

Constraints in Solving Kashmir Problem

Firdos Ahmad Batt

Department of Political Science, Aligarh Muslim University, Aligarh
E-mail: firdous.butt16@gmail.com

Abstract—*The Kashmir Issue which is there between India and Pakistan since its accession to India on 26th Oct. 1947 after all the princely-states were said to join either India, Pakistan or to remain independent and Kashmir which was muslim dominated territory but ruled by a hindu ruler Maharaja Hari Singh. After tribals from Pakistan attacked Kashmir, the ruler of Kashmir went to Indian Prime Minister J. L. Nehru and signed Instrument of Accession and Kashmir becomes part of India under certain conditions like the most important one was when the condition will be stabilised there, the people of Kashmir through a referendum will decide whether to remain with India or stay independent.*

The focus of this paper is to look into different factors which make Kashmir issue a complicated one. This has now become the most difficult thing to solve such an issue because of some constraints which are there and which are hindering the dispute to get solved. Other than constraints this paper is also going to raise one important point that Independence is not looking to be the solution of this dispute and the reasons are there in the paper.

1. INTRODUCTION

The history of the Jammu and Kashmir Issue both as a domestic political one within the ambit of centre-state relations and as a foreign policy issue between India and Pakistan is as old as the post-1947 Indian federal system or the Indian Union whichever term we may prefer to use. Few international problems have been so entangled in prejudice and suspicion as that of Kashmir. Antagonism and distrust have blocked any move towards a resolution. Historically the suspicion and prejudice are a legacy of British Rule. The hasty partition of the sub-continent by the British had left many issues relating to the assets, army and accession of Princely States undecided. These and other unresolved issues created a host of complex territorial problems. The most critical were disagreements over three Princely States: Junagadh, Hyderabad and Jammu and Kashmir. Although India's occupation of the Junagadh and Hyderabad States had been broadly accepted, the state of Jammu and Kashmir is still a territory disputed among India, Pakistan and peoples of Kashmir.

The principles on which the partition was based were ambiguous, particularly with respect to the Princely States. British India had 562 Princely States tied to the Empire with different Treaties and Agreements. The Treaties were lapse on 15th August 1947, but before they did each State was to join either India or Pakistan and in keeping with its geographical

contingency. For most of the Princely States the issue was not whether they should accede to India or Pakistan, but rather under what terms they should do so. For Junagadh, Hyderabad and Jammu and Kashmir, the situation was more complicated. In each of these States the ruling family belonged to one religious community and majority of the population to the other. In Junagadh and Hyderabad muslim Princes ruled over the hindu majority. When Hyderabad wavered and Junagadh joined Pakistan, both States were forcibly occupied by India.

Jammu and Kashmir was the largest of all the Princely States and bordered Pakistan, India, China and Afghanistan. There were about 4 million inhabitants in the territory at the time of partition in 1947, nearly half of whom lived in Kashmir Valley. Approximately 45% of the people lived in Jammu region. The remaining 5% of the people were scattered throughout the mountainous regions of the state including Gilgit and Baltistan.

Since 1846, the ruler of Jammu and Kashmir had been a Dogra Hindu, while his peoples were predominantly Muslims. Since the early 1930s the muslims of Jammu and Kashmir had been agitating against the Maharaja, tired of his insensitivity and heavy taxation. The Muslims of Poonch region revolted against him in June 1947 and Maharaja retaliated with brutal force against them. The situation deteriorated during August and September 1947, as they openly revolted and were joined by their fellow tribesmen from North-West-Frontier Province. By 22nd October 1947, the tribesmen captured several towns, massacred large number of civilians and advance within 4 miles of the capital, Srinagar. At that point the overthrow of the Maharaja seemed eminent.

In desperation, the Maharaja and his family fled from Srinagar and sought military assistance from India. India insisted that the Maharaja sign the Instrument of Accession to India before any assistance would be given. Implicit in the demand was a provision that the Maharaja sign the accession agreement subject to obtaining the consent of his people, as Mountbatten had urged. The Maharaja signed the accession agreement on 26th October 1947 without going to his people and India rushed in its forces. In fact the forces of Indian state of Patiala were already in Kashmir fighting for the Maharaja prior to the signing of the accession agreement ⁽¹⁾.

On 1st January 1948, India lodged a complaint in the United Nations demanding that Pakistan stop its aggression, withdraw its troops and deny access through Pakistan to tribal “invaders” fighting against Kashmir. The Security Council responded quickly. On 6th January, it asked India and Pakistan to “refrain from any step which may aggravate the situation and be incompatible with the United Nation’s Charter”. On 13th August 1948 and 5th January 1949, the Security Council passed a judgement to enforce a cease-fire and required the contestants to withdraw their forces from Jammu and Kashmir and to hold a plebiscite. Some people put blames on India for not holding the plebiscite in Kashmir but the fact is that Pakistan was not willing to hold plebiscite in Kashmir at that time. They did not want a plebiscite to be held while the memory of their atrocities and pillage of Baramulla was fresh in the minds of the people. Another reason was the fact that they did not want to risk a plebiscite at a time when Sheikh Abdullah had overwhelming popular support. The continued deadlock between two countries precipitated three bloody wars in 1965, 1971 and 1999. As of 1995 a line of actual Line of Control divides the old Jammu and Kashmir state into political units: (1) Ladakh and Jammu and Kashmir valley, composing about 45% of the state, controlled by India;(2) Azad Kashmir, indirectly ruled by Pakistan;(3) the Northern area, which together with Azad Kashmir composes about 35% of the territory ruled by Pakistan; and (4) Aksai Chin, composing about 20% of Kashmir, controlled by China. This area was annexed by China in 1962 to formalise their long standing claim to the territory.

The dispute over Jammu And Kashmir State is at the core of continuing conflict between India and Pakistan. It is essential to objectively analyse and understand key issues. It is likely that Kashmir will continue to sour relations between India and Pakistan. The solving of Kashmir dispute has now-a-days become a difficult job because of so many constraints.

2. CONSTRAINTS IN SOLVING KASHMIR PROBLEM

2.1 Ethnic Identities and Political Deadlock

There are number of political scientists like Bhikhu Parekh who argue that the solution of the problem lies in the recognition by the Indian government of “Kashmir’s different history, needs and circumstances” and grant of a “different status” to the people of Jammu and Kashmir.⁽²⁾ Sengupta and Prem Jha asserts that if New Delhi sincerely wishes to break the political deadlock in Kashmir, it has no other alternative but to accept and implement what is being termed as an “autonomy-plus, Independent-minus” formula.⁽³⁾

It needs to be noted that these persons have been saying this for quite some time, but without evoking any favourable response from the people of the troubled state. The reason for such an indifferent attitude to these proposals are not far to see. One of the most potent reason is that all these solutions

are based on the misguided notion that the nearly 2000 square kilometres of the Valley represents the entire state of Jammu, Kashmir and Ladakh; that the political aspirations of the people in the state are identical or nearly identical and that the contradictions among them, if any, can be easily reconciled. This has termed out to be the prime cause of failure to break the deadlock in the state. None of these formulations enjoy any universal support in Jammu, Kashmir and Ladakh.

The state of Jammu and Kashmir houses a number of religions and ethnic groups. The political aspirations and needs of the peoples of Jammu and Ladakh, who constitutes more than half of the state’s population and inhabit about 90% of the state land area, and Kashmiri pundits and muslims are conflicting.

The largest region of the state is Ladakh. It has a land area of 96,701 square kilometres and is predominantly Budhists. The Jammu region is next in size. It has an area of 26,293 sq. kms. and is predominantly hindu(66.3%) with 29.7% muslims and 3.5% Sikhs. The Kashmir province, having a land area of 15,853 sq. kms. is predominantly muslims with 3.89% hindus and 1.04% Sikhs.

The state of Jammu and Kashmir is, in fact, a blend of several ethnic groups. Some of the social and ethnic groups in the state are: Kashmiris, Dogras, Gujjars and Bakerwals, Baltis, Ladakhis and Gaddis,etc. Dogras are spread all over the Jammu region. Gujjars and Bakerwals inhabit the mountainous regions of the state. They are mostly herdsmen. The muslim population of the state can be broadly divided into Kashmiri muslims inhabiting the southern portion of the Kashmir region, Gujjars and Bakerwals and Balti muslims.

The composition of population is indeed an important factor in the state’s political situation and just cannot be overlooked by policy planners while evolving a solution to the vexed Kashmir problem. Even more important, perhaps, is the attitude of different people inhabiting different parts of the state towards India. For instance, Shias and Gujjars and Bakerwals in the state in general and in the Kashmir region in particular, vehemently opposed the concept of “Azadi”, merger of the state with the theocratic, feudalistic and medievalist Pakistan and pre-1953 constitutional position on the ground that under the dispensation the militants and other Kashmiri leaders have been striving to achieve since 1990, their fate would be no better than that of the Muhajirs, Shias, Ahmediyas, Sikhs, Hindus and Christians in Pakistan.

Sheikh Abdullah’s close associate, National Conference M.L.A. and prominent leader of Shias, Sadiq Ali, has declared in unequivocal terms, “the one willing Shias in Jammu and Kashmir are in danger as they face discrimination from the Pakistan-supported militants and 1.8 million Sunnis of Kashmir. Now they will brook no further explanation. I know the crimes been committed under the garb of secularism. Secularism never means selectism. If we are 20% of the population, why shouldn’t we get 20% of what the state

offers? Give each section its due and there will be secularism”.⁽⁴⁾

Similarly, the former senior President of Jammu and Kashmir Pradesh Congress (I) and a highly revered leader of the Gujjar and Bakerwal communities, Mian Bashir, has strongly urged the Prime Minister to “use force to crush the Jamaat-e-Islami which wants to have a strong hold” on the minorities by “terrorising them”.⁽⁵⁾ Identical was the stand of Gujjar and Bakerwal-dominated Militancy Mukhalif Morcha top ranking leaders, Taj Mahi-ud-Din and Chaudhari Jalaal-ud-Din. They have been consistently helping the government of India in its endeavours to crash militancy and integrate the state fully with India. Besides that have sought the centre’s support in favour of a change in the state’s politico-administrative set-up that ensures the representation of Gujjars and Bakerwals in all spheres in proportion to their population.⁽⁶⁾ Some Gujjar leaders like Anwar Choudhari have gone to extent of saying that the solution to the problems being faced by their communities lie in the segregation of all the districts of Jammu region from Kashmir and their conversion into a full-fledged “Gujjar and Dogra Jammu state within India and under the Union Constitution.” Their refrain is that Kashmiri rulers will under no situation enable them to enjoy the fruits of Indian democracy or exercise those rights to which they are entitled as Schedule Tribe community.⁽⁷⁾ Such kind of attitude on the part of Gujjars and Bakerwals towards Kashmir Issue indicate that the problem can’t be solved without taking into consideration their opinion.

It is indeed ironical that those who have been ruling since October 1947 are feeling alienated from India and challenging the nation’s unity, integrity and democratic ethos. It is again a paradox that those who suffered and continue to suffer, gross discrimination and political neglect at the hands of the Kashmiri Sunni-dominated successive state governments as well as New Delhi are bitterly opposing the Separatists and doing everything under the sun to defeat the Pakistan design of Jammu and Kashmir and enter the arena of mainstream politics. The attitude of the peoples of Jammu and Ladakh and the displaced Pundits towards India is no different.

More importantly, even the Kashmiri Sunnis are not a homogenous lot. In fact, they are vertically divided into four groups demanding independence from both India and Pakistan, merger of the state with Pakistan, pre-1953 constitutional status (limited accession of the state to India) and close integration of state with India.

The attitude of the peoples of Jammu and Ladakh and displaced Pundits towards India is no different. The political demands of the people of Jammu include “Statehood within India”, “regional autonomy” and “a statutory development board” with or without Article 370. On the other hand the demands of the distant Ladakhi’s ranged from Union Territory status to “an autonomous Hill Council”, invested with “full political, administrative and economic powers and without Article 370” under which the state enjoys the special status.

The regional analysis of the popular political aspirations of the people of Jammu and Kashmir state discussed in the above sections make it clear that there is no consensus among the people living in different regions of the state with respect to their political future. People of Jammu, Kashmir and Ladakh are not Palestinians, who are one against Israel as far as their struggle for a homeland is concerned. The people of Jammu, Kashmir and Ladakh are a divided house. They stand divided along the regional, religious and ethnic lines with of course an overwhelming majority of them vehemently opposing the clamours for Pakistan, independence and demanding a political system which not only promises to unite Jammu, Kashmir and Ladakh and the rest of the country together in closer bond, but also ensures their effective and real participation in the state’s political and economic process. Considering the physical and social diversity of the state and its spatial and cultural ties with its neighbouring countries, any effort to make Jammu and Kashmir state either an independent country or a part of Pakistan or a part of India will not be acceptable to the people of the state in its entirety. In order to find a permanent solution to the Kashmir crisis, the people of all the regions need to be consulted to ascertain their regional aspirations. Democratically speaking the people whose political future is involved need to be taken into confidence irrespective of their religion, language and political ideology to find a mutually acceptable solution of the Kashmir Crisis. No single party of the state can exclusively claim to represent the wishes of the people of Jammu and Kashmir State.

2.2 Political alienation of people of Jammu and Kashmir

Political alienation of people of Jammu and Kashmir, particularly those residing in Kashmir, towards India also act as a constraint in solving Kashmir problem. Before trying to find out the factors responsible for this political alienation, it is important to know what status was given to Jammu and Kashmir under Indian Constitution. When states were exceeding to the two dominions of India/Pakistan in 1947, Kashmir became a victim of competing ambitions of two states. Autonomy was thought to be device to conduct indo-Kashmir relations in a friendly manner. It was a compromise solution and did not correspond to the original wishes of any of the parties involved. Sheikh Mohammad Abdullah states: “the central leadership wanted our complete merger. But our special circumstances and the objectives of our movement could not allow it”.⁽⁸⁾

The state of Jammu and Kashmir acceded to the domain of India on October 26, 1947 when Maharaja Hari Singh signed an Instrument of Accession. By the Instrument the Maharaja accepted three subjects (defence, communication and foreign affairs) as one on which the dominion legislatures make laws for the states.⁽⁹⁾ Again by the Instrument the Maharaja clarified “Nothing in the Instrument shall be deemed to commit me in any way to the acceptance of any future constitution of India or fetter my discretion to enter into arrangements with the government of India under any such future constitution”.⁽¹⁰⁾

Negotiations on the provisions in the proposed constitution of India that would embody the terms of the Jammu and Kashmir state's membership of the union began when a conference of the leaders of the National Conference and of the central leadership was held in Delhi on March 15 and 16, 1949. This state was accorded a special status under Article 370 of the Indian Constitution. On January 26, 1950 the President of India made the first constitution (applicable to J&K) order 1950 under Article 370 of the Indian Constitution. It conformed strictly to the Instrument of Accession. Leaving aside the three items reserved to the centre, everything else would be the concern of the Jammu and Kashmir Constituent Assembly. The Constituent Assembly of India or successive parliaments have no constitutional right to abrogate or modify Article 370. The Article 368 has a provision which says no constitutional amendment "shall have effect in relation to the state of Jammu and Kashmir unless applied by order of President under Article 370. That requires first the concurrence of the state government and subsequent ratification by its Constituent Assembly. Thus the state Constituent Assembly's decision was to mark finality to the exercise of the President's power under Article 370. This indicates that final ratifying authority for determining the nature of constitutional relationship between J&K and India was vesting in Constituent Assembly of J&K. That assembly ceased to exist in 1956. All subsequent central legislation has been extended to Jammu and Kashmir year after year without constitutional mandate.

Following factors lead to Political Alienation in Kashmir

2.2.1 Erosion of autonomy.

The Indian state from the very beginning denied the validity of multinational character and the need for a genuine federal structure. Instead of educating the people about the need for a special constitutional position for J&K, the Indian leaders through their actions and speeches created suspicion in the minds of Kashmiri leaders. Placing Article 370 before the Constituent Assembly, Gopalswamy Ayyanger had expressed the hope on behalf of "everybody here that in due course even J&K will become ripe for some sought of integration that has taken place in case of other states".⁽¹¹⁾ In the Jammu region of the state, Praja Parishad demanded that either the Constitution of India be applied to J&K in its entirety or Jammu be detached from Kashmir and merged with the Indian Union.

It was in this atmosphere of political hostility towards autonomous Kashmir that erosion of the special constitutional position started. In the eagerness to create an image of cementing closer relations what followed 1952 is a series of constitutional application orders numbering as listed by state Autonomy Report (prepared by National Conference) 42 till now which were not conceived at any point of time either in 1950 or 1952.⁽¹²⁾ The extent and the nature of autonomy which has been left with the state as of now can be seen with the following table.⁽¹³⁾

Table

I.	Total number of articles (395)	Number of Articles (260)	Balance (135)
II.	Total number of Entries in the Union List (97)	Entries applied (94)	Balance (3)
III.	Total number of Entries in the Concurrent List (47)	Entries applied (26)	Balance (21)

The process of erosion of special constitutional position hit at the most sensitive point of the Kashmiri psyche as it threatened the autonomy and identity of Kashmir for the protection of which the Kashmiri had laboured hard. The mounting discontent in the Valley against the measures and moves of the constitutional integration of the state with the centre had one main outlet-separation. Rise of Separatist sentiments in the Valley might have been one of the temptations for Pakistan to send armed infiltrators in the state in August 1965. The trouble in Kashmir cannot be dismissed as ISI inspired or proxy war by Pakistan. Pakistan only exploited a situation created by successive Indian governments in Kashmir. No less a person than George Fernandes who was Minister-in-charge Kashmir affairs in Janata Dal government in 1990 said

"I don't believe any foreign hand created the Kashmir problem. The problem was created by us. Others decided to take advantage of it".⁽¹⁴⁾

Even Dr. Farooq Abdullah said in 1994, "it is India that is responsible for what has happened in Kashmir".⁽¹⁵⁾ The former Chief Minister observed: "if I dump petrol in my house and my opponent set a match to it, it is largely my fault....."⁽¹⁶⁾ The reference is towards the manner that the constitutional relationship between the centre and the state was conducted. Today we find the state has lost all resemblance to autonomy. Its erosion is the primary cause for Kashmir discontent.

2.2.2 Human Rights violation.

The involvement of Indian security forces in Human Rights violations also contributed in demonising the image of India in the eyes of Kashmiri people. The sought of legal impunity enjoyed by Indian security forces under Armed Forces Security Act (AFSPA) also facilitated the violation of human rights of Kashmiris. Some human rights organisations have alleged that Indian security forces have allegedly killed hundreds of Kashmiris by indiscriminate use of force and torture, firing on demonstrations, custodial killing, encounters and detentions.⁽¹⁷⁾ State Human Rights Commission (SHRC) has found 2730 bodies buried into unmarked graves scattered all over Kashmir believed to contain the remains of victims of unlawful killings and enforced disappearances by Indian security forces.⁽¹⁸⁾ SHRC stated that about 574 of these bodies have already been identified as those of disappeared locals.

SHRC also accused Indian Army of forced labour. ⁽¹⁹⁾ According to the cables leaked by website Wikileaks, U.S Diplomats in 2005 were informed by international community of the Red Cross (RC) about the use of torture and sexual humiliation against Kashmiris. A report from the Indian central bureau of investigation C.B.I claimed that the seven people who were killed in 2000 by Indian Military were innocent civilians. ⁽²⁰⁾

2.3 Leadership Crisis

One ground reality about Kashmir is that no leader can claim to be the representative of whole population of Jammu and Kashmir. It would be wrong to conclude that Hurriyat Conference led by Ali Shah Geelani is voice of whole Jammu and Kashmir. Jammu and Kashmir is in fact a divided house in which political aspirations of people constituting different regions and religions are different. Even Geelani's claim to be the representative of all people residing in Kashmir is bogus. More than half of Kashmir's population which includes 8 lakh shias, 1 lakh Darad and Balti muslims and 6 lakh Gujjars and Bakerwals are totally indifferent to the separatist movement that has been going on in Valley since 1989, when the protagonists of state's separation from India abducted the then Union Home Minister Mufti Mohd Sayed's daughter, Dr. Rubiya Sayed, to secure the release of 11 top ranking activists of the so called secular Jammu and Kashmir Liberation Front (JKLF). The Sikhs, Shias, Hindus and Ladakhis are very much critique of separatist movement on the ground that they will be discriminated by majority Sunni community of Kashmir. Such an attitude on the part of the Shia and Gujjar and Bakerwal communities simply cannot be dismissed as something ludicrous or preposterous. They have point when they articulate their grievances against the valley leaders and demand Proportional Representation which, they believe, alone can protect them against excluding by the valley Sunnis. ⁽²¹⁾

From the foregoing discussion it become clear that in Kashmir no single leader represents the will of people of Jammu and Kashmir. Unless and until there emerged a leadership representing the wishes of all the sections of peoples in Kashmir, it will be difficult to solve Kashmir Issue. The genuine leadership problem is not only weakening Kashmiri movement but is also creating problem for New Delhi. The recent trend of increasing participation of people of J&K in free and fair elections indicate that they are no more interested in seeking independence for Kashmir. Another ground reality is that the people of J&K do not pay much regard to party's stand on Kashmir while casting their vote. The primary focus of people of J&K is now-a-days development.

2.4 Domestic Compulsions of Pakistan Politics

Domestic compulsions of Pakistan Politics further complicated the Kashmir Issue. Kashmir today has become a tool in the hands of various international players. For Pakistan and her government (civil or military) Kashmir is the oxygen

required to keep them alive-not the Kashmiri. The Pakistan Army emerges as a major parasite of Kashmir's bleeding arteries. If permanent peace and solution to Kashmir is achieved, the military junta of Pakistan would lose its relevance. From being the most sought-after profession in Pakistan the army would be a non-entity without Kashmir's woves and so would the Pakistani government. In Pakistan unfortunately the grip of army on the state has been formalised more firmly than ever before. In the words of General Zia-ul-Haq, "hostility between India and Pakistan is essential for the survival of Pakistan". He was talking about his own survival and that of his continuancy, the Army. Further it is on the pretext of Kashmir problem, Pakistan is able to get loans from Muslim world because Pakistan government has somehow succeeded in linking Kashmir Issue with Islam. Further there is much dominance of Islamic Fundamentalist in domestic politics which further make it difficult for civilians and military government give up the demand for entire J&K. therefore it must be recognised that no government in Pakistan can survive if it settles on the basis of the Line of Control. It has raised such hyperbolic optimism amongst its population for a final settlement of what they called Unfinished Agenda of Partition that anything short of complete amalgamation of J&K would be considered treachery.

In an interview to a leading Indian Daily Foreign Minister of Pakistan Abdul Sattar categorically stated "status quo is the problem, it cannot be a solution. A solution has to be responsive the Kashmiris..... It could not and did not prejudice or compromise the right of the people of the Kashmir to self-determination....." ⁽²²⁾ The waves echoed by the Pakistan Foreign Minister elucidates the mindset and approach of Pakistan with respect to Kashmir Problem. Under the pretext of right of the self-determination of Kashmiri people, what Pakistani Minister hinted at was clear from his opening remarks that status quo is a problem. In effect Pakistan does not want the settlement of Kashmir Issue at all. The survival of so many groups depends on projecting an omnipresent danger to its sovereignty from India. This Kashmir Issue which is a source of conflict between India and Pakistan helped Army in Pakistan to deflect attention of Pakistani peoples from their wrong doings which they have committed from time to time.

2.5 Politics of Fear

One of the fact about Kashmir politics since the Dogra rule is that it is characterised by terror. The people of J&K most specifically Kashmiris have been terrorised not only by Indian forces but also by militants of Pakistan side. In this atmosphere of terror people are not able to speak out freely. Thus it created problems for understanding what Kashmiri's want. Those people who are anti-Hurriyat cannot speak even a single word against Geelani or any other leader. Speaking against Geelani is considered as giving invitation to death. How much Geelani has legitimacy before the people of Jammu and Kashmir has become clear by recent trend of

increasing participation of people in election process. The voting turn out has given death blow to his bogus claim of being so representative of people of J&K. the ground reality is that people of Kashmir are tired of this violence. They desire peace intensely. Any survey in the valley will establish this. If the extremists are fighting-as they claim-for freedom of the people of Kashmir-why this terror? They are ostensibly fighting for freedom and making people unfree. If the people of the J&K would have been so committed to their independence then Congress should not have come into power in Kashmir which I consider has played an important role in eroding Kashmir autonomy. Congress has a good support base in Kashmir. My contention here is that because of politics of terror nobody in Kashmir speaks openly about what they want.

3. INDEPENDENCE, NOT THE SOLUTION

The viability of an “independent Kashmir” has remained a debatable issue both in the Cold War era when the Kashmir Problem was discussed in the UNO and at the present stage of turmoil. While it is for India and Pakistan to decide as to whether they will expand the terms of the concept of self-determination to include Independence for Kashmir, there are some weighty arguments against the establishment of an Independent Kashmir.

First, the apparent lack of viability of a small Kashmir State would make it economically dependent on external financial assistance and it is always difficult for a small state to reconcile external assistance with freedom. Even if New Delhi and Islamabad were to guarantee the independence of Kashmir, there is no certainty that it will not be violated through sabotage. The Maharaja also wanted to stay Independent and entered into standstill agreement with both India and Pakistan. But the agreement was violated by Pakistan.

Secondly, if Independence will be given to Kashmir there is much possibility that Kashmir will become the hub of terrorist organisations. This is not only against the interests of the Kashmir itself but will also create problems for India. Thirdly, the objection to Independent Kashmir is that it will encourage substantial tendencies in both India and Pakistan which are virtual ethnic mine-fields. Such tendencies are already manifesting both countries. It was probably because of this that Britain, India and Pakistan at the time of transfer of power resisted further balkanisation of India.

The Kashmir Issue has been communalised by so many forces. Naturally granting independence to Kashmir is bound to create communal strife in the rest of the country. Weak independent Kashmir would be a temptation for any aggressive thrust from the north. It was probably because of this that Jawahar Lal Nehru had warned National Conference workers as early as in 1951 that he was prepared to “offer Kashmir to Pakistan on a silver platter, rather than have an ‘independent’ Kashmir on his border.”

4. CONCLUSION

The impasse over Jammu and Kashmir is a significant factor in the troubled state of Indo-Pak relations, a situation that threatens the peace and prosperity of the whole region. The ongoing dispute has sapped resources from both India and Pakistan impeding the constructive development of both the countries. To resolve the continuing conflict a revolutionary reformation of policies acceptable to all involved parties-India, Pakistan and Kashmir people must be developed.

5. SUGGESTION

1. There is a need to recognise that all that is being done in Kashmir by our Security forces is not proper that excesses committed by our forces cause not only miseries and sufferings to ordinary Kashmiris but are also counterproductive in the pursuit of our objectives. Indian military and para military forces have been alleged to have indulged in excesses and killed innocent people and raped women in several instances if a government of India put a stop to these gross violation of human rights of people of Kashmir, it will earn further support not only internationally but also from the people of Kashmir themselves. Therefore draconian laws like AFSPA should be repealed.

2. Any move taken for ensuring and enduring peace in J&K should also involve the return of the Kashmiri Pundit Community to the Valley to lead a life of dignity and security. Such an assertion of Kashmiriyat, and of secular values, would strengthen the fabric of society in India as a whole. Their right to go back to Kashmir is not only a political Issue but also a human right.

3. As we have seen the regional analysis of the popular political aspirations of the people of J&K indicates that there is no consensus among the people living in different regions of the state with respect to their political future. Just as Kashmiris have very legitimate grievances against the centre, Ladakhis have similar grievances with Kashmir leadership. Therefore before conceding anything to Kashmir a sort of internal dialogue within the state is very important.

4. There is also an interesting proposal by Mr. A. G. Noorani who talks of partition along the Line of Control, but with a proviso that both India and Pakistan have a constitutional stake on each side of the border. In other words, there is maximum autonomy granted on both sides of the border and India has the right to protest against any violation of that autonomy by Pakistan and vice versa.

5. Independence is not a solution to the Kashmir problem. Jammu and Kashmir is highly a polarised society and the opinion of people regarding political future of state is dividing. Therefore, before raising any demand for independence, the pertinent question about which every Kashmiri should think is where independence will lead to us.

The division on religious and ethnic lines is bound to give birth to civil war in independent J&K.

6. Demilitarisation is also the need of the hour. The military should be removed from civilian areas and should be deployed on borders only so that they could not interfere into day-to-day affairs of people. It is beyond doubt that demilitarisation will help India to win the hearts of Kashmiri people. Further it will not be dangerous for India to remove forces from civilian areas because statistics have proved only few hundred militants are present in J&K.

7. Amend the Acts under which NHRC functions to enable it to inquire into allegations against the army forces. The NHRC must be provided with sufficient investigative staff to inquire into such complaints.

8. In order to solve the deadlock, an independent body in Kashmir should be constituted and then to empower it to decide which central legislation should be extended to the state.

REFERENCES

1. Alastair Lamb, *Kashmir: A Disputed Legacy 1846-1990* (Hertingfordbury, Herts: Roxford Books, 1991).
2. The Times of India, March 3, 1994.
3. The Hindustan Times, February 2, 1993.
4. The Sunday Mail, July 17, 1994.
5. Indian Express, August 11, 1994.
6. The Times of India, February 24, 1994.
7. Daily Excelsior and The Tribune January 16, 2001.
8. Shiekh Mohammad Abdullah, *Flames of the Chinar*, Penguin Publications, 1993, p. 113.
9. Instrument of Accession.
10. Clause 7 of Instrument of Accession.
11. Speech on October 6, 1949, Constituent Assembly Debates.
12. State Autonomy Report, p. 73.
13. Ibid, pp. 75-76.
14. G.C. Thomas, *Perspective on Kashmir: The Roots of conflict in South Asia*, Oxford, 1992, pp. 77-78.
15. India Today, 1994, p. 44.
16. Syed Mir Qasim, *My Life and Times*, Allied, pp. 302-303.
17. "Continuing Repression In Kashmir- Abuses Rise as International Pressure on India Eases" (Press Release). August 1994.
18. <http://www.amnesty.org.au/news/comments/11808/>. Retrieved 2012-08-03.
19. <http://greaterkashmir.com/news/2012/oct/16/army-challenges-shrc-jurisdiction-81.asp>.
20. <http://www.thehindu.com/news/states/otherstates/article3013556.ece>. Retrieved 02 March 2017.
21. Times of India October, 1993.
22. M.C. Bhandari, *Solving Kashmir*, Lancer Publishers and Distributers, p. 259.