,928	100.00

Source: Economic and Political Weekly, 31st March 1990, on the basis of information provided by Prof. Saifuddin Soz, MP from J/K.

Syed Tassadaque Hussain argues that individually Kashmiri Pandits are the finest people - delicate and

intelligent. To obtain their objective they would stop at nothing. While in other parts of India, the lowest strata converted to Islam, in Kashmir it was the high caste Brahmins to take to Islam to escape Afghan tyranny. But despite this they remained an ethnic part of the same community.³¹

Most thinkers argue that despite difference, there is no question of Hindu or Muslim communalism. Nor was there any serious conflict or confrontation. In the prevailing social milieu a close affinity developed between them. There was no over-all difference between them. The totality of difference pertained to the faith factor. Politically, socially, psychologically their attitudes did not differ. The bond of a common language provided the strongest association of attitudes.

After Accession Kashmiri Pandits abandoned their homeland in search of better jobs. Thus slowly got distanced from the valley. Their population increased only by 4,000 between 1941-61. In 1990, they were forced to leave the valley.

This process got a further instigation from Pakistan in the guise of Islamic fundamentalism.

Owing to their outward looking attitude, Kashmiri Pandits are made out to be visible manifestations of Indian

nationalism. The concerted onslaught on secular traditions has an alibi in the form of repeated allegations about the negligence of the valley which is contradictory to facts.

As a counter-force to the Kashmiri Pandits, the Muslim clergy began to establish its sway over the valley. Its most vocal instrument is the Jamaat-e-Islami. Jamaat presents Islam as a political ideology and not as a religious pedagogy. It preaches reactionary obscurantist ideology and justifies these with its own interpretation of the Koran. They idolise a theocratic State. Abdul Ala Maududi, its founder explicitly claimed that Islam was a political ideology comparable to communism and fascism. It singles out secularism as its chief adversary for secularism makes a distinction between the personal and public life of the individual and banished religion from the latter. It also preaches militancy. Communalism of a minority community often centres on grievances of a political or economic nature and tends to be paranoid. It calls upon the Muslims to reorganize themselves into a revolutionary party with the aim of capturing total power and not concerned with the immediate gains of jobs. Under Maududi, Jamaat preached that the aim of Islam was to establish the sovereignty of God on Earth or an Islamic State and not the spiritual salvation of mankind.

Jamaat in Kashmir has come a long way since its

inception in 1942 in Shopian. Jamaat's strategy in Kashmir was two pronged. It had to follow the strategy of the Jamaat-e-Islami (Hind) as well as adjust itself to the native Muslim population of the State. Second it had contented within the Indian Union and try for theocratic rule rather than yield to the secular politics of the Congress. Jamaat in Kashmir severed its relations with Jamaat (Hind) in 1953 as the Kashmiri Unit did not recognise the accession of Jammu and Kashmir to India. Thus began an era where it subtly started creeping into the Politics of the State.

Sheikh Abdullah was resented for he represented secular forces and yet was popular among the Muslims. His tenure was an impediment in its growth. Successive rulers either supported or banned it according to political expediency.³³

Only in the 1970s did it succeed in making inroads among the students and launched its Islami-Jamait-e-Tulba. They opposed the 1975 accord. In the 1977 elections, it won one Assembly seat from Sopore based on a limited alliance with the Janata Party. It could secure only 62,652 votes from an electoral college of 26 lakh voters. In the 1983 elections, it drew a blank, but its share of votes increased. In 1987, with an alliance with Muslim United Front, it cornered 4 seats amidst allegations of

widespread rigging. This disillusioned a large section and led to the adoption of the cult of the gun.

Another factor which brought more people in its fold was its convening of an International Conference at Srinagar, which was attended by the Imam of Kaaba. To make a further dent in the reticent muslim population, it established Shariat based Islamic courts, spread of Islamic education and organised women. In spite of Jammaat's efforts, when Z.A. Bhutto was hanged, anti-Jamaat unleashed their fury on Jamaat activists for three days.³⁴

One of the socio economic causes of terrorism can be ascribed to the growth of the Jamaat.³⁵

With the success of the Jamaat, the institution of the Muslim clergy became important. Till accession, the Mulla, Qazi, Mufti and Khalifa³⁶ were insignificant. Post Accession constitution too augmented this process. They saw their fate sealed in secular India and thus were on the look out for a merger with an external force who would assure them supreme status. Pakistan was the natural and ever willing force. As the environment became conducive, they began putting up ideas like the Mosque being a weapon and the most relevant in politics.³⁷ This trend initially was liberal and non-fundamentalist and upheld the traditional communal amity of Kashmir. Maulvi Yusuf Shah and Maulvi Farooq stood by religious tolerance. But soon

degenerated and opposed Nationalism, Secularism, Radical reforms, and modern education. It is this segment which constitutes the bedrock of secessionism and militancy in the valley today. They demand Kashmir to be a theocratic state. For this purpose, they have launched a series of regressive social reforms - use of the veil, and prohibition.

The growth of the Muslim intelligentsia was belated and stunted. A Muslim Conference did come up in 1932 due to the efforts of a dozen Muslim graduates including S. Abdullah. But it remained aloof. It became the National Conference for political aims soon after leaving a large number disgruntled. Gradually there grew a powerful rich bureaucracy and elite of Kashmiri Muslim intelligentsia in collaboration with the big trading classes (Khwaja) and began to dominate the political, administrative and commercial life of the valley.³⁸

This created two problems. One was the need to keep the large majority of muslim masses from reacting to their ill-gotten wealth. Second the anxiety to perpetuate their dominant position. As this gain had created a fear psychosis in the context of the kid-glove treatment from the Central government which implied freedom from the regulating mechanisms of tax and vigilance authorities.³⁹ Thus the demand for a free State, clamour to join Pakistan,

rise of fundamentalism suited them. It directed the attention of the masses from the glaring contrasts of their sudden wealth.

To counter this anti India tirade, the Central Government devised ways of supporting the ruling group in the process, hastening the further degeneration of Kashmiri politics and administration.

What the ruling elite did not realize that this could prove to be their Frankenstein, what was intended to be a purely distracting tactic turned out to be their death knell. It snowballed into secessionist activity. The Jamaat took full advantage of this situation to further its own aims.

Pakistan found a good opportunity in the entire situation. The masses bent under rampant corruption, all safety valves sealed and the total breakdown of administrative machinery, all pointed to a situation Pakistan was waiting to exploit.⁴⁰

Most Kashmiri bureaucrats catapulted to power not on the basis of merit but by virtue of being members of a long oppressed majority community.⁴¹ They established close links with rich Kashmiri Muslims (acquired illegally). They then began a process whereby they the Jamaat-e-Islami grew its strength and the instrument of religion freely

used to shield themselves⁴².

There was much clamour regarding identity, Kashmiriyat, by the Kashmiri Muslims, pseudo intellectuals and academic circles. It is argued that professionals in Kashmir have only a skin deep belief in the notion of modernity. They are conservative in their life styles. They have a vacuum in their early lives and later the issues of rootedness, identity became very relevant. Tradition too acquires significance. They then become easily vulnerable to the communal propaganda, for it gives them an identity to relate to.⁴³

Today traditional Muslim intelligentsia is not in search of true identity - regional or cultural, but a muslim identity. Today a major section of even the educated Kashmiri Muslim intelligentsia dubs the composite culture as cultural aggression by the Hindus. Today Kashmiri culture has come to symbolise Pakistani culture.

This Kashmiri Muslim intelligentsia is today secessionist fundamental because it has been isolated from the democratic and administrative process. This led to frustration which resulted in its efforts to establish its hegemony over political and social institutions, enabling it to gain a commanding position in society.

It ideologically aligned itself to Pakistan, in the

hope that if Kashmir secedes to Pakistan, then they, i.e. the intelligentsia will be in a commanding position. The nature of Pakistan state is clergy, landlord, military, and bureaucracy based. The Intelligentsia plays a significant role keeping in mind a weak democracy, low political consciousness of the masses and firm roots of theocracy. Whilst Indian state has democracy deep rooted, with strong, liberal institutions.⁴⁴

Pakistan thus takes advantage of these conditions. It aims to disrupt the composite culture and fulfill its aims in Kashmir.

The fanaticism preached by the Jamaat at the instigation of Pakistan is a very alien concept even to Islam. Islam in the valley has been misinterpreted to fan vested interests. The common Kashmiri even today is moulded in the tradition of rishis, a liberal mystic trend. The idea of fundamentalism has been thrust upon it by careful propaganda by Pakistan.

KASHMIRIYAT:

Kashmiriyat which was a spirit, a culture of synthesis, understanding and humanism⁴⁵ has undergone a metamorphosis. Till the 19th century both Hindu and Muslim fundamentalism was alien to it. For S. Abdullah too, Kashmiriyat symbolised a spirit of independence and

secularism joined by free will to a larger community. It meant a rejection of slavery, hegemony and mutually regenerative creativity.⁴⁶

Today Kashmiriyat is akin to Islamic rule of the Pakistani mould. The wounds inflicted on Kashmiriyat was the forced exit of Kashmiri pandits from the valley. What has finally buried the original concept of Kashmiriyat is the burning down of the Charar-e-Sharief Shrine. Today, Pakistan claims that it is a wound on Islam but Charar-e-Sharief is bereft of all conservative Islamic influences. It was a symbol of a culture which was an indigenous mix of Hinduism and Islam. It was a bastion of sufism a liberal mystic formulation of Islam. It was not representative of the Islam or Muslim culture, preached by the Secessionists today.

What began as a melting pot of different cultures - Buddhism, Hinduism, Naga worship and advaitism and Islamic influences has disappeared. This has been written off with a single stroke on the instigation of Pakistan. Age old customs and culture wiped out in an instant all at the behest of a self-seeking opponent.

There were never any real basis of confrontation between Hindus and Muslims. Differences did begin to occur with the onset of the Dogra rule. But these were restricted to the upper echelons. of power seekers.

Because Dogras being Hindus favoured the Hindus, Muslims felt deprived. But it did not really percolate to the masses. It was restricted to privileges and power. Moreover, it was never organised or channelized directly. The Muslim conference did attempt to channelize this discontent. But political expediency proved more effective than sectarian interests. Muslim Conference became National Conference. Muslims for the first time voiced their demands when the Governor General Lord Reading visited Kashmir. They submitted a series of six petitions on atrocities and oppression and demanded their redressal.⁴⁷ Basically their wrath was directed against Maharaja Hari Singh.

The clergy in this process realized its worth. For, it was through them that petitions were submitted. It is either through ignorance or conservatism, the Muslim clergy disallowed the inculcation of a new vision in the mind of young Muslims. This backwardness in education deprived them of jobs. This they did not realise and on grounds of discrimination demanded reforms. Another interesting fact is that it was not the Dogras who were responsible for it. It was the British who ruled the State. In pursuance of their policy of "divide et empera" they aimed at creating friction between the two communities to facilitate their rule. Like elsewhere in India, in Kashmir too, the seeds of distrust were sown. Politics of partition provided a

healthy environment for them to flourish. Only to be further nurtured by Pakistan for its own strategic interests. What encouraged Pakistan was the activities of Kashmiri politicians like S. Abdulla, who had idealized the creation of an independent state. Something on the lines of Switzerland. But also knew that it was not viable. What Pakistan realized was that since neither was Abdullah sure how to achieve its aim, nor were the people decided, it could be exploited to their advantage. So carefully they embarked on a strategy. They tried in 1947, 1965, 1971 but failed. Persistence pays. Their efforts paid off in 1988.

Thus from composite culture to Pakistani culture is what Kashmiriyat symbolises today. Today it is increasingly associated with theocracy and Islamic life style. It is a weapon in the hands of the militants representing only sectarian and parochial interests. It exists in a vitiated form today. No longer is it a unifying, consolidating, positive cementing force. In its place Kashmiriyat today is negative, secessionist concept, fraught with communal and separatist overtones. The Kashmiri identity, ethos, heritage extending over the millennia, has degenerated to such a low level, the credit going purely to misled youth armed and trained by Pakistan.

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CHAPTER V

ARTICLE 370 - AUTONOMY ABRIDGED

The politics of Jammu and Kashmir is marked by terrorism aiding secessionist sentiment. It is a struggle against it for the restoration of political process disrupted by a dynamo, charged by external and internal factors.

We have noticed in earlier Chapters as to how composite living is attempted to be ruptured at the ideological level with recourse to communal re-interpretation of the past to suit terrorism. There have been in the contemporary period, political acts that had worsened matters leading to alienation. This in itself may not have led to terrorist secessionist movement. It cannot, however, be ignored. With this view, we turn to the change in the constitutional arrangement, specifically Article 370.

Let us first trace the origins of Article 370, or more candidly study the events and circumstances that led to its institution. The need for a separate political identity for Kashmir arose for the first time in 1944. With it arose the demand for a special status.

GENESIS OF ARTICLE 370 - PRE ACCESSION DAYS:

Historically the 13th of July 1931 was the nadir point of the erstwhile struggles launched by the Muslim subjects.

Maharaja Hari Singh's rule was communal and casteist. The absence of any organized group helped the State to be coercive. The conditions of the local Muslim population was appalling - illiteracy, poverty, reigned supreme. This environment paved the way for the first rumblings and consequently the first political upsurge took place!¹ The initial outburst had a communal overtone for the masses were Muslims and the aggressor Hindus. But it was not outright Muslim communalism.²

On the 12th of November, 1931, Hari Singh announced the appointment of a Commission under the Chairmanship of Sir B.J. Glancy of the Foreign and Political Department of the Government of India to go into the grievances of the Muslims. He also convened a conference under Mr. Glancy to consider constitutional reforms. Hari Singh accepted all the recommendations, whereby due weightage was given to the Muslim educated men in the services, agreed to constitute a Legislative Assembly (Praja Sabha) on a restricted franchise. This provided momentary relief to the majority community.

The Kashmiri Pandits were hostile to the Glancy Commission. The recommendations shocked them for it proved their undue representation in the services. They launched the Roti Agitation and demanded job security. They thus initiated the "Kashmir for Kashmiris" movement.

The Glancy Commission paved the way for the formation of the Muslim Conference as a political organization to agitate for people's grievances. Already a Jammu based Dogra Sabha was in existence since 1904. "The manifestation of the kind of sub-nationalism in one region of the State produced a counterpoise in the formation of Muslim Conference by Kashmiri leaders in Oct 1932."³ Their leadership was the neo-educated elite, highly politicized, fresh from the universities, firmly convinced about the need for a formal political organization to articulate and spearhead the movement, and aggregate, channelize redressal of all Muslim grievances. Sheikh Abdullah was its first President and he claimed that it was not communal. Its only objective was to put an end to the miseries of all communities to secure responsible government.

Hindu Communalists always had a peculiar approach towards Kashmir, both before and after 1947. Their policies echoed an anti-Kashmiri Muslim bias. In 1934, the Muslim Conference demanded early implementation of the Glancy Report and urged for a system of joint electorates in the State. In 1935, Sheikh Abdullah made repeated statements to join hands with Muslims, to rise above petty communalism and jointly work for welfare. His non-communal approach at a time when politics both inside and at the National level was vitiated due to the communal virus

resulted in the emergence of factionalism between the modern and religious sections.

Slowly it dawned on the Muslim leadership that Muslim solidarity alone would not be the remedy for the ills of large scale poverty, economic hardship and exploitation faced by the people of Jammu and Kashmir. On 28th June, 1938, its working Committee met in Srinagar to consider the question of changing its nomenclature. Thus in a special Session on 10th - 11th of June 1939, under the presidency of Khawaja Ghulam Mohammed Sadiq, Muslim Conference became All Jammu and Kashmir National Conference and every adult of Jammu and Kashmir was entitled to become its member. This plus a series of influences led to a rapid secularization of politics in Kashmir. Initially, they did not find a foothold in Jammu for the people of Jammu looked upon it as a manifestation of militant Kashmiri nationalism. This secularization created friction due to the non involvement of non-Muslims. This affected the standing of the Conference. In these conditions, some Muslims in Jammu backed by M.A. Hafiz, a Member of the Legislative Assembly, found the local branch of Muslim League and later in 1941, Chaudhry Ghulam Abbas renamed it, the Muslim Conference.

In order to arrest the growth of polarization, Nehru visited Kashmir in 1940. Due to which the National

Conference remained ideologically aligned to the Congress. This characterization of the Kashmir Movement helped in the emergence of a specific consciousness in the minds of the people, which was different from the dominant form of national consciousness in India.

In order to bring about a compromise between Muslim Conference and National Conference, Sheikh Abdullah invited Mr. Jinnah to Kashmir. While Sheikh Abdullah wanted neutrality in so far as Kashmir was concerned, Jinnah wanted a strong personality to counter Sheikh Abdullah and solidify the Muslim Conference. He gave a rebuff to the National Conference.

The 1940s was a period of conflicting ideologies. Both the Muslim League and the National Conference wanted to carve out their niche. Progressive forces from outside the State began to cast their spell. By 1943, a big group of CPI progressives emerged in the National Conference who were able to influence its future strategy of struggle in a decisive manner. It was they who put forth the demand of Naya Kashmir. Adopted on 29 - 30th of September 1944 it was submitted to the Government of Kashmir as a comprehensive Memorandum on the economic, political, social and cultural reconstruction of the State. It was divided into two parts.

- (I) The Constitutional Structure of the State;
- (II) The National Economic Plan.

Part I covered:-

- (i) Citizenship;
- (ii) National Assembly
- (iii) Council of Ministers;
- (iv) Ruler
- (v) Justice
- (vi) Local Administration
- (vii) National Language.

Part II envisaged creating a National Agricultural, Plan/Council, Nationalization of key industries, Planning to create an egalitarian society, civilized standard of living, National Education Council.

The disillusionment with the system of dyarchy practiced since 1944 led to a radical transformation in the approach of the Conference and eventually to the launching of a major struggle for political rights. Thus it launched in May 1946, the Quit Kashmir Movement against the autocratic Dogra rule who should surrender sovereignty to the people. Sheikh Abdullah was arrested. Nehru inculcated his friendship with Abdullah for he realized his importance as a popular leader in a geographically vital muslim majority area and thus was wise enough to cast himself in the role of a friend. Sheikh Abdullah was

tried under Section 124-A for treason under the Indian Penal Code.

The Muslim Conference adopted an equivocal attitude to the Quit Kashmir Agitation. It was seen as an election ruse to divert the Muslims in the interest of Hindu Congress. The Muslim league saw it as a threat to its political future in the State.

The Communist Party offered its unreserved support to the Kashmir Movement. It build up a solidarity campaign and raised funds to assist it, it took a stand on the illegality of the Amritsar Treaty and on the right of self-determination of the people of Jammu & Kashmir.

In 1947, the British government announced its plan for the future of the Indo-Pak Sub-Continent, with the passing of the Independence Act by the British Parliament, the paramountcy lapsed and Sovereignty went back to the States. The British had envisaged that the Princely States were free to accede to India or Pakistan or remain independent. However, the Muslim League and the Congress adopted divergent approaches as far as accession was concerned.

ACCESSION AND AFTER:

The State of Jammu & Kashmir became an independent identity on 15th August, 1947 in accordance with the Independence Act 1947, passed by the British Parliament.

On 17th June, 1947, Section 7 of the Act says : "The Suzerainty of His Majesty over the Indian States lapses and with it all treaties and agreements in force at the date of passing the act, between His Majesty and the Rulers of the Indian States".⁴

The Congress was against the idea that lapse of paramountcy meant reversion to Independent Status and Gandhiji appealed to them to join either of the two Dominions.

The Muslim League's attitude was different. For them, the Indian States will be Independent and Sovereign on the termination of Paramountcy and free to choose any option.

This policy paid rich dividends to Pakistan, when Sheikh Abdullah was struggling for representative government against the Maharaja, Pakistan's only chance of winning Kashmir depended on its support to the Maharaja and Jinnah nearly succeeded in this when on 12th August 1947, the State of Jammu and Kashmir telegraphically approached Pakistan with a request for the so-called standstill agreement which was telegraphically accepted.

Maharaja Hari Singh failed to appreciate the strains of the situation and finalize the issue of Accession. Against the background of Kashmir's indecision was not only the peculiar geographical position or the composition of

its population, but the fact that this decision was not unwelcome to all Indians alike. Hari Singh in the cloak of indecision attempted to isolate his State from the external environment. According to M.C. Mahajan Meher Chand who became Prime Minister in October 1947, felt that Hari Singh by not committing himself might emerge from the period of transfer of power as ruler of an Independent Kashmir States⁵. Hari Singh seemed to have the tacit support of Lord Mountbatten.⁶

But what was missed by the authorities in Kashmir was that unless India and Pakistan agreed to respect this Status, it was impossible for Jammu & Kashmir to remain independent.⁷

The Maharaja could have been successful in his intents if he could have called a conference of representatives of the people of Jammu & Kashmir and discussed it with them. But he was busy trying with the notion of an Independent State. Hari Singh ruled a preserve of the little more than four million people, of whom three million or 77.11% were muslims; 20.12% Hindus, 1.64% Sikhs, An enclave of 50,000 Buddhists in Ladakh had little significance.⁸

India wanted Kashmir to accede to India on the following ground that Jammu and Kashmir has historical, cultural and economic ties with India.

Muslim Conference and Pakistan claims were:

- (1) It was geographically contiguous to Pakistan;
- (2) Economically it was dependent on Pakistan for essential commodities.

FIRST PROXY WAR:

Within a few days after the Standstill agreement was signed, on 24th October, 1947, tribal Afridis, Mahsuds, Mohmands, well equipped with sophisticated weapons crossed the borders and launched a well planned attack and threatened the city of Srinagar. Immediately after Pakistan came into being on the 14th of August 1947, communal trouble flared in all the towns and villages of the State bordering Pakistan. Muslims were incited to revolt against the Hindu Maharaja. In addition, there were various indicators of concentrating tribals in large strength equipped with arms and ammunition and provided with enough transport for a likely incursion.

In October 1947, the invasion of the Kashmir valley initially by the tribals from North West Frontier Province and later by Pakistan Army in May 1948, as admitted by Pakistan Foreign Minister, Sir Mohammed Zaffarullah Khan in the United Nations was a blatant aggression on Jammu and Kashmir. Further proof is provided by the memoirs of Maj.

Gen. Mohammed Akbar Khan DSO, who commanded the Raiders under the Pseudonym of General Tariq. ⁹

According to Khan the motive behind Pakistan's invasion was crystal clear when the British left India. The problem of the tribals was left unsolved and Pakistan had to tackle it. The British spent crores to appease them out of Indian revenue, but the newly created State of Pakistan could not do so. Moreover, if Pakistan treated the tribals in a British manner, then all their tall claims would lose meaning. Also Pakistan was skeptical about Khan Abdul Ghaffar Khan and his movement for autonomy for the Pathans lest it disrupts Pakistan. It had to be nipped before both the forces joined hands against Pakistan. Forcing the issue of Kashmir and securing its speedy accession to Pakistan was seen as a solution to this problem. To hold out to the poor tribals, a promise of plenty in Kashmir, to give them a lucid description of the supposed atrocities perpetuated on the Muslims so that they get enraged and thus give them a free run of the valley. All this would secure Kashmir, solve the problem of the tribals kill the Pathanistan Movement and secure Pakistan's Safety and Prosperity all at one stroke.¹⁰

The entire Operation was entitled "Operation Gulmarg".¹¹ Major General O.S. Kalkat in his book "The Far Flung Frontiers" details the plans. Every Pathan tribe was

to raise at least One Lashkar of 1000 tribesmen. These Lashkars were to be concentrated in cantonments where they were issued arms, ammunitions and clothing. Each Lashkar had one Major, one Captain and 10 Junior Commissioned Officers from the regular army. They were all Pathans and were ordered to dress and live like other Pathans in the Lashkars. Major General Akbar Khan, a serving regular officer was to command the entire force. Brigadier Sher Khan another regular officer of the Pakistan army was to assist him.

All Lashkars were concentrated at Abbotabad by 18th October 1947, using Civil buses. They were located in a Security Zone 16 km. outside the town.

- The Operational Plan was that
- (1) the main task Force of six Lashkars was to advance on road to Muzaffarabad - Srinagar via Domel Uri and Baramulla. Their immediate task was to capture the Srinagar airfield, then Srinagar town and then towards Banihal Pass.
 - (2) Two Lashkars were to capture Sopore, Handwara and Bandipur, after securing Tithwal and crossing over Nastachu Pass with a view to securing the left flank of the main thrust.
 - (3) Two Lashkars were to advance from Poonch, over the Haji Pir Pass and capture Gulmarg and thereby securing the right flank of the main force.

- (4) Another Lashkar was to secure Poonch, Rajouri, Naoshera and then advance to Jammu.
- (5) General Tariq was also to organize the so-called Azad Army comprising of the Muslim troops of Jammu and Kashmir State Force who had successfully defected. They were also to provide guides to the Lashkars.
- (6) On the 22nd October 1947 the various Lashkars were to cross into Jammu and Kashmir.
- (7) Pakistan's Seventh Infantry Division was to concentrate in Murree Abbotabad by 21 October 1947. Its task was to back up the Lashkars and help them consolidate their hold on the valley after the attack.
- (8) One Infantry Brigade of the Pakistan army was located in Sialkot with the task of moving to Jammu later.
- (9) An administrative dump was to be established by the Pakistan army. The Lashkars earmarked for the valley were dependent on the administrative dump ahead of Abottabad for its supply of arms, ammunition and supplies. It was to be subsequently moved to Domel. Lashkars for Jammu were to rely on Army depots at Sialkot.¹²

There are different versions regarding the total number of tribesmen used for the invasion. They range from 4000 to 10,000 men. It was in fact approximately 7000 to 8,000 men.

The four provinces namely Jammu, Kashmir, Gilgit and Ladakh were under a Governor. Gilgit was on a lease to the British but handed back to the Maharaja in August 1947. Each province had a number of districts according to its size and population and was administered by a Wazir-i-Wazarat (Collector). Telegraph and wireless facilities were adequate. The army too had its own communication network.

Pakistan engineered the entire operation very tactfully. Communal passions was fanned across the border. This paralysed the civil administration. It also distracted the State Forces. They were involved elsewhere and thus a situation of chaos prevailed making it easy for the raiders.

The initial operation smacked of guerrilla war tactics, finally culminating in the Pathans giving in to their own greed and lust. They indulged in plunder and rapine whilst they terror culvist they stalked the streets of Baramulla. The city was totally ravaged. Till now it was the State Forces dealing with this onslaught. On 26th October 1947 Hari Singh signed the Instrument of Accession and the Indian army landed in Srinagar to save Kashmir from the Pakistani onslaught.

There is sufficient evidence of Pakistan's complicity in the tribal invasion. Five thousand or more tribals

could not have passed through its territory without official knowledge. Provision of lorried transport, petrol, rations, automatic weapons, mortars, ammunition, all hint at participation, short of a large scale invasion.

Thereafter, Hari Singh fled Kashmir, Sheikh Abdullah along with Mehr Chand urged Nehru to accept their offer of sending troops to rescue Kashmir. But the Maharaja had to sign the Instrument of Accession.¹³ before the Indian army was air-lifted to Srinagar. The Governor General accepted and wrote that as soon as law and order in Kashmir were restored and the soil cleared of the invaders, the question of the State's accession should be settled by a reference to the people. This was further corroborated by the then Prime Minister of India - Jawaharlal Nehru who claimed on 2 November 1947 "We have decided that the fate of Kashmir is ultimately to be decided by the people. The pledge we have given and the Maharaja has supported it, not only to the people but to the world. We will not and cannot back out of it. We are prepared when peace and law and order have been established to have a referendum held under International auspices, like the United Nations. We want it to be fair and just reference to the people and we shall accept their verdict. I can imagine no fairer and juster offer.¹⁴

In a covering letter, Hari Singh promised to set up some kind of popular Kashmiri regime and this came into effect by March 1948.

Though the constitutional authority remained with Hari Singh, Sheikh Abdullah was appointed as Head of the Emergency Administration without defining his powers and demarcating them from those of the Prime Minister - Mehr Chand. It thus did not take long for relations to sour. National Conference continued its campaign against Mehr Chand Mahajan. Sardar Patel had to intervene and get Mahajan removed in order to preserve the State until the Plebiscite was over.

Later a popular ministry was installed by a royal proclamation and Sheikh Abdullah was sworn in as Prime Minister of the State on 17th March 1948 at Jammu. His first Cabinet comprised of Bakshi Ghulam Mohammed, Mirza Mohammed Afzal Beg, G.M. Sadiq, Girdharilal Dogra, Sardar Budh Singh.

On 1st January 1949, India took the Kashmir issue to the United Nations. The political and diplomatic war was relentless. The conflict has been conducted behind a smokescreen of false propaganda which further complicated issues. In the United Nations great powers exploited it to secure their cold war interests. A facade of logic,

morality and legality has been maintained but behind it each belligerent had power pursued its goal with every exploitable method.

Inside the State, Centre-State relations were discussed between the National Conference and Indian leaders. The former was keen to secure the State of maximum autonomy and pleaded for a limited application of the Indian Constitution. In spite of politico-ideological affinity between the two, Sheikh Abdullah did not want an Instrument of Accession that would obliterate their regional cultural pride. Thus favoured accession with autonomy. They demanded special status because they were afraid that the cultural glory of Kashmir would not be secure if they did not have full freedom for their cultural prosperity. This requirement of the only Muslim majority province in the Indian Union necessitated some politico-constitutional safeguards within the Indian political system.

The Special Status was accorded to Jammu and Kashmir by way of Article 370. On 27th May 1949, the Indian Constituent Assembly on the basis of nominations by Head of the State in consultation with the Cabinet of four Kashmiri representatives including Sheikh Abdullah took their seats in the Constituent Assembly. In January 1950, the Indian Constitution was finalized and put into effect. Article

370 provided that the law making power of the Union Parliament in regard to Kashmir would be specified by the President in consultation with the State government. On 26th January, 1950, the President accordingly promulgated the Constitution (Application to Jammu & Kashmir) Order 1950, specifying in two different schedules the powers of the Union and the applicability of the constitution. The Central subjects applicable to the State are Foreign Affairs, Defence and Communications. On 20th April 1951, the new ruler of Jammu and Kashmir proclaimed his order holding elections for a Constituent Assembly "forthwith". The elections took place on 15th October, 1951 and all the 75 seats were won by the National Conference - 73 unopposed and 2 after contest. The Jammu Praja Parishad boycotted these elections. In his opening address to the Constituent Assembly, Sheikh Abdullah talked of three alternatives with regard to the accession of Kashmir - open accession with India, accession with Pakistan, total independence. Though in his analysis, he preferred the first, yet the emphasis on Kashmir being an entity separate from both India and Pakistan was unmistakable.¹⁵

DELHI AGREEMENT:

In a bid to reconcile Kashmiri aspirations with the demands of Indian nationalism, Nehru initiated a dialogue with Sheikh Abdullah and concluded the Delhi Agreement.

Delhi Agreement was intended to thrash out the details of Centre-State relations. During the discussions, Sheikh Abdullah made it crystal clear that he is as much opposed to domination by India to subjugation by Pakistan. He claimed sovereign authority for the Kashmir Constituent Assembly. Another view expressed was that for Sheikh Abdullah's friendship with India, his first loyalty lies with Kashmir, who believes that Kashmir is not a state adrift, looking for an anchor, but is a nation in the process of self-discovery. He sees Kashmir's future as a matter of alignment rather than accession and of the largest measure of independence compatible with security.¹⁶

The main features of the July 1952 Delhi Agreement were:

- (1) New Delhi accepted the decision to abolish hereditary Dogra monarchy;
- (2) Indian Citizenship Act was made applicable to the State but the State legislature was empowered to regulate the rights and privileges of Permanent residents, especially in regard to the acquisition of immovable property and appointment to services;
- (3) The Indian President was empowered to declare a State of Emergency in case of external danger, but in case of internal disturbances, the power could be exercised at request or with the concurrence of the State Governments;

- (4) President of India was empowered to reprieve or commute death sentence;
- (5) India agreed that confiscation of Jagirs without compensation shall permanently stand;
- (6) The State was allowed its own flag, which was the flag of National Conference;
- (7) The jurisdiction of the Supreme Court was extended in certain matters;
- (8) Regional and Cultural autonomy for Jammu and Ladakh was agreed.

While within the assembly, there was no dissent, though the need for autonomy was stressed, outside it came under heavy criticism.

CONSTITUTION OF JAMMU AND KASHMIR:

The Constituent Assembly of Jammu and Kashmir then on 21 August 1952 formally announced the abolition of hereditary monarchy. The Head of State was the Sadar-i-Riyasat. He was to be elected by the State Legislative Assembly for a period of five years from among State subjects of Class First. On 14th May 1954, the President of India issued an order extending the application of the Indian Constitution to Kashmir with the concurrence of State Government and the Kashmir Constituent Assembly.

On 17th November, 1956, the Constituent Assembly adopted 158 clause Draft Constitution of the State. It was brought into force on 26th January, 1957.

The basic features of the Constitution and spirit underlying it are well brought out in the Speech of Mr. Girdhari Lal Dogra, Chairman of the Drafting Committee.¹⁷ The draft is based on the fundamental principles of "Parliamentary Democracy, responsibility of the Executive to the Legislature, joint responsibility of the Cabinet, Separation of the various powers of the State, and finally the rule of law."

Mir Qasim, the Secretary of the Drafting Committee said the draft "was a sum total of all the aspirations and desires of the nation."

Thus we have tried to trace the political circumstances which ultimately led to the demand for a special status to be given to Kashmir. Now we proceed to delineate Article 370, its constitutional implications and the controversy over it.

J.L. Nehru, after the Delhi Agreement had repeatedly stressed the fact that the division of powers between the State Government and Central Government would be governed by the Instrument of Accession and the Union Legislature

would exercise such powers in relation to the State, as were transferred to the Dominion Government in accordance with the instrument. Nehru told the Conference Leaders that the Operational and Administrative Control of the State Army was vested with the Indian Army Command in pursuance of the agreements with the State Government, but he assured them that recruitment to the State forces would not be prejudiced by caste, religion, birth place considerations. Nehru assured them that the provisions of the Indian constitution, not incidental to the Instrument of Accession would not be extended to the State and the Constituent Assembly of the State would be vested with residuary authority to formulate constitutional provisions with regard to matters which were not covered by the Constitution of India. But he clarified that the provision of the Constitution of India which envisaged the territorial jurisdiction of India, Indian Citizenship, Fundamental Rights, Duties and legal guarantees, Directive Principles of State Policy, Jurisdiction of Federal Court in settlement of disputes between Central and State Governments, enforcement of Constituted rights, powers of the Government of India to deal with emergencies arising out of war, invasion, elections and internal disturbances would be applicable to Jammu and Kashmir, because such application emanated from the fact of Accession of the Indian States to the Dominion of India. Many powers were

assumed by the Government of India in regard to the State because they were inherent in the accession of the States. Nehru told the Conference leaders that any Constitution of the State of Jammu and Kashmir could not vest powers in the instruments which it did not create and, therefore, could not vest powers in the Government of India, which the Constitution of India did not define.¹⁸

The Interim Government nominated four members to represent Jammu and Kashmir State in the Constituent Assembly of India, who joined on 6th June 1949.

In the next few months, the Conference leaders began to extricate themselves from the agreement which they had reached with central leaders at Delhi in May. They held secret meetings, confined mostly to Muslim leaders, to review the May meeting. The feelings voiced were:

- (1) National Conference should not oppose the plebiscite and should not accept the inclusion of the State in territorial jurisdiction envisaged by the Constitution of India.
- (2) India was a predominantly Hindu majority State and if the State of Jammu & Kashmir integrated, Muslims of Kashmir would lose their identity and be dominated by the Hindus.
- (3) The only way to safeguard it is to keep the state out of the constitutional organization of India.

- (4) The Constituent Assembly of Jammu and Kashmir should be convened after the decision regarding accession of the State was reached and Pakistan occupied Kashmir was reunited with the rest of the State.
- (5) The Interim Government should devise a Constitution for the Government of the State.

DRAFT RESOLUTIONS:

The Conference leaders decided to repudiate the agreement they had reached with the Central Leaders in May and evolved fresh proposals on which they claimed constitutional relations between the State and the Union of India. The proposals were the following:

1. The State would not be brought within the territorial jurisdiction of the proposed Union of India.
2. Constitutional relations between the State and Union of India would be based on the terms of Instrument of Accession.
3. The administrative control over the State forces would be restored to the State after the forces were reorganized and the State was in a position to undertake their operational control.
4. No instruments would be vested with any constituent power to change or modify the existing constitutional relationship between the State and India.

5. The Constituent Assembly of the State would be vested with the power to draw up the Constitution of the State which would envisage provisions pertaining to the quality of judicial review, quantum of individual freedom, principles of State policy and election to the representative bodies envisaged by the Constitution.

The Conference leaders did not apprise the Central leaders of their views till the draft provisions of the Indian Constitution were drawn up and sent to the Conference leaders for their approval.

The draft provisions were based on the agreement which were held in May between National Conference and Central leaders. The draft provisions were enshrined in draft Article 306A of the Constitution. The article stipulated:

- (i) The provisions of the Constitution of India with regard to Part B States would not apply to Jammu and Kashmir.
- (ii) A Constituent Assembly would be convened to draft a Constitution for Jammu and Kashmir.
- (iii) Provisions of the Constitution of India regarding territories of India, Indian Citizenship, fundamental rights, Directive Principles would apply to Jammu and Kashmir.

- (iv) The other provisions of the Constitution of India would apply to Jammu and Kashmir with such exceptions as were mutually agreed upon between Jammu and Kashmir and the Union of India;
- (v) the Union would exercise powers with regard to the subjects which were specified by the President to correspond with the subjects transferred to the Dominion Government by the Instrument of Accession, in consultation with the State Government and such other subjects as would be specified by the President of India in concurrence with the State Government.
- (vi) the President of India would be empowered to modify/restrict/suspend the operation of the provisions of Article 306-A, on recommendations made by the Constituent Assembly of Jammu and Kashmir.²⁰

The National Conference Working Committee refused to approve of it. It also disapproved of the Preamble to Article 306-A, which stipulated that the provisions of the article would be of a transitional nature and would be subject to modification by the Constituent Assembly of Jammu and Kashmir.

On 12th October 1949; Sheikh Abdullah communicated to Gopalaswami Aiyangar - Minister of States in the Government of India the disapproval of draft provisions vide Article 306-A. Saying all these provisions would prejudice the

domiciliary State subject rules²¹. Sheikh Abdullah sent an alternative draft to G. Ayyangar which stipulated the application of only such provisions of the Constitution of India to the State, as corresponded to the stipulations of the Instrument of Accession. Sheikh Abdullah added an explanation to his draft which defined the State Government as "the ruler of the State acting on the advice of the Council of Ministers appointed under the proclamation of the Maharaja dated 5th March 1948" (instituting the Interim Government).

G. Ayyangar received a jolt. On 14th October 1949, he met Sheikh Abdullah and Mirza Afzal Beg, and tried to persuade them to agree on Article 306-A. Ayyangar explained that the State could frame its own constitution and be vested with all powers of the Government except those which had been transferred to the Dominion Government by the Instrument of Accession. But that the accession of the State underlined that the State would be brought within the broad structure of the imperatives, the Constitution of India envisaged. National Conference leaders were adamant and told Ayyangar that the State acceded to India in regard to only three subjects - foreign affairs, defence and communications and retained its independence in all other subjects. It was on this understanding that the people of Jammu and Kashmir had supported accession to India.

Nehru at that time was away in the USA. Over weighed by the experience at the Security Council he gave way and redrafted the provisions of Article 306-A restricting the application of the Constitution of India to the State to Article 1, which defined the territories of the Union and the provisions pertaining to Indian Citizenship and making the fateful omission of deleting the provisions regarding Fundamental Rights. G. Ayangar while introducing Article 306-A said that this discrimination is due to the special conditions of Kashmir. There was a war on in Jammu and Kashmir followed by a cease fire. Moreover the government had made certain commitments to the Kashmiris, like an opportunity would be given to decide for themselves whether they wished to remain with India or out of it. It was also agreed that the will of the people would be ascertained by means of a plebiscite provided peaceful conditions were restored and the impartiality of the plebiscite could be guaranteed.

M.K. Teng²² argues that Ayangar should have realized that no one would have applauded him for his task for he had condemned the people of the State - the Hindus, Sikhs, Buddhists to servitude and suffering. He had served the State as Prime Minister to Hari Singh for more than six years and was aware of the intricate balances of community demands, regional pressure and amorphous class interests, which characterized the political sociology of the State.

He and Nehru had experienced the ruthless severity with which the National Conference leaders had sought to reorganise these balances and to establish fresh alignments which ensured political precedence for the Muslims in the State.

Sardar Patel, however, did not favour the modifications, that Ayangar had made in Article 306-A, especially the deletion of Fundamental Rights, Directive Principles, for perhaps he has visualised the consequences to which such a course of action would inevitably lead.

The revised draft of Article 306-A was also rejected by the National Conference leaders on the grounds that it again did not correspond to the terms of the Instrument of Accession. Ayangar tried to persuade them, but to no avail. Finally, Ayangar drew up a fresh draft in consultation with Afzal Beg, who was deputed by Sheikh Abdullah to negotiate a settlement with Ayangar, while Sheikh Abdullah pulled the strings from behind. Meanwhile, Beg gave the Constituent Assembly of India, the notice of an amendment in Article 306-A.

REVISED DRAFT:

The revised draft stipulated:-

1. Article I would apply to the State and the State would be included in the territories of the Union of India;

- II. No other provision of the Constitution would be applied to the State, except with the approval of the Interim Government of the State;
- III. Division of Powers between the Union and the State would be determined in accordance with the terms of the Instrument of Accession;
- IV. The President would be empowered to terminate/modify the operation of the Constitutional Provisions with regard to the State on the recommendations of the Constituent Assembly of Jammu and Kashmir;
- V. The State Government would be construed to mean the Maharaja acting on the advice of the Council of Ministers appointed under his proclamation dated 5th March, 1948;²³

This revised draft was circulated in the Constituent Assembly of India on 16th October 1949. Many objected to the explanation defining the Government of the State and pointed out that the explanation vested the powers of the government with the "Council of Ministers" appointed under the Maharaja's Proclamation of 5th March, 1948" in perpetuity; that in effect it excluded all subsequent governments from the purview of the Constitution of India. Ayyangar glossed over the anomaly and explained that "the person for the time recognized by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the

Maharaja's proclamation dated 5th March, 1948". Ayangar informed the Conference leaders about the modifications he made in the explanations on 17th October, 1949. The Conference leaders refused to approve of it, Ayangar along with Maulana Azad assured them that it was necessary in order to avoid the discrepancy in Article 306-A which implied a perpetual interim government. The National Conference leaders did not approve and said if the modifications to the applications were not withdrawn they would move the amendment of which they had given a notice to the Constituent Assembly before the draft was revised.

Unable to bring the Conference Leaders to condescend to the changes, he had brought about in the draft provisions, Ayangar presented the draft Article 306-A to the Constituent Assembly for consideration. Conference leaders sulked and did not join the debate on the draft. The President of the Assembly waited for a minute or two for members to rise for making speeches before he put the draft to the House. The Conference leaders did not speak and neither did they move any amendment. The draft was adopted by the Assembly without any dissent.

The Conference leaders were bitter. Sheikh Abdullah threatened along with the other representatives to resign from the Constituent Assembly unless Ayangar reconsidered the decision the Constituent Assembly took on Article

306-A. Ayanagar was sore. Indeed he had gone to the farthest limit to accommodate their views. He could not retrieve the ground he had lost but neither could he go any further to appease them. He asked them to take steps as the rules of the House allowed for rectification if they desire. He forewarned Sheikh Abdullah that their resignation would have serious repercussions in Kashmir and the outside world.

At the revision Stage Article 306-A was renumbered as Article 370 of the Constitution of India. On 25th of November, 1949, the Regent of the State Karan Singh, by a proclamation ordered that the relations between the State and the Union of India be governed by the Constitution of India. On 26th January, 1960 the Constitution of India came into being.

PROVISIONS OF ARTICLE 370:

In accordance with the Special provisions embodied in Article 370, the Jammu and Kashmir State was exempted from the application of the Provisions of the Constitution of India dealing with the States in Part B of the First Schedule (Article 370, Clause (2)). In Part B of the First Schedule were listed the erstwhile Princely States which had acceded to India but had not merged with any province or had not been reorganised into Centrally Administered Areas. Hyderabad, Jammu and Kashmir, Mysore, Madhya Bharat,

Patiala and East Punjab States Union, Rajasthan, Saurashtra, Travancore-Cochin, and Vindhya Pradesh were included in Part B of the First Schedule. A separate Part, Part VII was included in the Constitution, providing for the internal Constitutions of these States. Part VI of the Constitution, which envisaged provisions for Part A States corresponding to Governor's Provinces would also apply to Part B States subject to certain modifications. Each of the States was to have a democratic Government with a Council of Ministers, responsible to a Legislature constituted in a similar manner as Part A States. Jammu and Kashmir was saved from the application of Part VII and reserved the right to frame a separate constitution for its government. Provisions were incorporated in Article 370 for the institution of a Constituent Assembly in the State to draw up its constitution. No other provision of the Constitution of India except Article I was made applicable to Jammu and Kashmir.

The powers of Parliament to Legislate in regard to the State were limited to the matters which were declared by the President, in consultation with the State Government, to correspond to the Instrument of Accession. The Union Government was reserved the power to exercise jurisdiction in regard to the State in respect of subjects transferred to the Indian Government by virtue of the Instrument of Accession.

Provisions were incorporated in Article 370 by virtue of which the President of India was empowered to transfer powers to other subjects in the Union List, the Concurrent List and the State List of the Constitution of India, which he specified, with the concurrence of the State Government. The President was also empowered to extend to the State, the application of the provisions of the Constitution of India which were not already made applicable to the State with such modification as the President would by order specify. The President was empowered to issue such orders in consultation with the State Government and in case such orders related to the matters specified in the Instruments of Accession with the concurrence of the State Government. If any such orders which involved the transfer of additional powers to the Union or the application of any further provision of the Constitution of India to the State, were promulgated by the President before the Constituent Assembly of the State was convened, the Consultation and concurrence of the State Government were to be placed before the Constituent Assembly for such decision as it might take.

Article 370 envisaged provisions which empowered the President of India to declare by public notification that the provisions of Article 370 would cease to operate, but only on the recommendations of the Constituent Assembly of the State.

Article 370 envisaged a perpetual Constituent Assembly in the State, at least, so long as the transitional provisions remained on the Statute Book. The framers of the Constitution presumed that the temporary provisions envisaged by Article 370 would last for a short duration and their operation would hardly extend beyond the time the Constituent Assembly would take to draft the Constitution. The Constituent Assembly was dissolved in 1957, after it framed the Constitution.

Article 370 did not vest any constitutive power in the hands of the President, or with the Constituent Assembly of the State. The President and the Constituent Assembly were empowered to order that the operation of the provisions of Article 370 would cease or continue with such amendments as they would specify. They were subject to the limitations which one placed on the other.

The power to amend Article 370, were vested with the Parliament of India, which was not subject to any limitation imposed by Article 370 or any other provision of the constitution. No limitation was placed on the powers of Parliament to amend Article 370. Even if there were stipulations to this effect in the constitution or Article 370 nothing stood in the way of Parliament to repeal, abrogate or amend it.²⁴

The other dimensions of the Special Status are with regard to State boundaries, permanent residents, Fundamental Rights/Constitutional remedies, Directive Principles, Jurisdiction of Parliament, Role of the Governor, Center-State relations.

As regards State boundaries:

(i) Parliament can pass no bill that seeks to increase or diminish the area of Jammu and Kashmir or altering its name/boundary, without the consent of the State legislature, as can be done to other states without their consent;

(ii) Also, the State constitution includes all territories including those illegally occupied by Pakistan in its fold, on the basis of the fact that on 15th August 1947, they were under the sovereignty of Jammu and Kashmir. Till date, twenty five seats have been left vacant in the State legislature for the people of Azad Kashmir;25

(iii) On the basis of this constitutional provision State leaders have always claimed the right to be consulted whenever the disposition of this state is involved in implementing a treaty, agreement or convention with any other country (Article 253 of the Constitution of India; The Constitution Order (Application to Jammu and Kashmir) 1954. This is a special concession given to Jammu and Kashmir;

Permanent Residents too are entitled to a special status.

- (i) Citizenship of India was granted to the Permanent Residents of Jammu and Kashmir with effect from 26th January, 1950, thereby creating Citizenship within a citizenship. "The redefinition of the citizens of the State into permanent residents purports to the creation of a class of citizens, vested with special rights and privileges which are guaranteed by the Constitution of the State;
- (ii) The Central Government wholly left the definition of the expression permanent residents to the State Legislature, which is fully empowered to make laws defining the classes of persons who are or who shall be permanent residents (Section 6 of Jammu and Kashmir Constitution). The State Government is also authorized to cancel or revise the certificates regarding permanent residents of its subjects after a reasonable hearing if not on the merit of law;
- (iii) State Legislature is empowered to make laws for resettlement in case of those permanent residents who migrated after 1st March 1947 to the area now occupied by Pakistan.

The Provisions of

- (i) Fundamental Rights of the Indian Constitution were applied to Jammu and Kashmir with effect from 14th

May 1954 meaning thereby that no retrospective effect as to affect the rights and liabilities accrued before that date. The dent was made in the Indian Constitution to enable the Jammu and Kashmir Government to escape awarding compensation to dispossessed land owners contrary to the Indian guarantees;

- (ii) The State Government is fully empowered to impose reasonable restrictions on freedom of assembly, association, movement, residence etc., on an additional ground of Security of State which cannot be put to judicial review;
- (iii) The State legislature is fully empowered to legislate in respect of preventive detention of the detriment of Fundamental Rights of the Indian Constitution, e.g. Jammu and Kashmir Public Safety Act. The Parliament and the President both have no power to make an order in respect of persons under preventive detention;
- (iv) The State also enjoys absolute freedom in enacting laws for declared evacuee property in the State. No court in the country has the jurisdiction to entertain any suit in this regard;
- (v) A Special and new definition of estate which includes eight types of Property, has been substituted for the State; (Constitution Order 1956)

(vi) There are also restrictions placed on the right to constitutional remedies in the State;

(vii) The Fundamental Duties enshrined in Part IV A of the Indian Constitution are not applicable in Jammu and Kashmir. The result is that the permanent residents of the State are free from the liabilities of these obligations.

As far as the Directive Principles of State Policy go, they are not applicable to Jammu and Kashmir. The State constitution includes its own Directive Principles, Section 11 - 25. The brightest of these is the right to free and compulsory education in certain cases. Every permanent resident has the right to free education up to the University level. But these are not of any substantial use for there are no provisions for the social and economic betterment of the backward segments of society. The Gajendragadkar Commission said "The alleged imbalance in development programme and the policies pursued by the State Government in the matter of recruitment to service and the provisions of educational facilities, are themselves some of the principal causes of irritation and tension in the State.

The Jurisdiction of Indian Parliament is also been curtailed.

- (i) It is confined to matters enumerated in the Union and concurrent List subject to modification. In the concurrent list most of the subjects are out of its jurisdiction due to the Special status guaranteed under the Indian constitution;
- (ii) The residuary powers of legislation are vested in the State of Jammu and Kashmir unlike the other States where it is vested in Parliament;

Clearly, Jammu and Kashmir enjoys a quantum of autonomy as compared with other states.

The role of the Governor in Jammu and Kashmir is vital. He has special powers to give assent to a Bill passed by the House of the State Legislature. In other states, they can only reserve the Bill for Presidential consideration.

Jammu and Kashmir enjoys a special status in Union State Relations too:

- (1) Government of India shall have to consult the state Government while giving effect to International Agreements;
- (ii) Parliament can't legislate even in national interest;
- (iii) Government of India cannot deploy any armed force of the Union for dealing with any grave law and order

situation. However, nothing prevents the Central Government to deploy defence forces in the state for defence has special mention in the Instrument of Accession, wherein defence subject is in the hands of the Union Government;

- (iv) Another unique privilege is that a proclamation of emergency under Article 352(1) can't have any effect in the State unless it has been requested for, or the State Government has concurred. Financial Emergency cannot be declared in the state, even by the President of India;
- (v) The Central Government cannot suspend the State Constitution on grounds of failure to comply with the directions given to the State Government by the Union Government;
- (vi) In case of failure of constitutional machinery in the state (Article 356) it is the Governor, according to Jammu and Kashmir Constitution who shall have the power, with the concurrence of the President, to assume power;
- (vii) The Parliament has no power under Article 368 to amend the state Constitution. Only the State Legislature can do so. An Amendment made to the Indian constitution under Article 368 does not apply ipso facto to Jammu and Kashmir unless applied by an order of the President under Article 370(1);

- (viii) In addition to its own Constitution, the State has its own official flag, emblem. The official language being Urdu;
- (ix) No provision regarding minorities apply except those for Scheduled Castes and Backward classes.

Thus peculiar circumstances and extraordinary problems compelled the Jammu and Kashmir leadership to desire a special status. D.D. Basu comments on the nature of extent of this special status - the Federal relationship between the Union and the State of Jammu and Kashmir respects state rights more than in the case of other States of the Union. The constitution of India does not only give special place to Jammu and Kashmir but also creates temporary, transitional and special provisions with respect to the States of Maharashtra and Gujarat (Article 371), Nagaland (Article 371A), Assam (Article 371B), Manipur (Article 371C), Andhra Pradesh (Article 371D) and Sikkim (Article 371F). The State of Jammu and Kashmir has gained a momentum because of political tones. The position of States of Special treatment is not identical. Article 371 provides Special provisions which intend to give adequate facilities for technical education, vocational training, employment for certain areas in these States.

Another important deviation is that tenure of the Jammu and Kashmir State Assembly is six years as compared

to five years in other States. During the 42nd Amendment Act 1976, this duration was made six years for all the States. 44th Amendment 1978 restored the Status quo. But till today the Government of Jammu and Kashmir did not like to extend its revised form to it.²⁶

SECULAR VIEW OF ARTICLE 370 :

The Special Constitutional Status enjoyed by Jammu and Kashmir is a matter of legal-politico controversy as well as conviviality within the state, and a matter of envy from without. The local state subjects of Jammu and Kashmir are in a quandary with regard to the political overtones of this eventuality because of the economic gains. The reasons for this are not far to seek.

The arguments regarding article 370 can be classified into three slots. One, of those who claim the need for the article, namely the Secularists. Second, the Communalists who claim that all Article 370 does is to fan secessionist tendencies. Third slot says that there is nothing left in Article 370 which confers a special status, thus it makes no difference whether it stays or not.

It is argued that it is in India's interest to retain Article 370 for it morally strengthens India's claim over Jammu and Kashmir. S.P. Sathe argues that the inclusion of article 370 was not an afterthought but a mature

consideration. It was a precondition of the states accession to India. Thus if the accession is sacrosanct, then the condition too is sacrosanct. Kashmir never wanted to join Pakistan, or else it would have never resisted the Pakistani onslaught in October 1947. It procrastinated between Independence and accession to India. It chose the latter and accession was made conditional on Jammu and Kashmir retaining its cultural and regional identity. Article 370 assured Jammu and Kashmir all the benefits of Independent Kashmir without sacrificing the advantages of being part of a larger Indian Federation. It conferred optimum autonomy on Kashmir. The words "consultation" and "concurrence" used in Article 370 are significant as they show meticulousness observed in preserving the autonomy of Jammu and Kashmir.

What Article 370 envisages is a different type of Center-State relationship as compared to the one that exists between the Center and other States. Its unilateral abrogation by the Union Parliament is constitutionally unfeasible. Article 370 provides for its own repeal, but it is inoperative as its constitution assembly no longer exists. Neither can Article 368 be applied, due to the fact that it, along with Article 370 carries a non-obstinate clause, Moreover the specific provisions of Article 370 override those of Article 368. Therefore, the only way to repeal Article 370 will be to issue an

order under Article 370, making a constitutional amendment under Article 368 ipso facto applicable to Jammu and Kashmir with the State Government concurring. Only then may Parliament pass a bill which will have to be passed by 2/3 of the members present and voting and absolute majority of the total membership of both houses.²⁷

Another argument in favour of Article 370 is he argues that the advocates of abrogation forget the historical compulsions which necessitated this article. It provided a mechanism to declare Jammu and Kashmir as an integral part of India and at the same time allow the people to exercise their option for either a total merger with India or a plebiscite. A revocation would invite disaster. It could lend a further impetus to anti national forces which demand an unconditional plebiscite and worse total independence for Kashmir.

A similar opinion is that it would strengthen the demands of the secessionists. He claims that the Bharatiya Janata Party argument is faulty. Whilst on one hand, they demand that all Indians be allowed free access to settle and buy property in Kashmir, it has imposed a ban, in its own State of Himachal Pradesh, on non-Himachali Indians occupying property.

It further claims that only a section of muslims have fallen prey to the idea of secessionism for they stand

alienated. Initially this was not so. For the people of the State had put up a strong resistance to Pakistani raiders in 1947 even before Hari Singh had signed the Instrument of Accession.²⁹

Moreover Communalists and fundamentalists do exploit religion to mislead the people. They get support from anti-Indian forces external to the State. But what needs to be understood is that all people want to defend their linguistic and cultural identity against the danger of onslaught of more advanced groups and specially the vested interests of this group.

Veteran Socialist Madhu Limaye opposed the abrogation of Article 370 on grounds that it would not solve the problem. He argues that if Article 370 is the main culprit in Jammu and Kashmir, why did terrorism rock Punjab where there was no such provision?

Another argument put forth is that it is not advisable both on political and psychological grounds to abrogate Article 370. Even if such steps are contemplated, they should emanate from the State legislature.³⁰ B.G. Verghese³¹ too argues that there is no legal, basis for unilateral abrogation. It would only amount to a breach of faith, that would undo the very act of Accession in International Law. It would also undermine the moral basis of the Indian State. He refutes the claim that it has bred separatism.

Separatism has manifested itself a number of times in the North East, Assam, Tamil Nadu, Punjab, but none of these states are subject to Article 370. Article 370 is only an umbilical cord that links Jammu and Kashmir to India. It has been dynamically brought into play repeatedly through constitutional amendments. They in turn have extended various provisions of the Indian Constitution to Jammu and Kashmir with the consent of the Assembly.

Thus the secularists put forth the claim that Article 370 is the main factor which determines the Center's relation with Jammu and Kashmir.³²

COMMUNALIST VIEW OF ARTICLE 370:

The Communalists on the other hand put forth a different set of arguments which are narrow and parochial in their content. This bandwagon is led by the Bharatiya Janata Party or the parties Right of Center.

Shyama Prasad Mukherjee founder of the Jan Sangh, did not oppose the article. He was a Cabinet Member when Article 370 was accepted. He did not even oppose its application to Kashmir. In December 1951, at Kanpur, he said "we would readily agree to treat the valley in any special manner and for such time as he (Sheikh Abdullah) would like it. He reiterated this view in his letter to J.L. Nehru on 9th January 1953. The only aspect on which

he had reservations was the imposition of Article 370 on the unwilling people of Jammu and Ladakh, and that they should be fully integrated with India. In the course of Nehru, Mukherjee and Abdullah correspondence, Nehru pointed out the implications of breaking the unity of the State which Pakistan too was attempting. Mukherjee responded positively to it and in his letter dated 17th February, 1953 agreed to support the cause of unity of the State, Article 370 and the Delhi agreement with the proviso that "the principle of autonomy will apply to the province of Jammu as a whole and of course also to Ladakh and Kashmir."³³

Unfortunately, after his death, the Bharatiya Jana Sangh began opposing it while even the opposition parties at that time had unreservedly accepted its validity. It was Pt. Nehru who expressed the hope that Article 370 would be gradually eroded through a process of persuasion rather than coercion. He underestimated the Kashmiri urge for autonomy which became sharper due to the provocation by Jan Sangh and Praja Parishad agitation in 1953.

What the Rightist Parties contend is that Article 370 was always intended to be temporary. So much so, it was put under Part XXI of the Constitution which bears the title of "Temporary Transitional and Special Provisions. So originally, it was meant for a short period and thus it

is time now that it should be done away with. It claims that in 48 years it has come at par with other States and thus no longer needs special treatment.

It primarily opposes restrictions on residence, purchase of property. A major irritant is that it was kept under the Ministry of External Affairs with a Secretary in charge. While the latter is no longer true, now it was a major sore point. They were against some other provisions like framing their own constitution, different titles for Head of State, Hoisting the National Conference Flag on Government buildings, no jurisdiction of the Election Commission and Finance Commission. But these are no longer applicable to the State of Jammu and Kashmir today. So, the basis does not exist though some provisions exist like no imposition of wealth tax, non-applicability of Urban Land Act (1976), resulting in inequalities of wealth.

Another argument in this favour is that it breeds separatism. It does not aim to give special status to Jammu and Kashmir. It only aims to empower the Muslim majority of the State vis-a-vis the Hindus of India. Special Powers were demanded so that Muslims of Jammu and Kashmir may have a stronger bargaining position.³⁴ They accuse Sheikh Abdullah of using Article 370 as a guise under which he could embark on plan for a total Islamization of Kashmir and its complete independence.

This is confirmed by claiming that most muslims succeeded in becoming citizens of Jammu and Kashmir while One lakh Hindus who were uprooted during partition were denied.³⁵

The Communalists argue that restrictions were imposed on residency in Jammu and Kashmir because the leadership feared that Kashmiri Muslims may be swept into the mainstream by the Hindus be fully amalgamated with India. They argue that while on one hand Article 370 gave constitutional validity to separatist ideas, it also affixed a stamp on the historical fact that the muslim majority region cannot permanently remain with India.³⁶

They argue that Article 370 is said to ridicule the declaration that Jammu and Kashmir is an inseparable part of India. It makes a mockery of the ideals of secularism as nothing was done to prohibit the misuse of religious places, nationalist and the structure of unity, as it is an open case of propping up one community.

Extension of Article 370 is seen as a weapon for appeasement. It supposedly keeps the political elites happy and ensures vote banks for the dominant groups.

They feel another issue is that Article 370 encourages political groupism which is unhealthy for democracy. The anti-defection law is inapplicable. Moreover the decision on defection not taken by the Speaker

of the Assembly but by the leader of the concerned political party, thereby lending legitimacy to the unbridled authority of the leader of the party.

Burning of the national flag, dishonor to the national anthem and disrespect to the national symbol is not a cognizable offense because no fundamental duties are enshrined in the constitution of Jammu and Kashmir. Neither does Parliament have the powers to alter the boundaries of the State, as it can do so for other states.

The Communalists question that if Article 370 aims at giving special privileges on the plea that Jammu and Kashmir is backward, is poverty in other States of India less important. Crores have been spent in Jammu and Kashmir and the result is an upsurge of anti-national elements sans development. An open disinformation campaign has been launched against India with tacit support from Pakistan thereby forcing three lakh Hindu Pandits to flee from the valley.

Thus the communalists claim that Article 370 instead of integrating has delinked Jammu and Kashmir from India. Sentiments of parochialism, separatism, communalism are reigning supreme. People of Jammu and Kashmir have distanced themselves from the national mainstream. They argue that vested political interests, direction less politics of vote banks has further perpetuated the evils of

Article 370. The RSS and VHP too see it as the primary cause of the present secessionist movement. It is the biggest psychological justification and provocation for separatist activities in Jammu and Kashmir.³⁷

Jagmohan³⁸ too is an avid propagator of the belief that Article 370 should be abrogated in the interest of national unity at large. He calls it the strongest root of Kashmiri separatism and alienation. It includes not historical, constitutional, political, social and economic considerations of far reaching consequences, but also psychological and emotional considerations. "It is nothing but a feeding ground for the parasites at the heart of paradise. It skims the poor, deceives them. It lines up the pockets of the power elites. In essence, it creates a land without justice, a land full of crudities and contradictions. It props up politics of deception, duplicity and demagogy. It breeds microbes of subversion. It keeps alive the unwholesome legacy of the two nation theory. It suffocates the very idea of India and fogs the vision of a great social and cultural crucible from Kashmir to Kanyakumari. It could be an epicenter of a violent earthquake in the valley - the tremors of which would be felt all over the country with unforeseen consequences."³⁹

Jagmohan claims that over the years Article 370 has become an instrument of exploitation in the hands of the

ruling elite and other vested interests in the bureaucracy, business and judiciary. The rich have found it convenient to amass wealth and disallow healthy financial legislation which has been further perpetuated by the provisions of non-applicability of wealth tax Gift Tax, Urban Land Ceiling Act..

He labels the other provisions as anachronistic, legally and constitutionally antiquated, tending to create emotional barriers between the State and the Union.⁴⁰

Jagmohan raises a few basic questions regarding the *raison d'etre* of Article 370. He argues if Article 370 only aims to protect and preserve the cultural entity of Jammu and Kashmir, then it should likewise be applied to all states for the need for preserving the cultural entity is common to all States. Or is it only a muslim majority state that needs protection. He accepts the fact that a varied socio cultural system exists in Jammu and Kashmir which demands protection. But so does every other State and they too would want protection lest it be dominated by Kashmiris. Thus, the claims and counter claims would be endless thereby rupturing the delicate fabric of the state's unity in diversity.

Jagmohan also puts forth the demands put by Jammu under the cover of Article 370. Their grievances reflect the fact that the power structure in the State has

permanently stilted in favour of the Kashmiri region. For the Lok Sabha, Jammu returns one member for every 1.4 million, Kashmir one for every million. This is in spite of the fact that Jammu's total area is 70% larger than Kashmir. Jammu's have 45% of the total population of the State and only 32 seats (out of 76), while Kashmir has 42.

The people of Ladakh too are resentful of the leverage accorded by Article 370 to Kashmir.

Jagmohan thus concludes that abrogation of Article 370 would help in removing poverty/backwardness which in turn would help in rejuvenating Kashmiri culture and enhancing the cultural personality of the State as a whole. "No culture can advance in isolation. It requires cross fertilization. It requires the stimulus of contact."⁴¹

Another viewpoint believes that the feeling of being Special has been created artificially. Two flags, two constitutions have fuelled such feelings, which gives further impetus to the notion of separatism. But, what one forgets is that the notion of being special always existed and Article 370 only institutionalized it. Had Article 370 not been evolved, this special sense of identity would never have got a boost. In fact it was a twin process. A distinct identity led to the creation of Article 370, and Article 370 in turn further confirmed it.

Thus the communalists urge for an immediate revocation of Article 370. Only then, for them, would the real process of integration of Jammu and Kashmir with India, would be set into motion.

SPIRIT CRUSHED: Another viewpoint prevalent regarding Article 370 is that while the letter of Article 370 remains, the spirit has been crushed. Its teeth have become blunt. A series of amendments have altered the nature of Article 370.

According to this view, Article 370 was not only a transitional provision but its intelligent use was intended to win over the people of Kashmir. The unity and integrity of India was to be maintained in freedom. But from the beginning, the article stood subverted.⁴²

The President in exercise of powers conferred by Article 370(1) promulgated the constitution (Application to Jammu and Kashmir) Order 1954. Under it all freedoms guaranteed by Article 19(1)⁴³ would be applicable in their modified form. Every right enumerated in Article 19 was hedged by a reasonable restriction. The President granted all freedoms with all restrictions with an additional restriction, namely every one of the rights can be curtailed on grounds of security of the State.⁴⁴ Only the restriction imposed on Freedom of Profession, business wide Article 19(6) would be subject to judicial review. There

was to be no judicial review of the restrictions imposed under Clause (2) to (5). Article 22⁴⁵ was not made applicable to the State. Article 35⁴⁶ was applied in a modified form, with the introduction of clause (c).

Moreover, no law providing for Preventive Detention made by the State legislature was to be held void on the ground that it was inconsistent with Fundamental Rights. The limitations imposed were operative for 235 years. From 1954. Thus the State had the unfettered right to violate all the rights under Article 19 with no redressal forum.

Article 248 which deals with the Residuary Powers of Parliament was modified for Jammu and Kashmir. It read Parliament has the exclusive power to make any law with respect to:

(i) Prevention of activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India, or Secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, National Anthem and this constitution. Item 97 of List of Schedule VII reproduces this modification.

No provision was made in the Jammu and Kashmir constitution for electing representatives to Parliament. Article 81 dealt with this composition in the Indian Constitution. The modified form of Article 81 reads -

Article 81 shall apply subject to the modification that representatives of the State in the House of People shall be appointed by the President on the recommendation of the Legislature of the State.

Moreover, they claim that the manner in which the Constitutional provisions have been extended to Kashmir demonstrate that they have not been treated as full-fledged citizens of India. Even when they were entitled to their own constitution, they were systematically deprived of the strength to work it. They claim it is strange democratic practice by which the State of the Union should decide what rights the people of Kashmir shall enjoy in what stultified form.⁴⁷

Moreover the courts upheld these practices as valid. Not once but repeatedly. The SC upheld that Article 370 could not lapse. It also upheld that under Article 370 the President has the power to almost rewrite the constitution. It also upheld the validity of the Detention law. It also upheld the validity of the periodical extension of the immunity granted to these undemocratic laws from 5 - 25 years. The Court also upheld that President in consultation with the Assembly could appoint MPs to represent Jammu and Kashmir. This consistent adherence to legality ultimately led the court to uphold Emergency, preventive Detention Law.

This group argues that repressive use of a legal system always results in the breakdown of authority. The use of force, then no longer has any legitimacy. It is often countered by violence. This is exactly what is taking place in the State of Jammu and Kashmir. For them the government of India has transgressed law in the guise of acting under an emergent situation. This is the surest way to encourage the search for extra-legal solution which would lead to problems of law and order. But in the same breath, they mention that to criticise transgression of law, by a retributive state is not to support terrorist violence.

Prof. Saifuddin Soz⁴⁸ an exponent of this idea. He feels that dilution of Article 370 has led to the present crisis. It is the most crucial political factor in the alienation process, for the autonomy envisaged under this Article has over the years been eroded by various acts of Parliament. Erosion of Article 370 diluted the provisions for the protection of "State Subjects".

Peer-Gujasuddin too feels that application of Constitutional orders promulgated by the President over time has distorted Article 370 aggressively, that there is hardly any difference left between Jammu and Kashmir and other States.

Also, it is not Article 370 which has created the problems. It is its distortion which has led to the eruption of a series of problems.⁵⁰

It is often argued that the special constitutional status of Jammu and Kashmir was not granted by the Government of India, but was sanctioned by the relevant provisions of Govt. of India Act 1935, the Indian Independence Act 1947, the Indian Provisional Constitutional Order 1947 and the Instrument of Accession 1947. Neither Maharaja Hari Singh nor Sheikh Abdullah were prepared to surrender this status. The right to abrogate or modify Article 370 belongs solely to the Constituent Assembly of Jammu and Kashmir.⁵¹ Jurists like A.G. Noorani argue that the State assembly too does not have this right.⁵²

By December 1964, a series of constitutional amendments were rushed through with the concurrence of a pliable state assembly. Art 356 and 357 were made applicable, nomenclature of Heads of State and Government were changed to conform to the uniform pattern. Head of State was to be nominated by the Centre and not elected by State Legislature. The violence today is a reaction to this perceived assault on their identity and autonomy.⁵³

REALIST PERSPECTIVE: But a crucial point is overlooked by all three schools. Neither do those who wish to abrogate

Article 370 on the ground that only because of it Jammu and Kashmir could never join the mainstream. Nor by those who favour it seeing as a saviour of Muslim minoritism, prevalent conditions. Nor those who blame its distortions.

Certain facts have to be clear. First Article 370 is not the arrangement under which K & K merged with India. The merger was under Article 1(2) of the First Schedule. Article 370 is only a connecting chain through which centre state relations could be conducted. Similar articles has been executed for some other states.⁵⁴ The constitution of India creates temporary, transitional and special provisions with respect to the States of Maharashtra and Gujarat vide Article 371, Nagaland vide Article 371A, Assam vide Article 371B, Manipur vide Article 371C, Andhra Pradesh vide Article 371D, and Sikkim vide Article 371F.⁵⁵

The Indian Constitution has catered to Special demands of other states as well. The erstwhile State of Travancore before accepting the Indian Constitution demanded maintenance for its Hindu temples from the Natural Calamities fund. This was accepted and provided for vide Article 270(a).

The problem of Jammu and Kashmir should be seen in the light of two factors. First, the trauma of partition which was based on communal sentiments. Second, sensitivity of a

population to their cultural identity. The meaning of a democratic system is not to feed subnationalism, because it is due to this that pride in being a Punjabi, Marathi, Tamilian, Bengali outweighs the Pride of being an Indian first.

Article 370 has become an issue of identity for the Kashmiris. Those who are raising the bogey of Article 370 as a monster today, had time and again impressed upon Indira Gandhi to send the Anandpur Sahib Resolution of the Akali Dal, to the Sarkaria Commission. The autonomy granted through Article 370 is nothing as compared to the demand for autonomy made by the Akalis.

Those demanding the abrogation of Article 370 should address themselves to two questions.

1. If Special Status granted to Kashmir was putting it above all the States, why would Jammu and Kashmir want to secede from India?
2. Jammu and Kashmir is a product of India's secular thought. Though partition was on communal lines, Kashmir with its 90% Muslim population preferred secular India to theocratic Pakistan.

NOTES

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13. See Appendix No.2
14. f.n., 4; pp. 52-55.
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22. ibid., pp. 70-71.
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32. KAMATH, M.V., "Should we scrap Article 370?", Current; No.4; 14th February; 1992.

33. AKBAR, M.J., Kashmir - Behind the Vale, New Delhi; Viking 1991; p. 125.
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35. ibid., p. 237.
36. ibid., p. 238.
37. ibid., p. 363.
38. SHESHADRI, H.V., Kashmir.
39. JAGMOHAN., My Frozen Turbulence; New Delhi, Allied Publications; 1991; pp. 230-231.
40. ibid; p. 234.
41. ibid., p. 246.
42. KANNABIRAN, K.G., "Article 370". in ENGINEER, ASGHAR ALI (ed) Secular Crown on Fire; Delhi; Ajanta Publication; 1991; pp. 163-71.
43. Article 19(1) States all Citizens shall have the right to (a) freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations and unions; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; (f) to acquire hold and dispose of property; (g) to practice any profession or to carry on any occupation, trade or business.
44. f.n., 42, p. 168.
45. Article 22 States: No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the rights to consult and to be defended by, a legal practitioner of his choice.
- 46.
47. f.n., 42, p. 169.
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52. NOORANI, A.G., "The Kashmir Problem", Statesznan, Calcutta; 16th June 1992.
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55. f.n. 25; p. 59.
56. LAMB, ALASTAIR., Disputed Legacy 1846 - 1980. Karachi; Oxford University Press; 1992, p. 191.
57. f.n., 7, p. 295.
58. Untill 1956, the Indian Constitution recognised three classes of States: Part A States, Part B States and Part C States. Part A were those which were the former provinces of British India; Part B were Princely States; and Part C were Centrally administered States and 7 Princely States. In 1956, Part B Category was abolished. For further details see AUSTIN, GRANVILLE., Indian Constitution: The Cornerstone of a Nation. London, Oxford University Press 1966. pp. 243-245.

CHAPTER VI

***DESTABILIZATION AND
TERRORIST STRATEGY***

For Pakistan, Kashmir has been in the eye of the storm since partition. Pakistan's demand of the picturesque valley was on the ground that not only was it territorially contiguous but also a Muslim-majority area. In fact it was seen within the purview of Jinnah's Two Nation theory. The derivation of the word Pakistan too had reference to Kashmir according to M.A. Jinnah: P - Punjab; A - Afghan (Pathan or N.W.F.P.); K - Kashmir; I - the letter does not exist in Urdu; S - Sindh; Tan - for the last syllable for Baluchistan.

Let us now discuss the details of the three wars fought over Kashmir between India and Pakistan, and the clandestine Operation called Topac launched by Pakistan.

OPERATION GULMARG:

Immediately after partition, Pakistan imposed a crushing economic blockade on the movement of essential commodities to Jammu and Kashmir. This was followed by raids on the border. Thereafter hordes of tribesmen, from the North West Frontier Province of Pakistan were unleashed on Jammu & Kashmir.

Military skirmishes were reported all along the border from Gilgit to Mirpur, as the meagre State Forces were defending their territory with all their might. A main column of raiders crossed into Jammu and Kashmir from Garhi Habibullah, a small border town and captured Muzaffarabad

on 23rd of October. This was later to become the capital of "Azad Kashmir" or Pakistan Occupied Kashmir. The main column of enemy forces of more than 2,000 personnel equipped with weapons, including heavy mortars, began advance along Dommel - Srinagar Road, with the aim of capturing Srinagar by 26th October 1947. A full scale tribal invasion, backed by Pakistan regulars had begun. It was called Operation Gulmarg.³

The raiders ravaged, plundered and looted the locals. With the signing of the Instrument of Accession, the Indian Army rushed and repulsed the attack.

With the United Nations sponsored cease fire coming into force, marking the end of Operation Gulmarg on 1st January 1949, the two armies stood facing each other across an "arbitrarily drawn line". It was an unnatural division as the line did not follow any topographical or administrative boundary. At this point, Pakistan was in occupation of almost two-fifths of the State's territory and still holding on to it.⁴ It wrenched a big chunk of Indian territory, a trophy of the rapacious and predatory aggression it had perpetrated on India and carried it away with valuable military and strategic gains for the Pakistan Occupied Kashmir Area, from where Pakistan let loose another invasion 18 years later. Details of this war are already covered in the Chapter dealing with Article 370.

Ever since then, the political elite of Pakistan has repeatedly affirmed its desire by both overt and covert means to take over Kashmir, made evident by the spokesmen of Pakistan at the highest echelons of power.

Pakistan is under no obligation, international or otherwise, that prevents her from sending her troops to Kashmir."⁵

"I want to make it clear that Pakistan recognises no international obligation with regard to the State of Jammu & Kashmir, except those it has voluntarily accepted together with the Government of India in the resolution of the UNCIP dated 13th August 1948 and 5th January 1949".⁶

"Kashmir is vital for Pakistan, not only politically but militarily as well. Kashmir is a matter of life and death."⁷

"The alternative solution to the Kashmir issue is war".⁸

"As a matter of fact, the State of Jammu & Kashmir was Pakistani territory which India has usurped."⁹

The Inter-Services Intelligence of Pakistan was entrusted the work of breaking up India. Before launching an armed insurgency, two pre-requisites were fulfilled. One was indoctrination on the basis of Islamic fundamentalism. Its essential adjunct was the simultaneous

launching of rabid anti-Indian and anti-Hindu propaganda. The second was the smuggling of arms into the valley.

OPERATION GIBRALTAR:

The War of 1965 was though a conventional war, it was conducted through unconventional means. There was a sentiment prevailing that a direct declared war would not bring Kashmir into their fold. It also felt its existence endangered in the context of India's geographical and military standing. Thus while 1965 Operation began as a proxy war, it soon get out of hand, and assumed the dimension of a full-scale war.

The entire operation was code named Gibraltar. Pakistan attempted initially at infiltrating thousands of men from Azad Kashmir to Indian border villages. The aim being to terrorize the local population and establish a clear way for the Pakistani troops. The purpose was to hold sway over the hearts and minds of the Kashmiri youth and enlist their support in the operation. But it was a clear washout. Neither was the youth willing nor interested in aiding and abetting these foreign mercenaries.¹⁰

Pakistan planned to infiltrate clandestinely in early August 1965. It took into consideration the likely escalation and also kept the campaign season in mind. She gave herself adequate time to round off the campaign before

the onset of the snow. Pakistan had begun to initially soften up the cease fire line and made some inroads into Jammu and Kashmir ever since January 1965. By July 1965, after gradual progress, it became pretty virulent. Hostile activities along the cease fire line soon intensified. In addition to small arms, the use of mortars and medium machine guns became normal. The firing incidents were interspersed with a series of intrusions. The scale and frequency of which increased in a geometrical progression day by day, as the end of July approached. Acts of sabotage and subversion touched new heights during July and reached its peak in the first week of August. "Specially trained agents and saboteurs were projected into Jammu and Kashmir for mass scale subversive activities, in order to generate among the populace an atmosphere of despair and despondency with a view to erode the authority of the civil administration. The resulting situation of lawlessness and disorder, it was hoped, would push the government to the brink of an abyss ready to topple over with the next stage of large scale infiltration."¹¹

Thus, what was intended to be done was nothing but a low intensity conflict, to work on the hearts and mind of the local population and then launch a strong offensive.

The 'Proclamation of War of Liberation' which was to be issued by "The Revolutionary Council of Kashmir" was a document recovered by the Indian Army along with other

documents on 8th August 1965 when they captured two officers - Captain Ghulam Hussain and Captain Mohammed Sayed of 8 and 18th Azad Kashmir Battalions, near Narain. They indicate the tenor of the Infiltration Thrust and its objective, e.g. "UN was duped and so was the whole world. India dishonoured her international pledge shamelessly and with utter contempt for world opinion. She played for time to occupy our land. Since then every day has been a day of misery, and every night a night of crime. You know what acts of cruelty, sacrilege and barbarity the enemy has been perpetrating under the shadow of guns and bayonets."

Another one said - "Above all, you the people of Kashmir, you are the ones who are on trial. You are the ones who must win the war for the sake of coming generations, for the sake of freedom and for the sake of the glory of your motherland."¹²

There was nothing but venom in this Proclamation. Kashmiris did not rise then. Having failed in 1965, they attempted another one in 1988 which still continues. Kashmir is such an obsession that they want it at any cost, irrespective of the fate of Indian Muslims who would be the victims, or heavy losses of Kashmir.

Pakistan began the training of the selected personnel in May 1965, they were put through an intensive course in their Commando Training School in their Sector Headquarters in POK. A number of Task Forces were raised, each

comprising three to six companies. Each company had 35 - 40 POK soldiers, a group of three to four officers from Special Services Group and about 66 Mujahids. POK soldiers were tapped from POK battalions in each sector and the Mujahids were forcibly recruited from local areas in POK.¹³ POK soldiers formed the hard core of the companies and special Services Group handled explosives for Sabotage activities.

These forces were equipped with Pakistani arms, ammunition, equipment, clothing. Pakistan markings were erased before launching the infiltration across the Cease Fire Line. In addition to personal arms, the Companies had light machine guns, 2-inch Mortars, 83 mm. Blendicide Rockets, Shotguns, Light pistols. Force Commanders had wireless sets 62/19/ANGRC-9 for communication with HQ Company Commanders used runners for communication. They were issued transistor sets to listen to messages on Azad Kashmir Radio. Each soldier carried 5 - 7 days cooked rations. Company Commanders were given Rs.9,000/- each in Indian Currency for rations locally.¹⁴

The whole force of Infiltrators was named "Gibraltar Force" and consisted of the following Task Forces:

Tariq Force for Operations in Kargil

Qasim Force " " " Gures

Khalid Force " " " Tithwal

F Force " " " Uri

Salaluddin Force for Operation in Gulmarg, Srinagar and Mandi

Nusrat Force for Operation in Rajouri & Mendhar

Ghaznavi Force for Operations in Darhal, Thanamandi and Budil

Babur Force for Operations in Chhamb and Naushera.¹⁵

They were tasked to blow up bridges, disrupt communication, ambush convoys, paralyse the administration, raid Supply and Ammunition Dumps.

The Infiltration Plan was conceptually sound. The raiders were to infiltrate in small groups from all directions in Kashmir and concentrate in the valley by the night of 7th August 1965. They had planned to mingle with the crowd, unobtrusively, which was congregating in large numbers to celebrate the festival of Pir Dastgir Sahib on 8th August. The next day, they were to sneak into the crowd which was to demonstrate in Srinagar on the first anniversary of the arrest of S. Abdullah, fully armed. They were then to capture the airfield, radio station, telegraph office and Stage a revolt against the Government of Jammu and Kashmir and India.

The columns from Kargil, Rajouri, Poonch were to work their way up to main highways and cut the roads Jammu - Srinagar; Srinagar-Kargil-Leh. After the civil administration collapsed and the Indian army cut off, they had planned to announce their independence, constitute a revolutionary Council and appeal to Pakistan and others, to

recognise it as the lawful government and ask for immediate assistance. Pakistan had planned to move in at this stage with her full military might to capture Kashmir and rout the Indian army. The plan was brilliant but its implementation was flat footed.¹⁶ It was the patriotic instinct in the locals that contributed to Pakistani failure.

This attack led to the Counter-Infiltration Phase of India followed by a full-fledged attack on Pakistan in Chhamb and India crossing the International border in Punjab resulting in a full fledged war which Pakistan had not bargained for.

As in 1947-48 Operation in Kashmir, Pakistan in 1965, began by saying it was the Kashmiri armed rebels who crossed the cease fire line, with a view to help the unhappy Kashmiris in the valley, to start a revolt from within and throw the Indians out. But General Musa, the then Commander-in-Chief of Pakistan Army said, it was a lie. That after the Pakistan government decided that raids should be launched in Indian Kashmir, he directed the preparation of the draft Plan of Operation Gibraltar.¹⁷ He said "Broadly the plan envisaged on a short term basis sabotage of military targets, and disruption of communication; as a long term measure, distribution of arms to the people of occupied Kashmir and initiation of a guerrilla Movement there with a view to start an uprising in the valley eventually."¹⁸

General Musa claims that it was not due to lack of valour or determination on the part of those who took part in the operation, neither faulty planning nor ineffective leadership that the raids petered out. Primarily, the reason was lack of necessary preparations in the Valley for the extremely difficult tasks before they were undertaken.¹⁹ Pakistani intelligence had wrongly assessed the civil mood prevailing in Kashmir.

The premature discovery of the Coup, the unappreciative attitude of the locals who failed to respond to the Pakistani gesture of liberation and the relentless action of the armed forces had, by the 3rd week of August dampened the zeal of the self-styled liberators.

Gen. Harbaksh Singh claims "it was appreciated that this menace would continue to fester as a running sore in our side unless the approach routes of the infiltrators are effectively sealed and their bases in POK destroyed."²⁰

Though the Operation failed because the situation in Kashmir was not conducive. But in Srinagar, and some other towns, the infiltrators did receive sanctuary and were able to seriously interfere with life in the valley. "It was clear that if Pakistan wanted to instigate uprising and back guerrilla war in future, it should be confined to Kashmir only and they should be in no hurry and keep fighting till Kashmir fell on its own. Pakistan learnt its

lesson well and has been following it in the Proxy War with India presently.²¹

Thus began Pakistan's 1000 year war to conquer Kashmir. The Tashkent Declaration adding fuel to the fire.

POST-GIBRALTAR PHASE:

Operation Gibraltar set a pattern of revolution from within Kashmir. Pakistan began encouraging the local population to demand a plebiscite, and exercising their right of self-determination and provided the necessary material and moral support for it. During 1966-70, it was not strong and India was able to neutralize it by appropriate counter-measures by the State administration, army and Security forces. It gained momentum in the late 80's and became a mass movement with Pakistan providing the money, weapons and training.

In October 1965, students in Srinagar demonstrated for demand for plebiscite. The Government came down heavily, arrested many and the State Government banned all public demonstrations, demanding self determination. A terrorist organisation, Al Fateh surfaced in 1968 with similar hopes to destabilize the State. It was responsible for laying down the foundation of future militancy in Jammu and Kashmir by its heavy reliance on sabotage and violence.

Border violations continued simultaneously. An Air Defence Ministry report pointed out that in 1966, Pakistan

was responsible for 70 air violations, 27 were of a serious nature and was reported to the United Nations. In the Rajasthan Sector, India complained of 237 Pakistan intrusions. These created suspicions and stalled the normalization process. Pakistan, despite the Tashkent Declaration continued her hostile propaganda against India. India Pakistan began a hate each other campaign with a view to outdo the opposition in their respective countries (In Pakistan formulation of PPP by Mr. Bhutto in 1966 after leaving the Ayub Government, and India loss of credibility of the Congress in 1967 General elections)²²

Pakistan's adventure to grab Kashmir failed in 1965 - politically and military. The myth of Pakistan superiority too exploded. She accepted the Tashkent Declaration only to regain her lost territories and to re-establish its credibility with USA, but had no intention of negotiating a viable solution over Kashmir. She, thereafter began a process to expand her military, equip it with weapons under military aid programmes, or bought from the open market with Islamic money. She cleansed her army of those officers who did not perform well in 1965. They well oiled their war machinery for the next round. Politically Z.A. Bhutto engineered his moves to become Prime Minister of Pakistan to avenge the 1965 humiliation.

LOW INTENSITY CONFLICT : 1971

The 1971 Operation "was nothing like the 1965 one. It was on two fronts. On East Pakistan primarily and just to humiliate India and overcome the guilt of having lost East Pakistan. India had a clear political aim to liberate East Bengal in the shortest time and send the refugees back. But when Pakistan launched her campaign of total repression on 25th March 1971, India was ready to invade East Bengal, in support of Mukti Bahini and other political forces fighting for liberation if the international community failed to solve her problem. India displayed patience and spent more than eight months to build up a world opinion in her favour.

With the green signal from the Government of India on 4th December the Indian Defence Forces launched themselves into East Pakistan from all directions and did not relent till the fall of Dhaka and surrender of Pakistan forces on the 16th of December 1971.

Pakistan's precipitating a war in the West in early December 1971 was illogical and beyond comprehension. Her pre-emptive air strikes gave India a valid reason to invade East Pakistan, establish Bangladesh and send back refugees. If Yahya Khan had not launched it, India's intervention would have been impossible and Pakistan as one entity would have survived.

Yahya Khan and his officers showed total immaturity and lack of realism in thinking that they would be successful in grabbing Kashmir through Chhamb and Poonch and compensate Pakistan for the loss of East Pakistan. At the end of the War, Kashmir was intact less Chhamb, but with large area added to it in other sectors of Jammu and Kashmir. The Karachi Agreement was scrapped and a new Line of Control replaced the Cease Fire Line.

Pakistan's defeat in 1971 was so complete Yahya Khan abdicated on 20th December 1971 and Z.A. Bhutto took over as the President and the Chief Martial Law Administrator of Pakistan. In his first message he vowed that Pakistan would "take revenge to put right the humiliation inflicted on her by India".

TOWARDS SHIMLA:-

Z.A. Bhutto's immediate problem was to get 93,000 Prisoners of War back. He also wanted to consolidate his position in office before tackling the demands of the opposition (of lifting Martial Law, restoring democracy and normalcy). He also wanted to organize military and economic aid from its allies to make up their war losses and get their defence forces in shape. He visited China in early February 1972, Moscow on 16th March 1972, and consulted USA.

Bhutto began using Kashmir to strengthen his own position in a changed environment in Pakistan. On 19th March in Lahore he said he wanted peace with India but, "we cannot forget Kashmir". He also wanted India to hand over the Prisoners of War without informing Bangladesh, which the former refused. Bhutto kept on repeating his desire to meet Mrs. Gandhi, but India could not invite till Pakistan abrogated her declaration of the "State of War". Pakistan did that only after India withdrew her troops from Bangladesh in March 1972.

Mrs. Gandhi invited Mr. Bhutto for talks which he accepted. Emissary level talks began on 26th April in Pakistan, an agreement for holding a summit meeting to be held in the last week of May 1972.

Before the Summit a confrontation took place involving a battalion level attack at Kaiyan in Lipa Valley of Tithwal Sector in Kashmir on 5th May. Hostilities stopped after a cease fire accepted by both. There were quite a few cease fire violations in other sectors too. After these, all propaganda media in Pakistan was geared up against India, aiming to prove that Pakistan forces were superior. A lot of animosity was generated and the Summit postponed to the end of June.

BILATERAL NEGOTIATIONS:

It opened on 28th June 1972 at Simla and signed the Simla Agreement on 2nd of July 1972. They accepted that

the principles and purpose of the United Nations Charter shall govern the relations between India and Pakistan. They would settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon, between them. They agreed to respect each other's territorial integrity and sovereignty and non-interference in each other's internal affairs and will refrain from the threat of use of force. Both agreed to take steps to prevent hostile propaganda directed against each other and to resume communications and travel facilities for the nationals of the other country.

The emergence of Bangladesh as a Sovereign State had brought about the inadequacy of religion as the sole basis of nationality. It also repudiated the two nation theory and struck a deadly blow to Pakistan's claim, implicit and explicit, that it spoke on behalf of the Muslims of the sub-continent. Mr. Bhutto was conscious of this fundamental change of context. He made Mrs. Gandhi aware of it.²³ He referred critically to his own views on these subjects which were extremely bellicose. He even lamented the tripartite division of the Muslims of the sub-continent. Further more, he said that he was convinced by the events of 1971, that Pakistan could not acquire Kashmir by military intervention.

Bhutto claimed that he did not want its dark shadow to loom over Indo-Pakistan relations. Thus, he was personally

inclined to accept the status quo as a permanent solution to the Kashmir problem.²⁴ But in the same breath, he spelt out several constraints. He was wary of his political enemies at home, especially the army, who would denounce him for surrendering vital national interest. This he felt would endanger the nascent democratic set up. Secondly, he wanted a consensus at Simla. Consensus not between India and Pakistan, but among the diverse elements of the political spectrum of Pakistan polities. He wanted all of his 84 delegates to agree on the outcome at Simla. In fact, he was very keen to get the support of hard liner Aziz Ahmed who led the Pakistani negotiating team. Ahmed's concurrence would ensure the support of the entire bureaucracy.

Aziz Ahmed did not want Kashmir on the Agenda initially. The Indian side thus put forth a very low key and indirect proposal of changing the name of the line dividing India and Pakistan in Jammu and Kashmir from 'Cease fire Line' to 'Line of Control' while Aziz Ahmed refused to accept it, this was the core of the Indian solution to the Kashmir problem, the de facto line of control was to be graduated to the level of the de jure border.²⁵ No agreement could be reached and the media declared, the talks to be a failure. But Z.A. Bhutto changed it all and a consensus was finally agreed at 6 p.m. on 2nd July.

At their meeting Mrs. Gandhi agreed with Z.A. Bhutto on withdrawal of troops from occupied territories in the interest of an overall agreement. She reiterated the Indian desire for a durable peace. Mrs. Gandhi elaborated the merits of the Indian proposal by saying it was the only feasible solution. An important feature being that no country was gaining or losing territory on account of the War. Neither did it involve the transfer of population. Kashmir as an ethnic community was left undivided on the Indian side. The line of control was, therefore, an ethnic and linguistic frontier.²⁶ Mrs. Gandhi accepted the anomalies of the picture too but said that they could be removed by mutual consent. Mr. Bhutto too agreed to this proposal. But did not agree on incorporating it in the Agreement. Though he would work for its implementation in practice and over time. Mrs. Gandhi too was worried that a formal withdrawal of the Indian claim on POK could create political trouble for her. She thus agreed that the solution should not be recorded in the Agreement but be implemented gradually.

It was also agreed that the understanding would not be a written one. The insertion of secret clauses in the Agreement was considered to be inconsistent with the desire to build a structure of durable peace. It was decided that the agreement would be worded in a manner that would facilitate the implementation of the understanding. Thus, several clauses included in the agreement had to be

redrafted. The most important of these was sub-clause 4(ii) which says "In Jammu and Kashmir, the line of control resulting from the Cease fire of December 17, 1971 shall be respected by both sides without prejudice to the recognized positions of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat of or the use of force in violation of this line."

The phrase, "without prejudice.....either side was a concession to Mr. Bhutto to save him from his domestic critics."²⁷

The Simla Agreement got a generally favourable reaction in India and Pakistan and support from the international community - US, USSR, China, Bangladesh. Jan Sangh President A.B. Vajpayee called it a "sell-out" by India. In fact, India had an opportunity to settle most of her disputes, but she threw it away. Instead, she gave up 5,000 sq. miles of Pakistani territory while Pakistan continued to occupy 3000 sq. miles of her territory in Kashmir. She also bypassed the issues of war damages, settlement of Public debt, evacuee property, compensation for the burden of Bangladesh refugees.

After the delineation of the Line of Control in Jammu and Kashmir was completed, Indian troops withdrew from the Pakistan territory to their own side of the international

border in December 1972. India kept the areas captured in Kashmir. Pakistan withdrew from the Lipa Valley, but retained Chhamb. Prisoners of War were returned only after 1974, for only then did Pakistan recognise Bangladesh. On 30th November, India and Pakistan concluded a Trade Agreement and the Old Trade embargo was lifted on 7th December after nine years. The two countries re-established full diplomatic relations only in May 1976.

As far as Jammu and Kashmir was concerned, it was agreed that in "Jammu and Kashmir the Line of Control resulting from the Cease fire of 17 December 1971 shall be respected by both sides without prejudice to the recognized position of either side. Neither side shall seek to alter it unilaterally; irrespective of mutual differences and legal interpretations." Both sides undertook to refrain from the threat or use of force in violation of this line!

The Kashmir problem was the basic issue but it had been "studiously avoided" for it did not suit Pakistan. The resultant was vague statements which could be interpreted differently.

Immediately on his return on 3rd July 1972, at Lahore Airport, he stated - "that the people of Kashmir must exercise their right of self-determination" and repeated the same in a public speech in Karachi. India should have insisted on withdrawing his statement, but Mrs. Gandhi did not do so and it rekindled the Kashmiri flame.

By now the ambitious Mr. Bhutto was firmly in the seat of power. He spoke of putting right the humiliation inflicted on Pakistan by India. He was determined to exploit the hurt ego of Pakistanis and "feed fat to their sense of revenge". But he was also a realist. He fully understood the implication of Pakistan, of another open and conventional conflict to get Kashmir. He changed tracks, Pakistan now began to influence the internal politics of Jammu and Kashmir encourage belligerence in the populace against India.

Z.A. Bhutto was overthrown in a merciless coup on 6th July 1977. General Zia-ul-Haq took over as President of Pakistan, and established a military dictatorship. Zia was a hard liner. He had felt the pulse of his officers regarding Kashmir. Being a realist, he held a reluctant respect for Indian defence. He did not want to go to war again and lose. He began to initiate insurgency on the Mujahideen pattern and inflict a proxy war.

Operation Topac:

Operation Topac was thus conceived. In a top level meeting in April 1988, he stated: "In the past, we had opted for ham handed military options and therefore, failed. So,....we will now keep our military option for the last moment as a coup de grace, if and when necessary." "We must adopt those methods of combat which the Kashmiri mind can grasp and cope with - in other words, a

coordinated use of moral and physical means other than military options, which will destroy the will of the enemy, damage his political capacity and expose him to the world as an oppressor. This aim shall be achieved in the initial phases."

In the first phase which may last a couple of years, we will assist our Kashmiri brethren in getting hold of the power apparatus of the state by political subversion and intrigue. I would like to mention that as no government can survive in occupied Kashmir, unless it has the tacit approval of Delhi, it would be unrealistic to believe that the Muslim United Front or any such organisation can seize power through democratic or other means. In view of this, power must 'apparently' remain with those who New Delhi favours. We must, therefore, ensure that certain 'favoured politicians' from the ruling elite be selected who would collaborate with us in subverting all effective organs of the State"²⁸

Even before he concretized his Operation Topac, he stepped up activities against India. His aim was simple - to win over the Muslim population of the valley, train and arm the militants, infiltrate them across the Line of Control and start an insurgency. At the same time, undermine the Indian security environment and use it to Pakistan's advantage.

Operation Topac was carried out in 3 phases²⁹:

Phase One - To begin a low level insurgency against the regime, so that it is under siege, but does not collapse, because if it collapsed, New Delhi would impose Central rule. Chosen men would be planted in all key positions to subvert police forces, financial institutions, and communication network.

To whip up anti-Indian feelings amongst students and peasants, preferably on religious issues, so that their support can be enlisted for rioting and anti-government demonstrations. Organise and train subversive elements and armed groups, with capabilities initially to deal with para-military forces located in the valley. Adopt and develop means to cut off lines of communication between Jammu and Kashmir, within Kashmir and Ladakh by stealth and not force, especially the road over Zojila, up to Kargil, and the road over Khardudngla. In collaboration with Sikh extremists, create chaos and terror in Jammu and divert attention from the valley at a critical juncture and discredit the regime even in the Hindu mind. Establish virtual control in those parts of the Kashmiri valley where the Indian army is not deployed. South Kashmir being one such area.

In Phase Two: The aim was to exert maximum pressure on Siachen, Kargil, Rajouri and Poonch Sector to force the Indian army to deploy reserve formations outside the main Kashmir valley.

Attack and destroy base depots and Head Quarters located at Srinagar, Pattan, Kupwara, Baramulla, Bandipur, Chowkiwala by covert action at a given time. Afghan Mujahideen of Azad Kashmir will infiltrate in selected pockets with a view to extend areas of influence. A Special Force under selected retired Officers of Azad Kashmir, with the hard-core consisting of Afghans will be ready to attack and destroy airfields, radio stations, block Banihal Tunnel and Kargil-Leh Highway.

Detailed plans for the liberation of the Kashmir Valley and establishment of an independent Islamic State in the Third Phase would follow.

Zia also stated that they do not have much time. Maximum pressure must be exerted before the general elections in India and before Indian Army reserves, which were occupied in Sri Lanka, became available. He said that they had accumulated large stocks of arms and ammunition from US consignments intended for Afghan Mujahideen. A period of chaos in the State is essential in the circumstances. If they ever encounter serious trouble, the Chinese and their other allies would come to their aid. Zia cautioned his forces of the danger to engage India in a straight contest. A low military profile must be maintained, so that no excuse is found to pre-empt Pakistan, by attacking at a time and at a point of their choosing.

By the middle of 1988, the population in the valley was greatly alienated. Dr. Farooq's coalition government was ineffective, yet could not be dismissed. These produced the right environment to launch Phase I of the operation Topac. It was launched soon after. Zia's death though a set back, did not stall the operation. ISI was too powerful and had enough clout to press on. Later, it got the support of Benazir Bhutto and the first phase was pushed through its paces with full commitment at all levels.

By the first half of 1989, the Proxy war was in full swing. JKLF announced in May 1989, the setting up of 10 "Hit Squads". In the second half of 1989, terrorism struck with a vengeance in Srinagar. In July a CRPF bus was attacked, a bomb exploded and in the ladies' toilet of a Cinema, acid thrown on 2 young muslim girls for not wearing a burka.

Phase I of Operation Topac seemed to be on the verge of completion in December 1989. With the dangerous escalation in terrorism, a low level insurgency against the State's regime was in full swing and it was under siege. The militants had infiltrated in all major organizations and subverted their activities. They were successful in whipping up anti-Indian feeling in the valley. The caches of sophisticated weapons and explosives found along with interrogation of captured militants confirmed the involvement of ISI and Pakistan. They had not succeeded in

cutting off the important Line of Control and establish control in those parts of the valley where the Army was not deployed. The ISI, however, found the situation ripe. They planned to complete Phase I of Operation Topac in the beginning of 1990. Launch Phase II, thereafter and complete it at the earliest and move on to liberate the valley in the next phase; this time annexing Kashmir by a Proxy war.

With the coming of V.P. Singh as PM in the end of 1989, and the second term of Mr. Jagmohan as Governor of Jammu and Kashmir conditions went out of hand. Militancy got a fillip in Kashmir due to an environment of corruption and maladministration and the ISI did not want it to change. They wanted greater confusion through pro-Pakistan forces and were determined to exploit every incident to their advantage.

Girish Chandra Saxena's appointment as Governor of Jammu and Kashmir did not bring about any significant change in the situation. The hard line approach was put on the back burner. Result being that JKLF's predominant position was taken over by pro-Pakistani factions, notably the Jamaat-e-Islami. In July 1990, the Pakistan President called the Kashmiri problem as the "unfinished agenda of Partition." and gave a call for its early solution. The militants knew what it meant.

Militants in Kashmir replenished their stocks and regrouped during the period of change of Governors. By 1991, militants had become Mujahideen and their struggle had turned into a Jihad.

The ISI organized a steady infiltration of foreign nationals into Kashmir ever since 1992, mostly Afghan war veterans. Pakistan as a result successfully hitched Kashmir militancy on to Islamic fundamentalism.

An Islamic orientation was given to all operations ever since 1947-48. In the 1947-48 War when Afridis and Mahsuds invaded Kashmir, they operated under the command of Major General Akbar Khan, who took the code name of General Tariq. General Tariq was a Moorish warrior who fought heroically in Spain for the cause of Islam.³⁰ In 1965, the entire operation was called Operation Gibraltar. The name was clearly indicative since it referred to Tariq, the nom de guerre adopted in 1947 after the Arab Conqueror after whom Gibraltar is in fact named.³¹ Operation Topac too was named after Topac Amru, an Inca Prince who fought an unconventional war against Spanish rule in the 18th century.

Pakistan has also made it a point to internationalize the issue by raising it at every world fora, backed by a fairly successful disinformation blitz.

India to neutralize it circulated a publication in

1993 - "Facets of a Proxy War". The aim was to let foreign governments make an objective assessment of Kashmir.. It extensively quoted militants, their leaders and Pakistani officials, claiming Pakistan support. Shabir Shah, the Chief of People's League said in Kashmir Times on 10th February, 1989 that Zia and his confidantes of the Pakistan Army approved of imparting training to Kashmiri youth. General Mirza Aslam Beg, the Pakistani Chief of the Army Staff, speaking at a Seminar at Lahore on 15th January 1992, claims "crores of Rupees being spent on keeping the Kashmiri issue alive".

Aman-ullah Khan - Chief of JKLF in a Karachi Monthly News lines February 1990 says the armed struggle in India had to be well prepared and well planned.

Militancy continues even today. The Task Force of the US House of Representatives in its report of 16th January 1995 reveals that ISI had launched a special force to assist Pakistani trained Kashmiri subversives to escalate militancy in the valley.

Thus, Pakistan has a fully backed strategy to dismember Kashmir from India.

In Chapter I we had identified three questions on the basis of which terrorism could be classified as War. These were: (1) Whether the activity involves the employment of lethal force against the Cohesion of the targeted political

entity? (ii) Does the activity involve lethal force by a political entity for a political end? (iii) Does this activity involve the reciprocal use of lethal force by both sides, employed in accordance with the principles of Combat?

At the most basic level both terrorism and the more classical forms of warfare function in the same manner. Both employ lethal force against a victim to affect the morale of the much larger target. Force is employed not so much for its physical but its psychological capabilities. The only difference, is the selection of abnormal means by the terrorists.

What we are dealing with is a case of external State terrorism. This involves the use of lethal force by a State government against a foreign civilian population ostensibly to weaken or destroy that populations morale and willingness to support its own government. Thus can be further categorised depending upon the method employed. - military terrorism and State sponsored terrorism.

Pakistan in its destabilizing its efforts aims to undermine the will of the population to support its own goal. There is the employment of lethal force against the cohesion of the targeted political activity. Thus confirming that such a kind of terrorism is war.

Through the various wars, the objective was to destroy

India's will to resist. This the ultimate expression of the element of war. Pakistan has employed lethal force across international borders for the purpose of destabilizing India. It has used not only its own military instrument at times (1947-48, 1965, 1971) to deliver the lethal force, but also harnessed social elements within the targeted entity to do so. (Topac) In short, it is a sub-category of social warfare and functions in the same way and for the same end as this form of War.

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CHAPTER VII

TERRORIST OUTFIT AND EQUIPMENT

Unknown to the outside world and also to the hundreds of insurgents already trained, armed and exported to Kashmir who were at work to subvert the system and cause anarchy, the Pakistani authorities in Islamabad were further sharpening their weapons. Background support was, seen as a major ingredient for the success of a proxy war.¹

Conflagration in Kashmir began subtly at first. But by January 1989, militancy had entered a violent stage. Attacks on selected targets, mob-police clashes, attack on public figures was frequent. Bombs blasted all over with devastating effect. Bandhs and Hartals became the order of the day.

The insurgency in the valley followed a distinct route and pattern. A nascent movement with inept man power resources in 1987, the militants graduated to an experienced and reasonably proficient system by 1994. Subsequent upgradation in sophistication and intensity of operation led to the emergence of a limited yet highly proficient hard core. Eight distinct phases of insurgency can be identified.²

Phase I: began from 1987 -to- mid 1988. During this stage a large number of Kashmiri youth crossed the Line of Control to receive training and induct arms and ammunition into the valley. No military operation was launched during this period, by the terrorists, other than to build cadres

and terrorize the domestic element of the state administration.

Phase II began from mid 1988 - April 1990. It was initiated with a major bomb blast on 31 August 1988. The intensity of militancy increased. The secessionist leadership got inspiration from world events where secessionist groups in Eastern Europe gained their independence. Mass demonstrations became regular feature.

Phase III began from May to August 1990. It was a period of ethnic cleansing. Acting at Pakistan's behest, militants began a policy of ethnic cleansing to establish fundamentalist overtones of the movement. Selective killings, terrorizing through destruction of business and property resulted in a near total exodus of the Kashmiri Pundit community from the valley. This was followed by systematic destruction of all what the migrants had left behind, leaving nothing for them to come back to.

Phase IV began in September 1990 to mid-1991. Militants now began large scale torching and blowing up of public property. The intention was to undermine the government's authority by destroying the basic administrative infrastructure, making the population dependent on the militants.

Phase V began in mid-1991 to Fall 1992. Here emphasis was to improve the military aspect of the movement. There was

an improved quality in their operational capability. This was accompanied by a hardening of the government's posture and upgradation of military operations to meet the imperatives of the movement.

Phase VI began in Winter 1992 to Winter 1993. Pakistan attempted to raise the ante by launching limited set piece attacks to overrun specific Indian posts on the Line of Control. India repulsed these successfully. Consequently the hitherto self-imposed restrictions to small arms exchanges between troops on the Line of Control gave way to artillery duel, thereby changing the configuration. The summer saw intensification of counter-insurgency operations by India. This stage also witnessed heavy losses by the militants. There was a palpable increase in criminal activities of the militants against their own people which led to the people turning away from the secessionists. Thus information on militant movements began to flow freely to the security forces.

Phase VII began with the Hazratbal incident in October-November 1993. It capped the last stage. It demonstrated the futility of direct confrontation based on specific geographic and strategic objectives. It also highlighted the incoherent response by different government agencies.

Phase VIII began from the Winter of 1993. Now militant operations had acquired a distinctly incremental quality.

This can be attributed to many factors. (i) Pakistan losing confidence in its main tool - Hizb ul Mujahideen and the creation of a wholly mercenary force to fight against the Indian Security forces. (ii) the need to bolster the flagging image and morale of Kashmiri militants; (iii) efforts to heighten terror tactics to keep people in line.

Foreign mercenaries were always readily available as their role in Afghanistan had reduced and they found themselves redundant in refugee camps in Pakistan. Their objective was clear. They were easily swayed by the call of jihad and the attractive bounty. The ISI led them to believe that the Indian Government was carrying on a genocide against Muslims in the valley, all mosques were being destroyed. Islam was not allowed to be practised.⁴ Their latest victory was torching down the shrine of Nund Rishi at Charar-e-Sharief.

The following is the Foreign Mercenary Presence in the Valley.

TABLE 6

<u>Agency</u>	<u>Operating in Kashmir</u>	<u>Awaiting Induction</u>
Police	600	2,500
Internal Sources	550 - 660	600
Army	600 - 2,500	15,000
Own	300 - 500	2,500

Source: Indian Defence Review. Vol. 9(3), July 1994, p.33.

As a result, the frequency of violent incidents

increased at a regular pace. It did slow down, at times due to extreme climatic conditions, but never displayed any signs of abating. There was also a change in the pattern of violent incidents, viz., a shift from bombing in public places to direct attack on security forces.

TABLE 7

DEATH TOLL IN TERRORIST VIOLENCE

Type	1988	1989	1990	1991	1992	1993	to 15th March 1994
Security Forces	01	13	132	185	177	195	53
Government Officials	01	03	62	57	36	22	5
Politicians	-	03	01	10	04	52	1
Judiciary	-	03	02	01	-	02	-
Press/Media	-	-	02	01	-	02	-
Top Political leaders			01	-	-	02	-
Muslims			575	456	747	242	400
Hindus			177	45	67	84	60
Sikhs			06	12	10	13	10
Militants			183	614	873	1114	1450
Others			16	35	35	40	30

source: Indian Defence Review Vol 9(3), July 1994 p.33 The Times of India 7 th Nov.1993.

TABLE 8

Terrorist violence in J&K can be demonstrated by the following chart.

	Total incidents	SF	Attacks Others	Explosion + arson.	Other incidents
1988	390	6	1	142	241
1989	2154	49	73	840	1192
1990	3905	1098	485	1810	512
1991	3122	1999	321	611	191
1992	4971	3413	507	744	307
1993	5793	2288	1375	1712	418
1994	1243	511	256	384	92
Total	21578	9364	3018	6243	2953

Source: Indian Defence Review. vol.9(3), July 1994, p.37.

TABLE 9

Kidnapping by Militants

Categories	1990	1991	1992	1993	1994	Total
Incidents	57	100	124	335	51	667
Persons abducted	70	159	183	349	54	815
Foreigners	-	12	-	-	-	12
Women	8	8	13	25	4	58
Political activists	33	53	26	5	-	117
Government officials	21	27	43	45	6	142
SF. Personnel	12	44	30	29	8	123
Killed	29	29	38	109	21	226
Released*	32	73	112	240	33	490

* Released after Extortion, Torture, Exchange of Militants.
Source: Ministry of Home Affairs Government of India.

TABLE 10**EXPLOSIONS CAUSED IN PUBLIC PLACES**

Year	Incidents	Killed	Injured
1988	24	15	69
1989	506	7	126
1990	1164	16	500
1991	220	24	85
1992	180	89	400
1993	302	49	379
1994	80	39	267
Total	2476	239	1826

Source: Annual Report. Ministry of Home Affairs, Government of India.

TABLE 11

The following is a tabular representation of large scale torching of Government Property.

Year	Bridges	Pvt.Houses	ed.Innst. n.	Govt.build.	Total Incidents
1988	1	19	4	4	128
1989	16	427	172	191	294
1990	172	1242	129	501	646
1991	24	819	24	45	391
1992	28	2312	57	65	564
1993	47	896	71	305	707
1994	7	105	21	50	115
Total	295	5820	478	1161	2845

Source: Indians Defence Review Vol. 9(3) July 1994 p.38.

The above facts keenly demonstrate the flourishing of a large number of terrorist organizations in the valley.

Jagmohan claims that there were various terrorists organisations operating in the valley.⁵ Afsir Karim argues that they had fancy names of Arabic derivation.⁶ According to published reports these outfits have one foot planted in POK and the other in Karachi or Islamabad. Thousands have been given sophisticated training. The basic structure for training minus recruitment and actual subversion is rooted in POK and is openly supported. A comprehensive infrastructure exists on both sides of the Line of Control for various tasks like supply of arms, ammunition. This infrastructure is used for indoctrination and propaganda. The terrorists and the militants functioning inside the valley are 'Homo fighters'⁷ of a kind who have been motivated and sponsored for an armed struggle from outside. These outfits have been trained and indoctrinated in POK and take all directives from there. Pakistan places resources at their disposal ranging from weapons to intelligence to money. All this necessitates a comprehensive system and adequate infrastructure.⁸

Organizationally speaking, the militants are a fragmented lot. There is no central and apex command. The most fundamental division is those who favour accession to Pakistan and others which favour complete independence of Kashmir or Pro-azadi elements. There have been repeated attempts to build unity among major groups, but have floundered. While Jagmohan claims 44 outfits in January 1990, JKLF Chairman Amanullah Khan claims 60 - 70 groups were active in 1991⁹. Media reports commonly speak of about two dozen underground organisations operating.¹⁰ Most of these are splinter groups based in particular

localities and habitually moving in and out of loose alliances and merger with other groups. In some cases, their independence from one another appears nominal than real. There is loose coordination of militant group activities, but no central command for formal integration of military operation.

Jammu Kashmir Liberation Force:-

The most important group is the JKLF. By virtue of its espousal of Kashmir's independence, and a moderate brand of Islam, is popular. Amanullah Khan is its chief and its headquarters are at Pakistan Occupied Kashmir. Founded in 1968 as Kashmir National Liberation Front, it has come a long way. There are claims that it was initially a group called Plebiscite Front (not Mirza Afzal Beg's) but an organization created out of fragments of Operation Gibraltar¹¹, of resistance movements on the Indian side of the cease fire line in Jammu and Kashmir which it had then been the aim of Pakistan to encourage. Perhaps the name Plebiscite Front was exploited in an attempt to radicalize supporters of that organization of the same name which had been founded by Mirza A. Beg and was far removed from advocating violent action. Initially it operated in total independence from any official body in Pakistan. They began using covert resistance against Indian government, responsible to nobody but their own leadership, and controlled by no government. The leaders genuinely believed that they were acting in the interest of Kashmiri nationalism. But it was only in 1988-89, that Aman-ullah Khan and his associates really began to affect the course of political life in Jammu and Kashmir. They represented by

no means the only organization involved in the deterioration in the security situation. Resistance factions too had proliferated under a bewildering array of names - Hizub-Ullah, Tigers of Allah, Al Omar Mujahideen. However, members of JKLF were singled out as the main culprits to explain the internal disorder in Kashmir. Now the traditional demonstrations and marches were replaced by the armed processions. From the second half of 1989, they became vociferously aggressive. They were responsible for the murder of T.L. Taploo on 15th September 1989, kidnapping of Dr. Rubaiya Sayeed. Brutal murder of General Manager of Hindustan Machine Tools H.L. Khera, Vice Chancellor of Kashmir University Prof. Mushir ul-Haq, his Secretary Abdul Ghani in April 1990.

Initially the vanguard of secular militancy, today it is increasingly losing out to what can be seen as hard core elements.

JKLF's bases can be found in Karachi, Islamabad in Pakistan. Muzaffarabad in Pakistan Occupied Kashmir. In Jammu and Kashmir in Anantnag and Srinagar, as Urban and Rural Cells. In Europe and West Asia too they have regional Cells.

Their main leaders are Aman-Ullah Khan, Ashraf Abdul Hamid Deenani, Dr. Farooq Haider, Raza Musharaf, Md. Ashraf Gani, Yasin Malik, Hamid Sheikh and Hashim Quereshi who engineered the successful hijacking of Ganga, an Indian Airlines Plane to Pakistan in 1971.

HIZBUL MUJAHIDEEN:

The other most powerful organization is the Hizb ul Mujahideen. It is fully patronized and funded by Pakistan, hence better trained, more effective, hard core and greatly feared. The pro-accession to Pakistan, has emphasised the movements newer and increasingly potent Islamist orientation. Thus both conceal an element of political opportunism. Their strategic appeals to faith or ethnic nationalism conceals their mutual dependence on Pakistan. On neither side is the formal ideological orientation wholly exclusive. The Hizbul Mujahideen has completely marginalized the JKLF. They continue to force Islamization of the valley by the gun. The group works entirely for Pakistani interests. They want Kashmir for Pakistan and has claimed to kill a number of JKLF leaders so far. It began operations in 1987, when it was instituted as, the fighting wing of Jamaat-e-Islami. Organizationally, it is the strongest, but very fundamentalist. Thus its support is confined to pockets and more often than not, is not openly expressed.¹² They draw the bulk of their support from the young educated Kashmiri Muslims. Must Gul is Chief Leader.

OTHER SMALLER GROUPS:

The other Jamaat-e-Islami and affiliated groups operating are Ansar-ul-Islam, also called the Muslim Liberation Front. Its aim is plebiscite and finally merger with Pakistan. Its leaders are Abdul Hamid. Their methods are armed struggle.

Islamic Students League: Their aim is merger with Pakistan and total Islamization of the State. Javed, Mir Nalka, Ashfaq Wani are some of its important leaders.

People's League founded in October 1988, uses propoganda, agitation and armed struggle as its methods. Its leaders were Wazir Ahmed Wani, Shahbir Shah, Aziz Sheikh, Farooq Rehmani. They too want merger with Pakistan and Islamization of the Valley.

Then the Allah Tigers who too demand merger with Pakistan and Islamic fundamentalism. Its methods are armed struggle and terror. Self-Styled Air Marshal Noor Khan is its leader.

Daughters of Islam or Dukhtran-e-milat is the Women's Wing. They too aspire for Islamization and merger with Pakistan. They work as informers and carriers with effective use of agitation and propoganda. They aim to create the environment for the militants to work in. Ms Acia Andrabi, Ms. Tabassum Aziz Bashi are their leaders.

The other groups which demand Islamization and merger with Pakistan are Hizbe-Islami, Al Omar Mujahideen, Al Jihad, Al Barq, Ikhwan Jul Musalmeen, Al Fatah.

There is a large chunk who are fence sitters. They vacillate between Independence and merger with Pakistan. They are Kashmir Liberation Army, Kashmir Liberation Organization, Falah-e-Am Trust, Muslim Janbaz Force. There are also a couple of groups which are Shia groups with unclear aims like Karbalai, Al Khomeini.

Then there are a couple of groups who favour total self-determination like JKLF. One is Muslim United Front or MUF. Today, it is a splintered and dormant organization. It demands autonomy and self-determination. Its leadership included Qazi Nissar, Abdul Gani Lone, Hafiz Makhdooml, Maulvi Abbas Ansari, Ghulam Shah, Abdul Waz Bilal.¹³

These small groups under zonal or Area Commanders know very little about the overall strategy or even the true identity of their leaders. Their capture or surrender has very little impact on the terrorist capacity to attack. These young men, mostly below 25 years of age, who generally belong to Srinagar, Sopore, Anantnag, Kupwara, are unlikely to make hardened fighters. Out of every 10,000 men who are reported to be under training, some could prove good material for continuing the armed struggle. These small groups have, however, acquired a zonal identity which motivates them. Such group loyalties are known to have a dynamic influence on group members who after some "de individualization" care very little about personal safety. Besides these, the magic effect of words like 'Jehad', based on Islamic lore, 'Azadi', and 'anti-authoritarian', keeps them going. The group and ideology serves as a psychological trap from where exit is not easy. The basic structure of these outfits is standard and their ideology well set. There is also very little ambiguity in their aims.

Other than this, there is a plethora of support groups. They are the main sources of information and intelligence to these outfits. They identify targets, observe movements

of security personnel, locate those chosen for assassination, and act as couriers. A second category gives logistical support during an operation. Yet other group provides a safe haven for weapons and ammunition. Every trained terrorist requires a minimum of five supporters.

Agitational terrorism¹⁴ which has been successfully adopted in Jammu and Kashmir, there is a special group of mass contact motivators involved. There are yet those who carry on propaganda by word of mouth, cassettes and leaflets. Another group concerns itself with financial assistance.

These groups do not provide categorised services. They perform a number of functions together. Hence cannot be compartmentalized. Some of these are Zia Tigers, Islamic Jamait Tulba (Students Wing), Al Bader, Operation Balakote, Kashmir Freedom Army Guerrilla Commando, Students Liberation Front, Kashmir Freedom Movement, Islamic Students League, Al Mehrmoodi Mujahadin Inquillabi Council, Victory Commando Force, Islami Jamurie Kashmir, J&K Inquillabi Front, Tehrik Jihad, Hizb-Ullah Islamic Jammohuria, J.K. Free Army, Hiz-ul-Zaheed, Al Hamizah, Jannah Liberation Tiger.

All these groups are under loose control of coordinating groups. The composite picture of the infrastructure on both sides of the line of control, shows that there is no adhocism in the terrorist action in Jammu and Kashmir and it is not a law and order problem which can be tackled by using Police methods.¹⁵

HURRIYET-E-KASHMIR :

There have been a number of efforts since the uprising began to forge a common above grouped pro separatist Movement from the valley's political, religious student, intellectual, professional and social organizations. The first of these was the Tehreek Hurriyet-e-Kashmir. It was an Islamist leaning umbrella organization. It excluded groups allied to the JKLF. But barely functioned. In April 1993, it was replaced by a larger alliance that combined a dozen or more groups. This was called the All Party Hurriyet Conference. It included the JKLF and on the surface at least appeared to bridge the ideological divide. Led nominally by Maulvi Omar Farooq a pir¹⁶ and joining together most of the valley's best known separatist politicians. The Hurriyet shot into prominence during the month long crisis in October-November 1993, over the militants seizure of the Hazratbal shrine in Srinagar. Hazrat bal is the most venerable shrine for the Muslims in Kashmir. They believe a Hair from Prophet Mohammed's beard is preserved here. The relic was brought from Lahore to Srinagar in 1700. Some 40 odd second rung militants had held the government to ransom for 15 days, in internationalizing the issue. On 15th October Kashmir IGP AK Suri was informed by the Muslim Auqaf Trust. Member G.M. Chisti that militants inside the shrine had tampered with the locks leading to the room in which the relic was kept. Lt Gen. M.A. Zaki - Security advisor to the Governor ordered two BSF companies to surround the mosque and block all entry and exit points before rushing to the Governor. The local police, civil administration, BSF, army

intelligence were all aware that the militants had been using the shrine as a hideout for the past eight months. Al Umar Militants held arms displays within the mosque. The Hurriyet leader Professor Abdul Ghani, S.A.S. Geelani and Abdul Ghani Lone got a new platform to over ground activities. They tried to negotiate with the militants for a compromise solution. It organised strikes, boycotts, mass public demonstrations to protest against the governments seige tactics. Its influence in the valley seemed to rival that of militant organistions.¹⁷

They seemed to have a greater role as elections were proposed to be held on the 18th of July 1995, after the expiry of President's rule in Kashmir. They got a better platform during the SAARC Conference where their leaders met the Pakistani President Farooq Ahmed Khan Leghari in New Delhi.

But it was the newly formed Harkat-ul-Ansar, an Afghan based mercenary group who torched the Charar-e-Sharief Shrine on 11th May 1995. Mast Gul, Abu Jindal were the brains behind it. Both are Afghan war veterans. Hurriyet leaders who came to the forefront projected a fresh platform were Abdul Ghani Lone, Shabir Shah, Yasin Malik. They tried marching towards the shrine but were detained by the police.¹⁸

The All Party Hurriyet Conference has emerged as a strong force. It is an umbrella organization of 36 parties, with highly divergent views. There are certain moderate elements who have opposed the gun culture and favour a political dialogue.

ACTIVITIES ACROSS THE BORDER :

Pakistan's support or withholding of support, has unquestionably been a key organizational variable in Kashmir. Its patronage has exerted a powerful influence on the rise and fall of fortunes of practically every militant group active there. Some of these organizations may be largely or even entirely creatures of the ISI. All principle groups have at some point of time or other been a beneficiary of the ISI. They depend on it for their financing and supplies. But in any event, Pakistan's ability to compel both its militant and political arm to remain in step with music broadcast from Islamabad while difficult to measure, should not be over stated.¹⁹

The issue of cross border infiltration, the armed violation of the Line of Control²⁰ through covert dispatch of regular and irregular forces has persisted ever since 1949. Pakistan provides open diplomatic and political support. But promoting Kashmiri liberation has a ring of wishful thinking. Today few Pakistani policy makers believe that Pakistan can bring it off single handedly. For most, it is not the most immediate of Pakistan's objective. Yet at the expense of its population and its development, it continues to fund militancy.

After the imposition of Governor's rule in 19th January 1990 and launching of an intensive drive to collect information, especially from the border crossers and others arrested people. At that time the government was aware of 39 training centres in POK and Pakistan. The main centres in POK were Phang; Batpora, Kalamulla, Chakothi, Tilwari,

Nausherri. Till March 1994, the total number of infiltration and exfiltration groups were 17-19,000. About 108-205 were intercepted on the border. 1959 arrests were made on the border and 1160 killed on border Athmugam, Nehraru, Kamri, Minimarg and Bandibasapur.

In Pakistan such centres existed at Bhimber, Chakwal, Mirpur, Muzaffarabad, Dudhnail, Shinkiyari, Kōtli Kobmari, Sabber, Tattapani, Rawalpindi, Lipa, Gujranwala, Autak, Jhelum, Banori, Karachi, Amahiran, Alipora, Jabran, Chinari, Mangbaju, Lahore, Peshawar, Multan, Faislabad, Betrai, Hyderabad and Khunetta.²¹

Another study claims that the total number of training camps in the valley are 105, 48 in Pakistan, 49 in Pakistan Occupied Kashmir, 8 on the Afghan border.²²

There were some training centres in the valley. But they functioned for very short durations and were quickly shifted, leaving no evidence, rendering the task of apprehending the trainers and trainees difficult. A large number of guides and motivators had also been enlisted and were woven into a well knit organization imparting training facilitating border crossing and indulging in acts of terrorism.

TRAINING EQUIPMENT:

Developments since 1987 suggest changing patterns of the training programme. Initially, there was an elementary training for a duration of seven to ten days. This included introduction to AK-series rifles, small arms, rocket launchers, light machine guns, explosives and

guerrilla tactics with minimum practical exposure. Gradually the training pattern has been redefined to cover specialized training from two to twelve weeks duration incorporating handling of heavier weapons, anti-aircraft guns, radio controlled devices, anti tank and anti-personnel mines, sophisticated explosive devices. Finer aspects of Commando tactics and wireless telephone training is also imparted to selected Kashmiri Muslim subversives. Preference was extended to educated youth with a technical or science background. They were thoroughly affiliated to Pro-Pakistani militant outfits for specialized and prolonged training schedules.²³

The camps can be demarcated as JKLF Camps, Hizb-ul-Mujahideen camps, Peoples League, Tehreek-e-Jehad-e-Islami Camps which operate together as one Muslim Janbaaz Camps, Kashmir Jihad Force, Al Inquilab, etc.

JKLF camps are primarily located around Rawalpindi, Muzaffarabad. Their coordinators are Rashid Hasrat, Sheikh Rashid, Dr. Farooq Haider, Raj Muzaffar, Saifruddin, Yasin Chowdhary, Shah Hussain, Rauf Kashmiri, Mian Parvez, Yusuf Gujjar. They are approximately eighteen to twenty in number. Housed in school buildings and isolated houses, one is at Agriculture College Building at Muzaffarabad.

Similarly the Hizbul Mujahideen camps had names like Ayubia Camp, Magri Camp, Farooq Camp, Gazi Camp, Musa Camp, Jala Camp,. They had their bases in Muzaffarabad, Abbottabad, Karachi, Islamabad, Rawalpindi, Garhi and Bagh in POK. Their Camp coordinators being Maqbool Allai, G.M.

Slofi, ISI officials, Ashraf Dar, Pakistani army officials and Afghan War veterans.²⁴

The training schedule hitherto controlled by Pakistan authorities through several militant outfits are now being handled by the ISI and the Pakistani army. Multiple training programmes dovetailing basic arms training with longer duration specialized schedules are being organized by Pakistan army officials in Pakistan and Afghanistan. The tasks assigned to Kashmiri militants include smuggling of arms, elimination of pro-accession political activists, minorities, security forces, sabotaging government property and vital installations.

The direct control of arms training for Kashmiri secessionists by ISI was primarily to insulate the Kashmiri exfiltrants against those militant outfits that were not pro-Pakistan and to control the secessionist movement. The floating of new specialized militant outfits like K-2, Akbar Tigers consisting of Kashmiri saboteurs of all groups trained by Pakistan army personnel in uniform are efforts in this direction. Simultaneously, there is more active connivance of ISI/Pakistani army through coordination of transborder movements of Kashmiri secessionists.²⁵

Curriculum is according to aptitudes of the militants. Sophisticated techniques are imparted to the educated training in sabotage subversion, guerrilla tactics, communication equipment and indoctrination for armed struggle is imparted. While illiterate trainees are imparted basic training in handling of assault rifles and explosives. Emphasis is now being laid on building up

tough physical standards and development of leadership qualities.²⁶

Reports also indicate that Pakistan security officials have infiltrated to the valley to survey security forces deployment and discuss joint operation with local militants in case of stepped up Indo-Pak hostilities. Afghan Mujahideens, who have links with Gulbuddin Hekmatyar's Hizbe Islami had infiltrated into the valley during early 1991. Pakistan ISI has been trying desperately to extend militancy to muslim dominated areas of Jammu, including Doda, Poonch, Rajouri, through militant outfits.

EQUIPMENT AND WEAPONS:

These militants have been equipped with the latest state of art weaponry. Pakistan has further intensified induction of trained Kashmiri militants with armament and sophisticated communication equipment to fight its proxy war in Kashmir. The mix of weapons has undergone a significant change since mid 1990 with each militant infiltrating group being issued 70% AK-47, 56 rifles, 20% light machine guns, Kalashnikov Model GPMG, rocket launchers, 10% pistols as against the earlier practice of 80% pistols and 15% AK series rifles. Of late, Pakistan has inducted SVD Dragunov Sniper Rifles with telescopic sights, with a few armed groups. It is estimated that around 18,000 Kashmiri youth had exfiltrated till July 1992 to Pakistan or POK for arms and training. Of them, 14,500 have infiltrated into the valley and 3,500 are awaiting infiltration. Around 3682 have been arrested who admit training at various centres.²⁷

Security Forces, intercepted 160 gangs of Pakistan trained militants killing 692 infiltrators and arresting 721 till July 1992. Besides 850 militants, including 687 Pak trained of various outfits have surrendered to authorities with weapons.²⁸

The Cumulative recoveries of arms and explosives, communication equipment and assorted ammunition include²⁹

TABLE 72

Category	1988-90	1991	1992	1993	15th March 1994	Total
Rocket Launcher	141	140	174	97	5	557
Machine Guns	124	176	174	142	18	634
A.K. Series Rifles	1474	2602	3775	2209	402	10462
Sniper Rifles	1	3	13	54	7	78
Pistols/ Revolvers	858	946	808	921	161	3694
Ammunition (Thousand)	242	318	343	293	57.6	1253.6
Grenades	2994	2236	2818	4363	315	12726
Rockets	370	329	267	135	29	1130
Rocket Boosters	156	203	144	61	3	467
Mines	1101	217	307	614	107	2346
Guns	30	79	81	63	15	268
Explosives (K.G.)	1966	588	436	2950	96	6036
Bombs	708	72	228	212	42	1262
Wireless Sets	22	36	68	132	31	288

Source:- Indian Defence Review Vol.9(3), July 1994, p.35.

TABLE 13

Specifically the following have been recovered.³⁰

Category	1988-March '93
M.M.G.	13
LMG/GPMG/UMG	484
SVD Dragunov	20
Kalashnikov rifles/carbines	8255
Detonators	16880
Radio Controlled devices	20

Source: Ministry of Home Affairs, Govt. of India.

Under official benefaction, the leaders of different militant groups operating in the valley are provided facilities to freely meet exfiltrating Kashmiri youth on Pakistani soil and provided arms and training. Pakistani ground forces are constantly upgrading logistic and other kinds of support. Pak ISI has established two launching camps on the Indo Pak border during 1991, one between Muzaffarabad and Athmugam and another between Chinari and Garhi Dupatta.³¹

Pakistan has also set up a sophisticated wireless communication network both for use within the valley as also to have a direct link with militants in Jammu and Kashmir from Pakistan. Suitable talent among militants has been given specialized and prolonged training in it. Till March 1994, 84 Wireless Transmission Sets have been recovered including portable US made High Frequency (HF) Harris sets with Alpha numeric displays and automatic coding and decoding facilities, with a range of 400 - 500 KM. Most of the recovered W/T sets are of Japanese make KT-22 of VHF bands, capable of being utilized as a telephone exchange with a range of 8 - 9 KMs.³²

The weapons are freely available from the open arms market of Peshawar and its suburbs, NWFP and some places in Baluchistan. They are well suited for ambushes and attacks on security forces and installations. Bombs with sophisticated time devices have also been used in bazaars and government buildings. Most of the weapons are easy to carry out and conceal. But in the later phase, weapons became heavy and not good for straight encounters. Large caches of arms are usually recovered in the winter months, for first the snow is heavy, cold and biting and carrying ammunition is difficult. There have been more surrenders in winter for the Kashmiri youth does not have the sturdiness to face extreme snow conditions. They are not a hardy lot.³³

The Steady proliferation of such weapons intensifies the affliction. The panoply of arms is so great that the foreseeable future is terrifying. Neil C. Livingston says "It is unlikely that terrorists will be armed with any thing more deadly than plastic bombs, automatic weapons, shoulder fired missiles and grenade launchers."³⁴ However, the day may come when terrorists seek to develop weapon of mass destruction that could be used to unleash an epidemic of violence.³⁵

State Sponsored terrorism thus involves a wide array of revolutionary terrorist groups. They could be labeled as micro political terrorist gangs.³⁶ They despite grandiose claims have no popular support while no sponsoring state is likely to expect such groups will successfully gain power, supporting these organizations can disrupt the targeted entity, causing it to divert critical finite resources and focus its attention within its own borders. This can be useful from a tactical perspective,

but is unlikely to cause a dramatic reduction in the targeted entity's will to resist.

States sponsor terrorism for three basic reasons. It is safe, cheap and the current inter-State infrastructure enhances and supports the employment of terrorism for political goals. These three elements combine to make it extremely easy to increase the expenditure of effort on the part of any targeted entity at little cost to the sponsoring state.

Modern weaponry and modern communications have made terrorism very effective and lucrative. Modern explosives have enhanced their lethality. The continuous increase in complexity of the technical means to employ terrorism has contributed to the transition from a specific tyrant to a randomly selected, symbolic individual remotely related to the target of terror.³⁷

All this again illustrates the questions raised in Chapter I. Lethal political force in the forms of well built organization and sophisticated weaponry are used by Pakistan to further its political end, thereby bestowing upon it an element of war.

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7. ibid., p.106.
8. See Appendix 4
9. KHAN, AMANULLAH'S interview in Jung Karachi, 18th August 1991.
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12. VARSHNEY, ASHUTOSH., "Three Compromised Nationalisms: Why Kashmir has been a problem?" in THOMAS, RAJU, G.C., Perspectives on Kashmir, Boulder, West View Press 1992.
13. f.n. 6., pp 110-111
14. f.n. 6, p. 112.
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16. A peer is a hereditary Saint in the Sufi tradition.
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21. f.n. 5, pp. 373-74.
22. f.n., p. 35.
23. f.n., 1, p. 213.
24. f.n., 1, pp. 213-217
25. f.n., 1, p. 218.
26. f.n., 1, p. 219
27. f.n., 1, p. 225
28. f.n., 1, p. 225.
29. f.n., 2, p. 35
30. f.n., 1, p. 225-26
31. f.n., 1, p. 226
32. f.n., 1, p. 226-27

33. f.n., 1, p.p.107-109.
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SUMMARY AND CONCLUSIONS

There can be little doubt that state sponsored terrorism represents the employment of lethal force for political objectives. Consequently this type of terrorism meets the first basic test to determine whether it is a form of war. It is imperative to keep in mind that the political objectives of the sponsoring state are usually independent of those of the actual surrogate terrorists.

The sponsoring states apply lethal force to disrupt the psychological and all other ties that bind the constituent members together by placing asymmetrical stress on the targeted political structure. In this way one element of the targeted entity perceives it is paying an inordinate price for its continued association with the larger whole and decides to cut its losses by withdrawing'.

We have tried to prove that the sufficient end sought by the sponsoring state is not necessarily the total destruction of the targeted entity through such means, but rather simply to destabilize or weaken the target. This clearly represents the use of lethal force on the moral plane to dissolve the cohesion of a targeted political entity. Consequently it is safe to conclude that state sponsored terrorism meets this second major criterion necessary for an activity to be considered a form of war.

The final test is to determine whether such force employment constitutes an engagement that does it represent the employment of force against force on the physical plane? Terrorists usually abide by this principle to be successful.

From Chapter Three to Chapter Seven we have attempted to establish the activity in Jammu and Kashmir on these three criterion.

Having established this we also show how the culture, value system and institutions in the valley are being eroded. What is under stress is the emotional ties binding Kashmir to the rest of the country. In the process weakening the basis of secular, plural and democratic politics.

Kashmir today should be seen in the backdrop of the current about face in world politics and the tribulations confronting both India and Pakistan. The Cold War edifice, based less on substance, more on paranoia, conditioned the whole world to paradigms of strategic globalism. While some analysts of great power politics acknowledge the past fallacies, others continue to justify it with post-hoc rationalizations and fail to recognise that the Cold War might well have been needlessly debilitating though revolutionary reversal and restructuring of relationships is underway, yet cold war legacies continue. The Third

World which has because accustomed to the leverage from the competition among the great powers, it has not yet grasped the full implications of this change in world politics.

Kashmir has bled India and Pakistan dry, through tensions frustrations and war. The two states will only regain constructive confidence necessary to redeem the pledges of national freedom if they too, after an introspective scrutiny, are prepared to effect a catharsis by acknowledging the penalties of past misjudgements. The problem is to recognise the existence of two states and establish amicable relations.

Pakistan did not achieve national cohesion around a shared faith which, transcending geography could weld sub identities and subethnicities. The co-religionists in East Pakistan ultimately revolted against the domination by West Pakistan. Even today in the West half, of religion has not subsumed the minority apprehension of the Sindhis, Baluchis, Pathans, and Mojahirs lets alone the fight among Shia's, Sunnis and Ahmediyas.

The patchwork of religious and cultural multiplicity cannot be scissored along any rational seam in the fabric. Instead of stability in the separated parts, the divisions have increased the propensity towards social tensions and internal political violence, and compound the temptation to turn to outside dependence.

After 47 years of a tension riddled story, the crude political reality about Kashmir remains that no government in Islamabad could appear half hearted in helping to detach the valley from Indian control. On becoming Prime Minister of Pakistan, Benazir Bhutto reiterated her father's pledge to fight India for a thousand years over Kashmir. Yielding to populist sentiments combined with the pressure from sections of the Pakistani Army and Inter Services Intelligence, she acquiesced in authorizing support to the Kashmir movement.

There may or indeed has been unprincipled politics, rampant corruption, sluggish socio economic development, but this is not a sufficient reason to arouse secessionist overtures. An attempt was made by Pakistan to crystallize this into disaffection against India. The minds of fundamentalism provided further inspiration. With funds pouring from the illicit drug trade and arms readily pilfered or easily bought from the Afghan Mujahideens by the I.S.I from U.S. coffers the insurgency was moulded. It is a revolt that has been organized "Yet" at times spontaneous on emotive issues like the disappearance of the religious relic from Hazratbal in 1963. Pakistan has not only politically encouraged it, but also provided state of the art weaponry, training and guidance. Infiltration across a porous border became easier than it had been when

there was not the same level of dissatisfaction. Official and Semi official, tacit and open support from Pakistan has left Kashmir in a state of disarray.

The international media has publicized the after effects of militancy as the causes for it - breakdown of civil authority, repression, violation of Human Rights, alienation. This satisfies the militants and whets the hope of international intervention. A disinformation campaign has been resorted to, to influence international opinion against India. Impartial observations regarding innocent killings, disruption of life are few in between. Censorship and official control of information has tended to give gust to bitterness and to complaints that Indian authorities are concealing a policy of brutal suppression.

It is both a positive and negative reality that the anti Indian disaffection is not a united movement with an undisputed leadership and a coherent definition of goals and modalities. JKLF demands democracy and independence and is strongly against integration with Pakistan. The fate of democracy in Azad Kashmir too, provides no attention. The Hizbe Nizami and Hizb-ul-Mujahideen are, on the other hand, blatantly Islamic solidarity and demand accession to Pakistan through pressure and inducement tries to create a unified coalition, but the preferential treatment for the fundamentalist only alienates the other groups. In fact,

rivalries and even occasional conflicts highlight the differences between Pakistan's aims on J&K and the distinct features of the traditional Kashmiri Muslim personality with its affiliation to sufism and religious catholicity. Pakistan forgets in its endeavour to enlarge the domains of its central and influence, the Kashmiri aspiration for its traditional autonomous character within a larger reality.

Policy perceptions for India and Pakistan are beyond the scope of this dissertation that has examined the relevance of terrorism as an unconventional warfare in Kashmir.

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Appendix 1

Article I - Which describes the number of the states of the Indian states/

1. Name and Territory of the Union -

- (i) India i.e, Bharat will be a union of states.
- (2) The states and Territories thereof shall be specified in the First Schedule
- (3) The territory thereof shall comprise
 - a. territories of the state
 - b. the union territories specified in the First Scheduled
 - c. such other territories as may be acquired,

This article in its entirety is applicable to J&K which is the 15th State in Schedule I of the Constitution. This is permanent, art 370 is temporary.

Appendix 2

INSTRUMENT OF ACCESSION

The state of Jammu & Kashmir acceded to the Dominion of India on exactly the same terms of the Instrument of Accession as were applicable to the other princely states ruled by 140 members of the Chamber of Princes. This instrument was defined in Section 6 of G.O. Indian Act 1935, while the Indian Independence Act 1947 provided that the Governor General could adopt it under the Indian Provisional Constitution Order 1947. The instrument limited the accession of the states to the Indian Dominion to 3 subjects - defence, external affairs of communications, conceding a residual sovereignty to the states.

It included the following provision. The terms of this I.O.A. shall not be varied by an amendment of the Act (GOI Act 1935) or of the Indian Independence Act 1947, unless such an act is accepted by the (Hari Singh) instrument supplementary to this instrument. Nothing in it shall be deemed to commit in any way to acceptance of any future constitution of India or to fetter my decision to enter into arrangement with the G.O.C. under any such future court.

Nothing in this Instrument affects the continuance of my sovereignty in at over the state, or save as provided by or under this Instrument, the exercise of any powers, authority of rights now enjoyed by the as Ruler of this State or the validity of any law at present in this state.

Sd.
Maharaja Hari Singh
26th Oct. 1947

Appendix 3

There have been a number of extensions of provisions of the Indian Constitution to the State of J&K.

1954- Financial integration effected through 1954. Presidential Order. The operation of customs, Central Excise, Civil Aviation, Posts of Telegraph were extended.

1958-All India Services were introduced. Functions of Comptroller and Auditor General were extended.

1959-The legislative entry relating to census was applied as a result of which the census of 1961 could for the first time be conducted under the central law.

1960-The Supreme Court was given the power to give special leave to appeal from the decisions of the High Court of Jammu and Kashmir.

Elections were placed under Election Commission although they continued to be conducted according to their laws of the State Legislature

1956-The category of Part 'B' State was abolished, J/K included, as the 15th State of the Union.

1961-The Legislative entry relating to industries, the control of which by the union is declared by law to be expedient in public interest was applied to the state and its enabled the extension of the Industries (Development and Regulation) Act 1951.

1964-Act 356 and Act 357 were applied.

1965-A number of legislative entries relating to welfare of labour, trade unions, social security of social insurance were applied. Central Labour Laws too were extended.

1966-Provisions relating to the direct election of the representative to Lok Sabha were applied.

1968-Entry 72 of the Union List was applied in a modified form in relation to the appeals to the Supreme Court from the decisions of the State High Court in election petitions.

1969-Act 248 and entry 97 of the Union List (residency powers of Legislature) were applied in a modified form and as a consequence, the Unlawful Activities (Prevention) Act 1967 was extended subsequently.

1971-Act 226 which relates to the powers of the HC to issue certain writs was made applicable.

1972-Entry 60 of the Union List (sanctioning cinematography films) was applied on 24th Feb. 1972.

1986 - Act 249 extended.

All this goes to prove that article 370 though was introduced to J&K, but it has lost its teeth. It is no longer a powerful instrument to keep Kashmir isolated slowly through various provision the constitution of India has come to be applied to J&K.

APPENDIX 4

OUTLINES OF TERRORIST INFRASTRUCTURE IN J&K AND POK

