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# Kashmir: Lest We Forget

R. K. Anuj

## Abstract

*From a time when Kashmir was regarded as the epitome of communal amity and the unequivocal support that the people of the state gave to the idea of India, to the past three decades of relative inversion of opinions, even if of a segment of the community, the state has travelled a long distance in a small span of its timeless history. All relevant parties to the Kashmir question have had a role to play in this quagmire of intrigue and deceit. Any resolution is only conceivable if there is acceptance of the role that each has played in bringing the situation to the current pass and taking magnanimous steps in undoing the errors that have given rise to ill-perceptions on all sides. This paper seeks to highlight some of the most glaring issues that have bred distrust and suggest a way forward.*

## Introduction

Conflicts arise from the perception of persecution that a people may hold against the state. This may be real, imaginary or induced; it may have its roots in politics, economy, cultural-ethnic-linguistic or religious identity, sub-nationalism or historical grievances; it may be latent, festering, active or explosive; it may follow a sine curve, may gradually peak and plateau or may decline for sustained periods before rearing its head again. Conflicts are seldom, if at all, one-dimensional and one-sided, it always takes two to tango and perceptions are formed and aggravated by actions or omissions of both or all the parties to the conflict. The purpose of conflict resolution is to identify the emergence of a conflict, realistically evaluate its roots,

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which may be myriad and inter-connected strains or may run in parallel to congeal into a singular whole and to take measures to remove the perceptions that gave rise to the conflict in the first place. The first step in this process is ‘acknowledgement’ that a conflict exists, that all parties involved have had a role to play in its emergence and that the path to resolution passes not over peaks of triumphalist euphoria but the shallows of placid accommodation, where neither side is perceived as victor or vanquished.

There was once a Kashmir, in the midst of the partition mania that engulfed the melancholy subcontinent, about which the revered Mahatma was touched enough to say that he saw a ‘...ray of hope....’ While madness prowled in the lands across the high mountains from Jammu to Punjab to Delhi and all the way to Bengal, where thousands were being massacred every day in the name of religion, there was an area of pristine tranquillity ensconced in the valley of Kashmir, which was a beacon for inter-religious amity and brotherhood; which raised a militia of volunteers to protect its people, regardless of religious persuasion from the marauding hordes that descended down the high peaks and threatened to engulf the peaceable territory in the flames that had been lit all around. This was the land which had declared through the voice of its tallest leader, literally and metaphorically, that it emphatically rejected the two-nation theory and aspired to be a state, secular in character and intent, even before the term became de rigueur and found its place in the Indian Constitution decades later. Jammu & Kashmir (J&K) became the only erstwhile princely state that exercised the right to form its own constituent assembly which declared unambiguously in its constitution of 1956 that, ‘the State of Jammu and Kashmir is and shall be an integral part of the Union of India’.<sup>1</sup>

From such benign beginnings, how then did matters come to such a pass as prevails today? The intent of this article is to scrutinise the Kashmir question from the perspective of some of the most grievous

Indian missteps, real or imaginary, as perceived by the people at its core. It is not a historian's approach as reams have been filled by scholars microscopically examining each turn of the dice from every conceivable angle. It is an attempt to put oneself in the shoes of a small community emerging from the horrors of war and plunder with aspirations for a brighter future, in an era that held the promise of a utopian idyll. It begins in that baleful autumn of 1947, though arguably the roots have been traced some decades back.

### **Communalism**

"The poison which has spread amongst us should never have spread. Through Kashmir that poison might be removed from us."<sup>2</sup> The optimism of Mahatma Gandhi in October 1947 was belied as the communal fires raging in its West and South, in divided Punjab, gradually reached the Jammu province, in the Northern districts where Hindus and Sikhs became targets of the Muslim majority while the antagonists reversed roles in the Southern districts where Hindus held a majority and which were the bastion of Dogra rule.<sup>3</sup> By November 1947, it is estimated by scholars that between a few thousand to several hundred thousand had been either killed or displaced, condemned forever to refugee status on either side of a line drawn on a map.<sup>4</sup> But the Kashmir valley continued to shun communal violence as it battled against the tribal Afridi invaders, assisting and supporting the Indian Army which arrived just in the nick of time.

Indeed, so impressed had the Mahatma been of the Sheikh's avowed secular values that in November 1947, he had Sheikh Abdullah accompany him to the Guru Nanak Jayanti celebrations, in a communally surcharged atmosphere, to present him as a testimony to the syncretic ideal that he had himself been working for all his life. The Sikhs of Punjab heard Sheikh Abdullah in rapturous silence.<sup>5</sup> The pages of history are littered with numerous speeches by Sheikh Abdullah in 1946-47, where he

outrightly rejected the two-nation theory and the concept of an Islamic state, exhorting the Kashmiri masses to shun communal ill-will and link their destiny to the newly emerging Indian union with all its glorious diversities. The people of the valley followed his advice to the hilt, as is evident from the total absence of communal violence during the period, in the Kashmir valley.

Yet, Sheikh Abdullah began to have second thoughts less than five years later, evident in a speech delivered in Ranbir Singh Pura on 10 April 1952, as he publicly expressed fears of communalism in India and his doubts about too much integration of Kashmir with a putatively secular India, in principle but not evidenced as much in practice.<sup>6</sup> In the rest of India, communal fires were never really doused in the early years following independence. Despite the legacy that Mahatma Gandhi left behind and the efforts of successive Governments, incidents of Hindu- Muslim violence have been regularly reported across India with increasing ferocity and frequency all through its independent history. The seeds of communal aversion that were sown in British India in the late 19th century have taken deep roots and are flourishing to this day. Seen from the eyes of the Kashmiri, a distinct, minuscule cultural and religious minority surrounded by a sea of humanity that is India, the fear of being swallowed up is very real and palpable. We (the Indians) have to ‘acknowledge’ that despite the best intentions of our leadership, we failed to alter this perception and indeed may have only unwittingly aggravated it over the years, with not a little manipulation by Pakistan.

### **Semi-Autonomous Status**

The logic of the partition of India placed the princely state of J&K in a unique position, unlike all the other 565 odd princely states. It was the only large state which had a Muslim majority under a Hindu ruler and had contiguous land borders with both India and Pakistan. Indeed all land communication from the state ran east to west towards Pakistani Punjab:

the roads from Jammu to Sialkot, Poonch to Rawalpindi, Srinagar to Rawalpindi and Kargil to Skardu along the ancient silk route connecting Kashmir to the Central Asian states and Kashgar; the only railway line from Jammu to Sialkot; the rivers all flowed west into Pakistan; post and telegraph lines ran from Kashmir to Rawalpindi and in fact, the only link to Indian Punjab was a dirt track from Srinagar to Jammu to Pathankot that remained closed for several months of winter. The strategic location of the state bordering Pakistan to the West, India to the South, Afghanistan to the Northwest (with a narrow strip of the Wakhan corridor separating it from Tajikistan), Xinjiang to the North, Tibet to the East and with the high Himalayas within its borders that provided a natural barrier from the North, made it an invaluable entity for both India and Pakistan. So to say, it had unparalleled bargaining power when it came to the question of accession. It could arguably have been the only viable independent state on the Swiss Confederation model if the Maharaja, or Sheikh Abdullah for that matter, so decided. Maharaja Hari Singh knew the value of his state and he ostensibly dithered, keeping the suspense till well after 15 August 1947, much to his own and his state's distress. But despite the events that unfolded in late October 1947 compelling him to finally accede, his was the only state that demanded the full concessions assured under the common instrument of accession that had been drawn up for all the princely states. And these were granted, considering the importance of the state strategically and politically as a counter-point to the two-nation theory.

These concessions were translated into the Constitution of India as Article 370, a temporary provision till such time a plebiscite could be held to ascertain the wishes of the people, who in the words of the Mahatma were the 'real sovereign of the state'. That this plebiscite has never happened due to the intransigence of Pakistan in executing the withdrawal of its troops and tribesmen, in full measure, from the territory of the state as it existed on August 15, 1947, in terms of the UNSC

Resolution 47 of 21 April 1948 and the United Nations Commission for India and Pakistan (UNCIP) Resolution of 13 August 1948 is a matter for separate analysis. After the arrest of Sheikh Abdullah in the infamous Kashmir Conspiracy case on August 8, 1953, the state governments that came to power were largely perceived by the people to be subservient to India, none of the other local leaders bearing the stature and following of Sheikh Abdullah, with the Indian National Congress (INC) itself forming the majority state governments in 1967 and 1972. Thence began the integration of the state with India, with over 40 amendments after the first one by the Presidential Order of 1954, with the concurrence of the state assemblies as required by Article 370 of the constitution, making a large and substantial part of the Indian Constitution applicable to the state by 2009; till finally, the Indian Constitution was made applicable in its entirety to the state by the Constitution (Application to Jammu and Kashmir) Order, 2019, thereby abrogating the special autonomous status that J&K enjoyed theoretically, at least, if not in reality.

Arguably, all amendments to the constitution were done with the benevolent goal of extending benefits of the Indian Constitution to people of the state and its integration with India, which was the ultimate aim of nationalist leaders of the era of freedom struggle in both India and Kashmir. But perceptions matter, regardless of their logic or veracity. For the common masses of J&K, not holding the avowed plebiscite till date, the arrest of their most respected leader and his incarceration for over 15 years and the progressive dilution of semi-autonomous status till its eventual annulment would presumably appear like broken promises and betrayal. The down gradation of the state to union territory status and its division into four parts of the original over the years (J&K, Ladakh, Pakistan Occupied Kashmir including the separate administrative unit of Gilgit-Baltistan) adds insult to that injured sub-nationalist pride. In this regard, there is a pressing need on India's part to 'acknowledge' that due to its compulsions and despite its best intentions, India has played a part

in fostering this perception of alienation, which Pakistan has amplified by its relentless, inimical propaganda.

### **The Security Paradigm**

The perception of alienation, persecution complex and rabid support from Pakistan turned some of the otherwise affable and garrulous people of Kashmir into a cauldron of hate and loathing. The eruption of a militant movement in 1989-90 in Kashmir took the Indian state by surprise. Though it shouldn't have, as a secessionist movement had already emerged over two decades earlier in the form of the Jammu Kashmir Liberation Front (JKLF) in 1964 and the 1986 riots in South Kashmir gave ample evidence of a brewing communal chasm. The Army was hurriedly called in and soon enough J&K earned the infamous distinction of being the most 'militarised region' in the world.

The Army is mandated to operate in 'aid to civil authorities' to deal with law and order disturbances, riots and natural calamities. Legal provisions are built into the military and civil laws for these contingencies. But an insurgency which has all but crippled the civil administrative machinery hardly yields to these legal niceties. To enable the Army to function effectively in a counter-insurgency (CI) role, legal powers and safeguards are essential for acts performed in good faith within the set national aims and parameters. Thus, came about the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 (AFSPA) and the Jammu and Kashmir Disturbed Areas Act, 1992. The AFSPA gives powers to search, break upon locks, seize vehicles and property, arrest without warrant, on suspicion and even open fire to the causing of death, to non-commissioned officers and above. Of course, there are also numerous checks and balances built into any professional Army's systems to ensure that these powers are not unfettered and subject to abuse. So, there are the COAS' Ten Commandments, the elaborate 'Rules of Engagement' promulgated by the Director General of Military Operations, the Do's



and Don'ts before, during and after a military operation and numerous other Standard Operating Procedures at formation and unit level in the field covering all conceivable elements of these operations. Every unit and individual inducted into the CI environment undergoes intense pre-induction training at theatre level schools where besides the tactical aspects of CI operations, training about the legal provisions, Human Rights (HR), local customs and conduct with the citizens form essential elements of the curriculum. That said and even though the Indian Army has religiously endeavoured to follow 'minimum essential force' as its guiding principle, exuberant soldiers occasionally make mistakes and aberrations do occur. Also, all men are not born alike and there is in any group of people, the odd bad-hat who, no amount of training and character-building can straighten. Such individuals, when identified, should and are dealt with in an exemplary manner through a transparent and visible process. The greatness of a national ethos is best displayed by graciously accepting, apologising and taking remedial steps to minimise these aberrations and not by petulant denial of every charge flung at it about its conduct. But alas, the fact that these aberrations keep accumulating in the public psyche cannot be helped.

CI operations by their very nature are prone to discomfiting the resident population and occasionally, unintended collateral damage. Prolonged exposure of a population to an Army creates resentment despite its best, well-intended efforts. It is not without reason that the Romans denied their armies, except the Praetorian Guard which protected Caesar, the permission to enter the gates of Rome and why all armies have traditionally been garrisoned in cantonments away from population centres. But we got enchained by the ebb and flow of militancy/terrorism, looking at the circumstances from a myopic security paradigm and turned Kashmir into a permanent garrison where two generations have been born and entered into adulthood under the shadow of a military camp. A cursory glance at the annual crime data in the country will make it

obvious that the level of violence in J&K is a mere fraction of most states in the crime and violence riddled mosaic of the Indian mainland.<sup>7</sup> Rather than disengage, while retaining the ability to expeditiously reengage, at times when the going was good, the Army and other central security forces became a permanent feature of the verdant landscape over the past three decades. This brings into perspective the need to ‘acknowledge’ and take responsibility for the resentment that some Kashmiris feel towards the Army and the ‘occupation army’ label they tag it with.

### **Human Rights**

A mere lack of direct violence, or the threat of it, does not guarantee human security and rights. Ever since the adoption of the Universal Declaration of Human Rights in 1948 by the United Nations and the incorporation of most of its tenets in the Indian Constitution, the Indian state accepted the broader dimensions of HR and positive peace. It has, to a very large extent and certainly more so than most states that have encountered insurgent movements, lived up to its commitments. There has been a normative, moral underpinning in most of its actions when engaged in conflicts. Historically too, through the era of the holy epics, the lives and times of its great warrior kings and the humane approach of the modern state and its military machine have set standards, though at times they may have appeared ineffectual or downright pusillanimous to the more hawkish elements within.

Human Rights awareness and commitment to broader notions of human security are the hallmarks of the modern, civilised society. When a house is searched and the bridal trousseau of a young girl is touched by the hands of strangers, sentiments are hurt. When a house is destroyed in a gunfight against militants, the state pays financial compensation, but emotions are scarred. Houses may be rebuilt though homes are difficult to recreate. If lives are lost to unintended collateral damage, the resulting execration may be unfathomable. When identity cards are demanded

daily by security personnel in the very streets where the forefathers once roamed free, it gives the impression of enslavement in one's own land. When curfews are regularly imposed, it takes away the freedom of movement and choice. Denial of communication for any amount of time impinges on several rights, including but not restricted to the rights of free expression, education, employment, health and well-being. When elections are presumed to be rigged and the state appears to be indulging in gerrymander despite its best intentions, it gives rise to suspicions of attempted disenfranchisement. In a minority community already reeling under a perceived state of siege, spurred on and instigated by the pernicious influence of a neighbour, these feelings may get magnified beyond proportion. Thus, the need to 'acknowledge' that even the Indian state's legitimate actions over the years have gradually bred the animosity that many in Kashmir may feel towards India today.

### **Refusal to Make Dialogue 'Uninterrupted and Uninterruptible'**

With the passing in quick succession of Sheikh Abdullah in 1982 and Indira Gandhi in 1984, the historical thread that had bound India and Kashmir in a relationship of mutual admiration and respect, despite frequent disagreements, finally snapped and their successors were thrust into the deep end, with little first-hand connect to the current of events of the past three decades. Thereafter, the relationship became a transactional one and realpolitik replaced the elements of enquiry, equity and accommodation. Thus, there were the Rajiv-Farooq Accord of 1986, the PV Narsimha Rao talks with '...sky is the limit...', the Gujral Doctrine, the Vajpayee proclamation of '*...Jamhooriyat, Insaniyataur Kashmiriyat...*' and the Composite Dialogue with Pakistan, the Manmohan Singh dialogues with the separatists from Kashmir and Musharraf of Pakistan and the Modi olive branch to Nawaz Sharif, all of which disappeared faster than footprints on the sands of time.

The Indian state has swung like a pendulum from one extreme of dialogue with all shades of opinion and on all matters, to talks within the confines of the Indian Constitution, to talks with Pakistan on issues other than Kashmir, to talks on all matters of mutual concern, to no talks till support to terrorism ends, to no dialogue with any separatists and finally the other extreme of no talks with anyone who indulges the separatists, virtually closing the doors on any dialogue with any stream of thought that differs from the Indian one. To any onlooker interested in disrupting efforts at peace building, like the deep state in Pakistan, India has provided an endless list of options to derail the processes. India has all along played into the bloodied hands of the Pakistani extremist-the hate-filled, irredentist elements within its Military-Mullah-Militant triumvirate.

Conflicts are resolved through positive strokes of engagement and dialogue. For the resolution process to make headway, every shade of opinion has to be taken into consideration, differences reconciled, own culpability recognised and corrective steps taken to ameliorate the misperceptions. This may be done publicly, though that requires a politically impenetrable thick skin; through the back channel in a sustained but low-key fashion; or with the so-called Track-II mechanism that builds trust and bonhomie before more substantive engagement can begin. Whatever the mechanism is chosen, it has to be made immune to the vagaries of periodic resurgence of negative narratives and actions by the enemies of resolution. In other words, it has to be uninterrupted and uninteruptible. For far too long India has been falling prey to the on-now, off-now syndrome. Thereby, the need to ‘acknowledge’ that the inability to pursue a resolution process in a sustained and continuous manner has given fodder to the perception of lack of intent, seriousness and deliberate filibuster, howsoever misplaced that may appear to us.

## Where Do We Go Now?

The state that we are in today is partially of our own making. We could have played our cards differently, anticipated the pitfalls and avoided the most egregious missteps. But that's easier said with 20/20 hindsight. It is what it is and we have to take it from here. As previously stated, the first step in the onward journey has to be the 'acknowledgement' of our own part in the making of this sordid saga. Blame can be apportioned to all involved parties in varying measures and no hands are absolutely clean in this, figuratively and practically. But one can never let go of hope and it doesn't take a miracle to end this. Some recommendations for the path to resolution are listed hereinafter.

- **Talk:** Talk and more talk. Talk with more shades of opinion. Talk with everyone willing to come to the table. Induce even the inhibited to come forward and talk. Tolerate and talk to the most recalcitrant elements in the society. Do not talk at, as we have often done, but talk to the people. Understand and make it be understood to all what happens when we do not talk? Nothing. And more of the same.
- **Hands off:** We have been too politically invested in the local dynamics at play within J&K. This approach hasn't brought us much further than we were at the stroke of midnight, on that moonlit night, those seven decades ago. Maybe it's time to give a free rein to local politics and await the emergence of fresh leadership from within the community, as the current generation of leaders passes the baton on.
- **Faith and Trust:** The narrative built around the events in J&K in the past, has led to an acute lack of trust about the Kashmiri loyalty to the Indian nation in the minds of the common Indian. Change the narrative. Highlight the positive aspects of Kashmiriyat, tolerance, culture, intellectual achievements of the past generations of Kashmiris, Sufi-Islamic traditions common with the faith in Rishis among Hindus in India and so many other aspects that have enthralled visitors to the

state throughout history. Make the Kashmiri feel welcome, when he visits the rest of India for education, business or just tourism. Grant him the little joys of celebrating a Pakistani victory in an insignificant cricket match for he, after all, shares a lot in common even with those people as surely as he does with us.

- **The fruits of peace:** Do everything in our powers to accelerate the rate of economic growth, employment and financial prosperity. We have some of the finest economic brains. Let's not leave it to the whims of bureaucrats, plutocrats and practitioners of real politik. In times of peace and harmony, let the common man experience the dividends of peace in a manner that he associates it with his relationship to India. Time is of essence here and we do not want the passage of time to give the enemies of peace an opportunity to create roadblocks and set us back.
- **Demilitarise:** Minimise the visible presence of security forces to the extent possible. If we truly believe that Kashmir is on a path to peace, there is no reason for the heavy security presence. Some of the most reviled laws and restrictions can be lifted, at least partially from the areas deemed appropriate.
- **Restrict the restrictions:** Communication blackouts have become our default first response to any sign/apprehension of disturbance. Curb this tendency. Learn to work around and with emerging technologies. It may help to up our own game rather than muddying the playing field for all.
- **Patience:** There are controversial elements in any reform process that are capable of igniting suspicions and doubts. Do not rush into every reform measure with undue haste flowing from the desire to do the maximum good in the shortest possible time. Take it a step at a time. Let the debatable ones come last, when the time is ripe, the people are less obdurate and more accepting of the change.

- **Benevolence:** India is a continental sized country with a humongous population. J&K is also a large state but with a comparatively minuscule population. Be more willing to give and do not pinch the pennies. Most people of the state have suffered undeserved hardships for far too long. Empathise and alleviate
- **Do not Play to the Galleries:** The Roman emperor Commodus is said to have gained his subjects' approval and popularity by showering expensive gifts on them and organising bloody gladiatorial games that the people of decadent Rome so loved. But he is also credited with the beginning of the decline of the glorious Roman Empire. Common masses are easily swayed by emotion, which is often irrational. Problem-solving involves a cool, calculated and rational analysis. When there are people involved, compassion may also play an important part.
- **Restraint:** Let triumphalism take a back seat for a while. There will be enough reason and time to celebrate when the people of Kashmir embrace the idea of India of their own accord.

## Conclusion

Much water has flown down the Jhelum and Chenab since the dawn of freedom in the Indian subcontinent. A lot of it has been coloured red. It didn't have to be and there is no reason that it should continue to be so. All protagonists in its tragic history have been caught up in the currents that swept them from one precipice to another. It is a tale of intrigue, deceit and above all mistrust in the other. It's about time a serious effort was made to put an end to these travails that impede the prosperity and progress of the entire region. All the parties involved have arguments in their support, plausible to varying extents. And all of them have erred at the others' expense in varying degrees. There are multiple narratives which muddle the entire affair to an inexorable extent. It may thus be impossible today to decipher the real truth. The truth may indeed prove

to be intractable for all concerned. What remains are perceptions. And perceptions are nebulous. Someone has to take the initiative to step back, take a deep breath and erase the past. Make a fresh start and begin with the 'acknowledgement' of one's own complicity in arriving where we are at. Possibly, as the largest player in the game, destiny has willed India to take that initiative and display its statesmanship.

## Notes

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