STRATEGY RESEARCH PROJECT

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JAMMU AND KASHMIR

BY

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ABSTRACT

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The struggle in Kashmir continues due to continuing repression and injustice. Current attempts by India to identify the on-going national liberation movement in Kashmir with terrorism, or to equate it with a Pakistan-sponsored insurgency, are inconsistent with the history of its people's struggle for independence, which has been going on since 1931. This paper seeks to examine the situation in Kashmir from a variety of perspectives, in order to help readers differentiate the facts of the conflict from fictional or biased versions. The question is what does the future hold for the Kashmiris, who are passing through a particularly difficult phase of their struggle. Their effort is not confined to bringing India to the negotiating table, but also to retain the legitimacy of the movement. The projections for future are not to clear, and today more then ever before, all depends on the vision of the Kashmiri people and their leaders. They must appreciate the profound changes that are underway on the world scene. Access to the media and international standing are more consequential in present times than all other instruments of power in projecting their cause. In their struggle they have to take new directions. Resentment can be expressed on a more sustained basis using the teachings of Gandhi and meshing it with the power of information.

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JAMMU AND KASHMIR

Kashmir is located in the northwestern part of the Indo-Pakistani subcontinent, and borders Pakistan, Afghanistan, China, and India. It has an area of 86,000 square miles, with an estimated population of 13 million. Its rivers flow into Pakistan and traditional trade routes run through the same land. The state of Jammu and Kashmir is larger than 87 independent countries and more populous than 114 of them. This scenic, land locked state has been the cause of unrelenting conflict between India and Pakistan for over 50 years. It is high time to settle the India-Pakistan dispute over Kashmir in accordance with the wishes of its people. A solution would reduce possible sources of conflict in the region, and reduce the fear of war and crushing poverty that are the lot of over a billion people in the subcontinent.

Current attempts by India to identify the on-going national liberation movement in Kashmir with terrorism, or to equate it with a Pakistan-sponsored insurgency, are inconsistent with the history of its people's struggle for independence, which has been going on since 1931.[1] These efforts will not only complicate the already complex issues involved in the dispute, but will also delay meaningful dialogue, which the democratic world recognizes as the only means of resolving the issue. The present ceasefire line, recognized by the international community, divides the state in two parts, giving 63 percent of the area to India including the Srinagar valley, Jammu, and Ladakh, and the remaining 37 percent to Pakistan. Azad Kashmir is under Pakistan's indirect control while Gilgit and Baltistan are subject to direct Pakistani administration. At present, however, the legitimacy of the Kashmir national movement is under attack, despite a long record of historical struggle and sacrifices.

This paper seeks to examine the situation in Kashmir from a variety of perspectives, in order to help readers differentiate the facts of the conflict from fictional or biased versions, and to contribute to a just resolution of the Kashmir conflict in the best interests of all the peoples of the region. It is organized in three parts:

Part 1. Indian arguments for the accession of Kashmir and an analysis of Indian motives.

Part 2. The values of the Indian polity and their manifestation since 1947.

Part 3. Causes of the Kashmiri struggle.

INDIA AND THE KASHMIR ACCESSION

India's official position on the Kashmir problem contains three basic postulates. The first is that the State of Jammu and Kashmir is now, and has been since its accession to India on 26 October 1947, an integral part of the Indian Union. Nothing agreed to by India in the UN Security Council Resolutions of 13 August 1948 and 5 January 1949, or in any subsequent

instrument, is considered to have altered this status or in any way modified Indian sovereignty over the State. Second, it is asserted that the only component of the Kashmir issue that is legally admissible in talks between India and Pakistan is the need for Pakistan to "vacate" territories under Pakistan's control. Third, it is suggested that talks between India and Pakistan in regard to the future status of the State should be held within a strictly bilateral framework in conformity with the Simla Agreement of 1972.[2]

The first part of the paper will analyze Indian contentions for declaring Kashmir to be an integral part of their Union. The strongest argument which is used by the Indians to establish their legal control over Kashmir is the "Instrument of Accession" signed by the last Kashmiri Maharaja in favor of joining India on 26 October1947. Pakistan rejects this argument for the following reasons:

- The independence plan afforded an opportunity to the Princely States to join either India or Pakistan before partition. Once the British left the subcontinent the legal status of British directives ceased to exist. Exercising the right two and a half months after British authority had ended, as was the case for the Maharaja of Kashmir, may therefore be considered to be legally invalid.
- The original document has never been produced, and there are indeed grave doubts about the very existence of this document. The document is purported to have been signed in the city of Srinagar at a time when the Maharaja was probably not physically present in the city.3
- The Instrument of Accession was to be signed by the Maharaja after consulting with the people of the State. Lord Mount batten, then Governor General of India, specified this condition in his last letter to Maharaja Hari Singh dated 27 October 1947. But the Maharaja never complied with this directive.
- Apart from the suspect existence and nature of the document of accession, the Prime Minister of India, the late Jawaharlal All Nehru, regarded the accession as provisional and said so on many occasions. In his broadcast on All India Radio on 2nd November 1947 Nehru stated: "We have declared that the fate of Kashmir is ultimately to be decided by the people, that pledge we have given to the people of Kashmir and the world. We will not and cannot back out of it". This statement of Mr. Nehru is an admission that the people of Jammu and Kashmir did not exercise their right of self determination upon independence.
- The Maharaja had forfeited the right to sign the "Instrument of Accession" because the people of Kashmir had risen against him and had forced him to flee from

Srinagar. His legal and moral authority to decide their future was at best debatable.

- Further proof that the Accession was neither legal nor final is contained in the resolutions of the U.N Security Council and UNCIP (United Nations Commission for India and Pakistan) relevant to the issue. These resolutions clearly state that the Future of Jammu and Kashmir will be decided in accordance with the wishes of its people under the aegis of the United Nation.4

The next argument that the Indians use to establish their claim on Kashmir is that the UNCIP resolution of 13th August 1948 called for the withdrawal of Pakistani troops from the state of Kashmir before holding a plebiscite on its status. They argue that since Pakistan did not withdraw its forces from the State, a plebiscite could not be held. Pakistan responds to this argument with a number of rejoinders:

- Sir Owen Dixon, an eminent Australian Jurist and United Nations Representative for India and Pakistan, wrote in the concluding paragraph of his report that "in the end I became convinced that India's agreement would never be achieved for demilitarization in any form or to provisions governing the period of plebiscite of any such character, as would in my opinion permit the plebiscite being conducted in conditions sufficiently guarding against intimidation and other forms of influence and abuse by which the freedom and fairness of plebiscite might be imperiled."5 (Para 52 of document S/1971).
- The UN Security Council, in its Resolution No. 98 (1952) adopted on 23 December 1952, allowed both India and Pakistan to maintain a limited number of their forces on each side of the ceasefire line at the end of the period of demilitarization in order to maintain law and order. This number was to be between 3000-6000 forces remaining on the Pakistan side and 12,000-18,000 on the Indian side. Pakistan agreed to this proposal, but India did not.

An additional Indian claim on Kashmir stems from the fact that the Kashmiri people expressed their wish to join India through the so-called Constituent Assembly of Jammu and Kashmir. According to Pakistan this claim has no validity for the following reasons:

- The United Nations' Security Council adopted two resolutions—namely Resolution 91(1951) and Resolution 122(1957)—rejecting this procedure for ascertaining the wishes of Kashmiri people. Resolution 122(1957) states that "having heard statements from representative of the Governments of India and Pakistan concerning the State of Jammu and Kashmir, it is necessary to remind the

Governments and authorities concerned of the principle embodied in its resolutions that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and fair plebiscite conducted under the auspices of the United Nations." This reaffirms the assertion in Resolution 91(1951) and declares that the convening of a Constitution Assembly, as recommended by the General Council of all Jammu and Kashmir National Conference, and any action that Assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire State or any part thereof, or action by the parties concerned in support of any such action by the Assembly would not constitute a disposition of the State in accordance with the above principle.

- The members of the Constituent Assembly were elected unopposed because the nomination papers of opposition candidates were rejected and they were prevented from participating in elections.6

In recent years India has taken the position that the UN Security Council and UNCIP Resolutions on Jammu and Kashmir are no longer applicable or relevant. The spokesman of the UN Security General, in a statement on 6 January 1994, categorically contradicted the Indian position and reiterated the solemnity, effectiveness and continuity over time of the resolutions adopted by the United Nations. The following arguments were presented in his statements:

- UN Resolutions remain in effect and relevant until they are implemented.
- A UN Resolution becomes irrelevant or ineffective only when it is implemented, or when the issue is resolved and all parties to the dispute jointly agree that the resolution is no longer required.
- In addition to the points made above, a resolution is ineffective and dead only when the UN members pass another resolution by majority of votes, repealing or replacing the earlier Resolution.

Indians have also argued that their country is a multi-ethnic society. Concern is expressed that if Kashmiris are granted their right to self-determination it could be a spark for the break up of the Indian Union. The implicit fear is that other ethnic minorities will also demand separation from India.

THE KASHMIR INSURGENCY

The most successful campaign that India has launching recently rests upon the argument that the Kashmir problem remains alive only because of terrorism sponsored by Pakistan. This argument also rests upon dubious premises. First, the armed struggle in Kashmir has its roots in the beginning of 20th century and has been oscillating between high and low pitch ever since. It has taken various forms during its development, and is presently in the stage of active insurgency. During this insurgency, since 1989 Indian Forces have killed over 70,000 Kashmiris, a fact that is attested to by various international agencies. Second, it is not entirely clear how Pakistan on its own could possibly have found the means to sustain an insurgency in India for the last 12 years and longer. Insurgency only occurs when the people within a state are willing to struggle against the regime. Moreover, today India has over half a million security forces in Kashmir with heavy deployment all along the border at possible entry points. If the Kashmir insurgency is indeed not an indigenous movement, then the sealing of borders should stop the influx of terrorists. India has no dearth of resources to seal several hundreds of miles of border in Kashmir. Besides, she has already erected triple layered fence all along the India-Pakistan international border extending for over 2000 miles. This fence is kept under observation at night through an elaborate lighting system. If India has not been able to control infiltration with all the resources that it is brought to bear, then how does she expect Pakistan to do the same. It is time to face reality. The Kashmir insurgency is an indigenous movement that is not sponsored by Pakistan.

The assistance to the Kashmir movement that came from the mujahideen is a result of the Afghan war against Soviet occupation. After the victorious conclusion of the war against the Soviets, these heavily armed groups felt overconfident about their strength. Many militants spread out to various countries, including Bosnia, Chechnya, and Kashmir, to pursue *jihad* This was an international phenomenon that was well beyond the control of a country like Pakistan. Kashmiri freedom fighters enlisted the mujahideen into their struggle in order to draw on their strength. In the future they are likely to draw upon other forces, such as information technology, the mass media, etc., with a view to further their movement. It may be mentioned that even today substantial financial assistance and arms are flowing into Kashmir from within India, where a huge arms trade flourishes in the under ground world supporting other ongoing secessionist movements.

The powerful Indian media and diplomatic corps have emphasized the theme that the Kashmiri independence struggle, which possesses clear legal and international standing, is in fact a terrorist movement. This argument helps to camouflage the naked use of power by the

Indian central government to keep real representatives from coming into assemblies. It also helps to hide the atrocities being perpetuated against Kashmiris. The accusation seeks to place the onus of responsibility on Pakistan, an assertion that the world is ready to accept in the present political environment.

THE VALUES OF THE INDIAN POLITY AND THEIR MANIFESTATION

Having analyzed arguments concerning the Kashmir accession and insurgency, we now proceed to understand the values of Indian polity and its manifestations since 1947. The West does not have a clear perception of the Indian way of thinking. Its image of India rests upon a series of over generalizations and misperceptions, including impressions of the mystical Orient, the Jewel of the British Crown, the land of Mahatma Gandhi, etc. Such fantasies have been perpetuated for a number of reasons, including the impression given by certain leaders (Nehru, Indira Gandhi, etc), India's status as the world's largest democracy, the work of the powerful Indian media, and so on. But the most important factor that has helped maintain this fantastic vision of India is distance, which has shielded the real face of India from the Western world.

Hindu society is based on the caste system, where the populace is divided in four castes. Each caste has its own duties to perform and the leadership falls to Brahmans, who are the most elevated people, while shudars are the lowest ones also called untouchables. Within the castes there is strict compartmentalization. Brahmans have therefore developed a peculiar arrogance about themselves and they still continue to dominate leadership at all tiers within India. An Indian holds the view that the outside world "knows even less about what really exists in India than it does about the countries behind the so called Iron Curtain."[7] (as it was put in the period prior to the Soviet Union's disintegration). The trend has been in place from the distant past due largely to what is sometimes termed "Hindu Secretiveness." In the eleventh century, Alberuni encountered the real foundation of Hindu beliefs. The Brahmins, he wrote, "take the greatest possible care to withhold themselves from men of another caste among their people, still much more of course from any foreigner."[8] Nirad C. Choudhry, writing in the late 1960s, stated that the "Hindu will not speak frankly." It would thus not be wrong to suggest that "to endeavor to understand the India of today would be the task of a brave man. To describe tomorrow's India would verge on madness."[9]

There are two trends about the India of today which seldom escape the pen of any writer. The first is an ever strengthening Hindu identity, and the assertion of Hindu identity in modern India. Even enlightened Indians feel that the "Hindu religion is a way of life. It forms our roots and if you take away the roots you have someone whose identity is forever under threat.[10] In

the words of Romesh Thrapar, "This Hindu assertiveness is already breaking the fragile structure of our federal polity."[11] The Sikh Christian and the Muslim communities are currently facing the growing menace of violent Hindu assertiveness, to their great distress. More on this issue will be covered when we look at the manifestations of Hindu assertiveness in a later part of this paper.

The second trend is the steady and stupendous growth in India's capability as a military power. This trend might also be motivated by an increasing attachment to Hinduism, because religion for a Hindu becomes "a means for achieving daily power." "The Hindu of today wishes to re-establish the Asian grandeur of the old order in the light of which he basks, for he is a child of that culture".[12] It was therefore small wonder that Gandhi's suggestion for the Indian national flag to bear the device of the spinning wheel with its connotation of humility was rejected, for..." such a symbol was hardly likely to appeal in a country of ancient martial traditions and great size and power and its assertive way to make in the world. Instead India chose Asoka's wheel for its tricolor badge of a warrior emperor's might."[13]

An Indian thinker expressed the view that "any nation which does not develop national power, commensurate with its size and population is not likely to be permitted to continue that way for long. It will be reduced in size and population commensurate with its power."[14] Nehru, whose actions fit very well into this tradition, said that India's security interests were best served by having the west Asian States, the states of the subcontinent, and south east Asia free from the dominant influence of any external power.[15] Indira Gandhi also clearly enunciated this position, articulating a doctrine for regional dominance in four points.[16]

- India would not accept any external intervention in the south Asian region with anti-Indian implications.
- Any south Asian state requiring external assistance should first seek assistance from regional countries.
- India would not tolerate any regional country calling for external assistance with an anti-Indian bias.
- India's exclusion from regional assistance requested by a south Asian country would be regarded as an anti-Indian move on the part of the government concerned.

Today what weighs most heavily on the mind of the Indian leadership is the consolidation of its rule over India itself, a goal for which history has given them an opportunity after 2000 years. The schism of the British Raj into India and Pakistan was a great set back to their

dreams of regaining the prerogative to rule over the entire subcontinent. Today their only objective is to consolidate power and dominate the Indian Ocean without any outside interference or internal resistance. Such are the factors which help them adopt an inflexible policy in Kashmir, where over 500,000 soldiers have killed 70,000 people in the last ten years. A similar option is being exercised in handling other active insurgencies within India.

Subsequent paragraphs contain a brief overview of the history of the subcontinent since 1947. This will reinforce the argument that events in the region are a true reflection of the way of thinking of the Indian polity, i.e. to pursue a policy heavily leaning on the use of military instrument with little regard for international ethical norms. This implicit policy consistently displays Indian arrogance in handling territorial problems and international issues.

The earliest major events that displayed their reliance on power were the accession of the Princely States. On the eve of independence the Indian princely states were given the option of joining India or Pakistan, and there was also a theoretical proviso allowing them to remain independent. The Maharaja of Kashmir tried to retain independence, but after confronting a local revolt against his authority he opted to join India once the Indian forces landed in his capital Srinagar . Hyderabad, a large, well-developed State in southern India, also tried to retain independence, but the Indian armed forces over ran it in October 1948. Junagadh, a Hindu majority State with a Muslim ruler, opted to join Pakistan (exactly the opposite of what happened in Kashmir) but the state was also over run by India and assimilated within the Indian Union. Connected with independence was another event that again revealed Indian leanings to use military instrument, namely the capture of Goa. This was a Portuguese colony on Indian soil, which was also assimilated within India as a result of armed aggression. The next major event revealing Hindu assertion was the murder of Mahatma Gandhi by a Hindu zealot belonging to the militant wing of the BJP. Gandhi was murdered because he was trying to protect the minorities in Hindu India

After the events related to partition we move forward to analyze Indian thinking in international arena. In the late 1950s she developed close relations with China, and the world heard slogans referring to India-China *bhai bhai* (brothers). But in 1962 India invaded China in the mountainous region of NEFA to settle a border dispute. A counter attack by China resulted in the loss of a large piece of Indian territory, which Chinese later vacated without any terms and conditions. In 1965 India fought another war, for which Pakistan is often assigned responsibility. In reality this war was a result of Pakistan's utter frustration over the failure of political and diplomatic means to resolve the stalemated Kashmir dispute in the years since independence.

In 1971 Indian grand strategy succeeded in achieving the dismemberment of Pakistan. The first phase of the operation was the hijacking of an Indian airliner to Lahore (Pakistan). The deception plan was to portray this hijacking as the work of Kashmiri freedom fighters. Acting on the pretext of the hijacking, India refused Pakistan use of Indian air space for its flights to East Pakistan. The resulted was an immense financial burden on Pakistan, which was required to sustain her forces in the east via a long air route passing through Sri Lanka. Following this event, a deterioration of law and order in East Pakistan was exploited to create a favorable situation for a ground offensive. The campaign eventually resulted in the division and break up of Pakistan.

After the war a jubilant and confident India exploded a nuclear device in 1974 and called it "Smiling Buddha." The test was described as an explosion for peaceful purposes. One after another, a series of events made clear India's aggressive intentions. In 1984 a Sikh movement was handled in an extremely repressive manner, resulting in the loss of thousands of lives. The anger of the Sikh community manifested itself in the assassination of Indira Gandhi by her own Sikh guard. Following this sad event large scale rioting broke out in urban centers, again at the cost of thousands of lives. But the loss of life is not necessarily of consequence in India so long as it serves the designs of the leaders. The same year the Indian Army occupied Siachen glacier in the Himalayan region without any provocation or indication. This hostile terrain, at 20,000 feet and above, was not even properly marked on the map. Pakistan and India have unfortunately remained locked in an armed conflict since that day on the world's highest battleground.

In 1987 India pushed its forces into Sri Lanka to impose peace between the Sri Lankan Government and the rebel Tamils. Eventually Indian forces became involved in the fighting on the island, thus worsening the situation. India was later asked by the Sri Lankan President to remove her forces, and a withdrawal was affected without any of the original objectives having been met. Later, in part out of revenge, a Tamil suicide bomber assassinated Indian Prime Minister Rajiv Gandhi. The next Indian military intervention was in the Maldives, with the intention of installing a favorable government. Similarly, land locked Nepal was subjected to a blockade of supplies to ensure that the Nepalese government continued to respect the prerogatives of its "big brother." Describing the experiences of Bangla Desh with India would require a separate paper on issues like the Farakha Barrage and others.

In 1992, Hindu zealots dismantled the Babri Mosque.[17] The anger of the mob was such that they dismantled the entire structure with their hands and sticks. A large number of Christians and their missionaries have been killed in a systematic manner by the Hindu

extremists. Hindu rioting, culminating in pogroms and untold miseries to the Muslim victims, has a long history. Similarly, periodic mobilization of the Indian Army in the guise of exercises, with the intent of placing pressure upon Pakistan, is also a regular occurrence in the subcontinent. The Indian military exercise code named "Brass Tracks" carried out in 1987 may be mentioned in this regard.

In 1998 India exploded her nuclear device on the pretext of providing deterrence against a Chinese threat, despite the fact that China had signed a pact with India putting border disputes on the back burner. Moreover, India was the country that frustrated the efforts of the USA to rally the international community to sign a Comprehensive Test Ban Treaty during the Clinton presidency. Many active insurgencies are underway in India at any given time, reflecting the dissatisfaction of minorities against the imposing central government, which is decisively under the control of the Hindus. The behavior of the Indian leadership since 13 December 2001, despite the reconciliatory efforts of Pakistan's government, indicates the intimidating environment in which the smaller countries and minorities live in the subcontinent.

THE SOURCES OF KASHMIRI DISSATISFACTION

Having looked at the Indian approach and its manifestation since partition, we now proceed to examine the causes that have compelled Kashmiris to struggle against successive governments since 1930.

Kashmiris have suffered discrimination and oppression for the last two centuries, first under the Durrani Afghans and then under the Sikhs until the partition of 1947. The impact of Afghan rule is still evident in the construction of the houses of poor peasants. The tyrant Afghan tax collectors used to enter the houses of poor farmers without dismounting from their horses. To avoid this humiliation and resist mounted horsemen from entering their houses, poor farmers started constructing low doors. Such doors are constructed even today, and a person of normal height has to bend to enter the house. After the Durrani Afghans, the Sikhs took over Kashmir and proved even more intolerant. Gulab Singh, the founder of Sikh rule in Kashmir, purchased the state from the British for the paltry sum of 500,000 pounds. The sale of the state, with all its subject, was most humiliating event of Kashmiri history. This marked the beginning of another oppressive regime. The Maharaja and his rapacious state officials were equally indifferent to the subjects. Trade, industry, and landowners, were subjected to taxes amounting to 70 percent of income[18]. The economic exploitation and coercive methods of extorting taxes eventually resulted in an uprising against the Maharaja in 1931, which was suppressed with a heavy hand. In 1929 Mr. Bannerji (an officer of the civil service of the government of India) who

was serving as Senior Member of the Council of State of Jammu and Kashmir, resigned from the government of Maharaja, and his account of the factors that motivated the action is revealing:

> Jammu and Kashmir State is living under many disadvantages, with a large Muslim population absolutely illiterate, laboring under poverty and very low economic conditions of living in the villages and practically governed like dumb driven cattle. There is no touch between the Government and the people, no suitable opportunity for representing grievances and the administrative machinery itself requires overhauling from top to bottom to bring it up to the modern conditions of efficiency. It has at present no sympathy with the peoples' wants and grievances.[19]

Following the 1931 uprising unrest continued in the state on one pretext or another, until it exploded in another mass uprising against the Maharaja in 1946. It eventually resulted in the Quit Kashmir movement against the oppressive regime, which was also struck down with a heavy hand. During the same period the Muslim Conference, with the largest elected representation in the Legislative Assembly, passed a resolution advocating the accession of the state with Pakistan. It may be of interest here that the "K" in Pakistan denotes Kashmir while other alphabets denote other geographical identities within Pakistan. Kashmiris were beginning to feel that their dreams were close to fulfillment when the Maharaja secretively signed in favor of joining with India in the midst of a bloody popular revolt. These events only added to the frustrations of the people of a state larger in area than theUnited Kingdom, with a population of thirteen million.

The political process that ensued after the Kashmir War of 1948 provided additional hope after two centuries of suffering.

Nehru's promises, UN Resolutions, special envoys of the UN to include Admiral Nimitz of the USA, Sir Owen Dixon of Australia and many prominent personalities, all addressed the issue of an equitable resolution of the regional dispute. But all successive efforts to fulfill the desires of Kashmiris have failed. In view of the mood of the people and their dissatisfaction with Kashmir's political status, India introduced Article 370 in its national Constitution. This article provided broad autonomy to Kashmir with the three prominent exceptions of defense, communication, and foreign affairs. Unfortunately this clause could not be implemented in reality for a single day, and its assertions remain highly contentious. All during this period rioting, protests, and unrest continued to challenge the government. In 1963 mass rioting broke out in Kashmir on a religious issue, which was quelled only after a heavy loss of life.

All hopes of the people of Kashmir were dashed after a series of broken promises and political and diplomatic maneuvers revealed India's real intentions. In addition, a number of elections were rigged under the directions of the central government of India. Ever since its occupation of Kashmir, India has used elections as a ploy to perpetuate its hold on the disputed territory. This is summed up in the book Democracy Through Intimidation and Terror by Prem Nath Bazaz, a Hindu Kashmiri writer who observes: "after independence rulers of Jammu and Kashmir State were not the freely chosen representatives of the people as they should have been, but they were the nominees and protégés of the Central Congress Government. Undoubtedly to hood wink world opinion and silence the democratic elements in the State."

During the elections of October 1951, 73 out of 75 parliament members of the National Conference, led by Sheikh Abdullah and patronized by Prime Minister Nehru of India, were elected unopposed. In the 1957 elections 30 candidates of the National Conference returned unopposed, and 10 more were declared elected after their opponents' nomination papers were rejected. However, Plebiscite Front members boycotted these elections. In the 1962 elections, 33 candidates of the National Conference were elected unopposed. In these elections, in 20 of the 43 constituencies in the valley, no opposition candidate was allowed to file nomination papers. In another eight constituencies opposition candidates were forced to withdraw, and the papers of another four candidates were rejected. Prime Minister Nehru, while observing this blatant election rigging, pointed out to the then puppet Premier of occupied Kashmir Bakhshi Ghulam Muhammad that "it would strengthen your position much more if you lost a few seats to bonafide opponents."[20]

Later the Congress Party was formed in occupied Kashmir with the active support of the Indian government. It quickly became the winning horse and captured 60 out of the 75 seats. To facilitate this result, the nomination papers of 22 opponents were rejected, resulting in the uncontested return of the National Conference candidates from these seats. A National Conference led by Farooq Abdullah revived its relations with the central government, and as a result it bagged a majority of seats in the 1977 and 1983 elections. The crunch came in 1987 when the Indian government of Rajiv Gandhi, in collaboration with the National Conference, conspired to defeat the Muslim United Front. The rigged elections helped National Conference to capture 62 seats. The rigging was so evident that The Times of Indiaon 10 January 1990 reported; "there was a consensus in the Administration and the Intelligence Agencies that the Congress-National Conference alliance had resorted to large scale rigging." The then Governor of occupied Kashmir, Mr. Jagmohan, openly admitted in his official communiqué on 19 January 1990 that the Assembly was the product of vote rigging. This he stated while he dissolved the

Assembly and dismissed Farooq Abdullah's Government. Kashmir's alienation from India culminated in the boycott call by the mujahideen in the 1989 Lok Sabha elections. The response to the call was massive. The government of India was all along constrained to rig the elections, because genuinely selected members would not have served their interests.

Massive vote rigging in the 1987 elections resulted in large scale rioting, which was met with the usual heavy hand. When the Kashmir insurgency first began, Srinagar's Mir Mohammad Farooq warned that "Kashmir's youth are very angry ... tyranny has crossed the limit and revolt is the result." Srinagar's journalists persistently point out that the same boys who joined the insurgents in 1989 had been poll watchers during the 1987 elections---and then found the elections to be rigged. These boys attended college and then encountered restrictive government job quotas. To this day, with virtually every legal and civil liberties card stacked against them by a wide range of anti terrorist laws, Kashmir's attorneys don their regulation black suits to go to court to file their writ petitions. For decades, Kashmir's politicians have waged constitutional battles with New Delhi. Writing documents rather than hoisting guns, their sons became disenchanted because the Indian state explicitly betrayed their faith. By ignoring its citizens and challenging the basis of their citizenship the Indian state helped spark a rebellion and thus became party to the armed revolt against itself.[21]

Another of the factors that keeps the movement alive is the economic condition of the Kashmiris. A Kashmiri living in the part controlled by Pakistan has a per capita income of U.S. dollar 450, while his counterpart living in occupied Kashmir gets 250 dollars. In addition, the literacy rate in the area under Pakistan's control is 52 percent, while it is twenty-six percent on the other side of the fence. What must be remembered here is that living conditions and per capita income were much better in the valley before partition. The literacy rate in the valley before 1947 was above 50 percent. Today, whatever the standard of education and literacy in the valley, scores of graduates are jobless.

The next important factor responsible for the alienation of the population of Kashmir is the legalization of human rights abuses. The extraordinary powers vested in the law enforcement agencies are a major factor behind the daily acts of wanton arrest and torture of common people. Even if India is taking steps to address this issue due to international pressure, the scars are deep and the abuses continue. There are also three extraordinary laws that have been placed in force to quell the mass uprising. The first is the Jammu and Kashmir Public Safety Act (PSA), the second repressive law is the Terrorist and Disruptive Activities Act (TADA), and the third act is the Armed Forces (Jammu and Kashmir) Special Powers Act.[22]

All three of the dreaded laws render the security forces immune from prosecution for any acts committed. Although the original PSA obliged the authorities to announce an arrest within five days, the act was amended in 1990 to remove any such obligation. According to Amnesty International this is clearly incompatible with the requirements of article 9(2) of the International Covenant of Civil and Political Rights. Another aspect of the 1990 amendment to the PSA is the removal of the words "in the State" from section 10 of the act, which allows the authorities to detain people in any part of India. As a result thousand of detainees from disputed Kashmir have been held in other Indian states.

When areas are declared to be "disturbed," as has occurred in a number of areas in Kashmir, the army and paramilitary forces are granted sweeping powers under section 4(c) of the Armed Forces (Jammu and Kashmir) Special Powers Act. TADA is the toughest variant of all these oppressive laws. It grants wide powers of arrest, combined with the absence of fundamental legal safe guards for detainees. In its 1993 report Amnesty International dismissed the Indian government's claim that those in judicial custody under TADA were being held on the valid and bona-fide order of a competent judicial authority.[23] In mid-1995 The New York Times placed the number of arrests at more than 65,000. In late 1993 The Indian Express reported that more than 52,000 persons had been detained under TADA[24].

In May 1995 TADA went out of force after the Indian government decided not to renew it. According to Human Rights Watch/Asia this decision was apparently influenced by domestic political considerations linked to the general elections of 1996. The objective was to win the sympathy of India's large Muslim minority, whose support the ruling party badly needed.

Another legal regime that is a source of displeasure in Kashmir is Article 370 of the Indian Constitution. Initially it was a provisional amendment that was to provide a degree of autonomy for Kashmir by limiting the power of the Indian Parliament to legislate there. Article 370 was abrogated shortly after it was accepted. Sheikh Abdullah and Indira Gandhi formally restored it in 1975 but it has never been implemented in true letter and spirit. Article 370 of the Indian Constitution is contested in Kashmir by those who believe that it is still too restrictive to provide real autonomy, and rejected in India by those who fear that it interprets constitutional obligations too loosely.[25]

CONCLUSION

The struggle in Kashmir continues due to continuing repression and injustice. The situation has not been created by Pakistan, nor did it come about in a single day. It is India's management of Kashmir, and the historical legacy of hatred, that has brought the Kashmiris to

this point. Why does the central government of India interfere with elections? Why does India need special laws to control the state? Why does the youth in that land not find jobs, justice and respect? Surely no outside power can create this environment which is the basis of hatred. The world community has to look closely at all these aspects of the problem before it takes any position. Biased judgments will move the Kashmir problem further away from resolution, and perpetuate the suffering of the people of Kashmir.

What does the future hold for the Kashmiris? Unfortunately, today they are passing through a particularly difficult phase of their struggle. Their effort is not confined to bringing India to the negotiating table, but also to retain the legitimacy of the movement. Based on historical experience since the partition, and keeping in view the prevailing international situation, one can easily see that there is no silver lining for the Kashmiris in the near future. Kashmiris are fighting against heavy odds and they understand that no outside power can provide them necessary military support for ultimate victory. And yet, to imagine that Kashmiris will opt for compromise after suffering seventy thousands casualties is not realistic.

But how long can their struggle continue without achieving results? It all depends on the vision of the Kashmiri people and their leaders. They must appreciate the profound changes that are underway on the world scene. Today access to the media and international standing are more consequential than all other instruments of power in projecting their cause. In their struggle they have to take new directions. Resentment can be expressed on a more sustained basis using the teachings of Gandhi and meshing it with the power of information. Can the Kashmiri leaders make sustainable choices and inspire youth with a new vision? Can they gain access to international forums and media on a sustained basis? Can they manage their economy to sustain them through these tough times? These are the issue that will determine the future of Kashmir. India will only make real concession to the leaders of the struggle if her international standing is effected in containing the struggle.

Today India fights to subdue the freedom fighters and then she has to win over the hearts and minds of people who stand totally alienated from her. This has happened due to the arrogant and militaristic approach that she has pursued since the very beginning. For the Kashmiris the biggest issue is sustenance of the movement in an environment where the international community is not going to assist them. Tangible evidence does not point to much promise for the Kashmiri people. But any meaningful projection can be made only if one clearly understands the will of the people waging the struggle. They have been fighting since 1930 and therefore are not likely to give up.

WORD COUNT = 6796

ENDNOTES

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[21] Paula R. Newberg. Double Betrayal, (Carnegie Endowment, 1995),42.

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[23] Ibid.24.

[24] Ibid.52.

[25] Ibid.53.

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