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**Kashmir Revisited: Factoring Governance,  
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by

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# Kashmir Revisited: Factoring Governance, Terrorism and Pakistan, as Usual<sup>1</sup>

Partha S. Ghosh<sup>2</sup>

*Keywords: Governance, Suicide Terrorism, Human Rights, Kashmir, Lashkar-e-Toiba, Jaish-e-Mohammad, Afghanistan, United States*

## ABSTRACT:

*The enigma of Kashmir is unending. All analyses in respect of its solution seem mere repetitions of hackneyed recommendations. This paper is a confession of that disappointment. As a sequel to an earlier contribution to Heidelberg Papers (Working Paper No. 7, September 2002) the argument here that it is meaningless to find a solution to the problem simply through better governance in Kashmir as Delhi tends to suggest. Governance per se though critical in any social strife is of relatively less importance in Kashmir where the critical issue continues to be the legitimacy of Indian rule, an unresolved subject of Partition. To complicate matters is the issue of Muslim sense of frustration, justified or unjustified, across the globe in which the US role first as a Cold Warrior nation and then as a post-Cold Warrior arbiter of international order is of critical implication. All this makes Kashmir a meeting point of four sets of interests represented by Kashmiris, Indians, Pakistanis, and Americans. Lately, because of the Afghanistan connection, even the interests of the 'international Islamic jihad' have been mixed in the brew. As a consequence of this complex blend all solutions elude Kashmir. Stoically speaking, probably providence will ultimately determine the fate of this hapless paradise.*

## INTRODUCTION

One man's beard is on fire, and another man  
warms his hands on it.  
—A Kashmiri proverb

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<sup>1</sup> An original version of this paper was presented in a seminar on 'Post-Election Challenges in J&K' held in Sri Nagar on 26-27 October 2009. The seminar was organized by the Institute of Peace Research and Action, New Delhi, and the Jammu and Kashmir Initiative for Peace, Sri Nagar.

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With considerable amount of trepidation I am writing this paper. The reason is that on the subject called Kashmir I feel I have come to my wits end and there is nothing I write will make any difference to its readers. More than a decade ago I indirectly argued that let India push a diplomatic offensive against Pakistan by offering a plebiscite in the valley on the exact terms laid down by the United Nations (*Mainstream*, 1996). My logic was that, in the first place, it would be extremely difficult for Pakistan to agree to the suggestion thereby blunting its case for plebiscite, and secondly, if after 50 years of democratic and federal experimentation India still did not have the courage to risk a vote in Kashmir it had no business to claim the loyalty of the Kashmiris. There was no taker of my suggestion—nobody bothered to disagree with me even by writing a letter to the editor. My suggestion, in short, was junked.

Six years later, I came out, through a contribution in the Heidelberg Papers, with yet another suggestion that let India and Pakistan settle the dispute for good by internationalizing the Line of Control (Working Paper No. 7, September 2002). There was no taker of this idea either at the policy levels though several scholars referred to the article in their academic research. Lately, however, Pakistan seems to be veering to that end as its two recent policies tend to suggest: one, its politico-administrative package for the Gilgit-Baltistan region (Northern Areas), and two, its decision to seek Chinese help for the development of 'Azad Kashmir', that is how Pakistan designates the part of Kashmir under its control. But by opposing both the moves India seems to suggest that it has not changed its Kashmir policy and it still considers the entire J&K as one unit and for it, therefore, no question arises of making LOC the international border between the two nations.

Unfortunately, however, in both the above mentioned writings I could not rise above my sense of nationalism. Although I was apparently suggesting ways and means to both India and Pakistan to get out of the Kashmir quagmire with innocent and non-partisan advices yet at the back of my mind my Indian background and Indian training were dictating my logic—and therein lay the problem of International Relations (IR) research which in most cases fails to transcend the self-defined boundary of patriotism. If this present paper also suffers from the same handicap the problem is to be found in this patriotism syndrome. That day the problem of Kashmir will see light at the end of the tunnel when a Pakistani will be able to plead India's case and an Indian will be able to plead Pakistan's case from the same platform. Alas, that situation is nowhere in sight.

In the present paper yet another effort is being made to make sense of what is going on in the Kashmir Valley against the background of the State Assembly elections held in November-December 2008, some recent tensions over the allegations of human rights violations by the Indian security forces and the growing incidence of terrorism in Pakistan itself which is likely to spill over into the valley making an already unmanageable problem even more unmanageable. Since there always is an intellectual opinion in India which argues that at the core of the Kashmir problem is bad governance record of the state this paper looks into this complex relationship amongst governance, terrorism and the Pakistan factor to see whether good governance really has anything to do with the ultimate solution of the problem.

It is argued here that bad governance, or for that matter even good governance, has nothing to do with the institution of terrorism. Rather, if at all either has anything to do with it, it is probably good governance. The proposition might sound weird at the first sight but once explained it would not appear that

way. In modern times the early twentieth century Bengal had witnessed the first symptoms of terrorism in India which were aimed at the British rule. Such names like Khudiram Bose or Prafulla Chaki had become household names in Bengal for their courage to challenge the might of the British Empire. All Bengalis had admiration for them, no one any contempt. But were these Bengali terrorists attacking the British for bad governance? If not better, India was certainly not badly ruled by the British compared to what it is today. The ire of these early terrorists was directed against the British government because according to them the latter as non-Indians had no business to rule India. Their logic was: Good or bad, let India be ruled by its own people. The core issue, therefore, is legitimacy of the rule, not its quality. On the contrary, as stated above, good governance probably provokes the terrorists even more for their rationale to oppose the government becomes even more questionable. Lately, however, governance as a concept has enlarged its scope and meaning providing some tangential justification to the terrorists which in the context of Kashmir is even more pronounced.

The present paper is divided in five parts. The first part is this introductory section itself. The second part is a brief discussion on governance. The idea here is to contextualize it to the problem of terrorism in Kashmir and argue that since the core point according to the terrorists is India's legitimacy to hold on to Kashmir it matters little to them how good or bad the state is run by the agents of the Indian state. Still, certain elements in the governance debate, such as human rights, have intimate connection with militancy and they have been factored in our discussion, particularly in the third part. The third part takes up only two aspects of terrorism in Kashmir as the subject otherwise is well dissected. These two aspects are, namely, one, the growing incidence of suicide terrorism that makes the preparations for counter-terrorism less and less efficacious thereby creating a vicious cycle of increased violence, and two, the issue of human rights violation by the Indian security forces which has the potentiality to further erode the legitimacy of the Indian state to the advantage of the terrorists. The fourth part highlights the most critical element in the quagmire, that is, the unfinished task of the Partition, namely, the dispute between India and Pakistan over the territory of Kashmir. The basic logic of the conflict remains exactly where it was in 1947 whatever India may have done to integrate the state into the Indian Union. To complicate matters is the murky path that Pakistan politics has taken in the intervening period. Already the Pakistan army had emerged as the most dominant stakeholder in state politics which of late has been joined by the Islamist militants sometimes as its partners and at other times as its rivals thereby making the future of Pakistan even more unpredictable. This unpredictability of the Pakistani state makes the solution of the Kashmir problem more elusive. Keeping all these factors in mind our conclusion, which constitutes the fifth part, cannot be anything but tentative—with no road map towards solution, leaving virtually everything to providence which in intellectual jargon we call forces of history.

### **THE CONCEPT OF GOVERNANCE<sup>3</sup>**

It is a strange coincidence that the late 1980s and early 1990s when the present phase of insurgency in Kashmir was beginning to throw up a major challenge to the Indian state was also the time when the debate over governance was picking up its momentum as never before. That was also the time when the post-Cold War

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<sup>3</sup> I am thankful to Amit Prakash of the Centre for Law and Governance at JNU for helping me understand the essence of the 'governance' discourse.

dynamics of global politics were unfolding. Governance as a concept which classically meant the manner, action or system of governing was getting critically dissected the result of which was that by the beginning of the 21<sup>st</sup> Century it came to encompass an entire gamut of issues at the core of which was politics. This journey that started from a managerial approach to administration to a political approach to administration produced an enormous amount of literature on the subject in which academics, policy practitioners, inter-governmental and donor agencies and journalists contributed substantively.

In the beginning the governance discourse primarily concentrated on a set of two approaches, namely, rules and steering, and a set of two issues, namely, literacy rates, employment rates, etc. on the one hand, and participation, access, equitable distribution, etc. on the other. But as the debate developed the concept *Getting Politics Right* became the central element of the discourse. As a result the aid agencies increasingly tied up their grants to such certifications as legitimacy of the grantee states, the commitments of the latter to such democratic institutions like media freedom, transparency in decision-making, promoting accountability mechanisms, and respect for human rights and the rule of law. Or, as Neera Chandhoke proposes, we should enlarge the scope of governance much further:

The state has been pluralized. What remains of the significance or meaning of the liberal democratic notion of the state as the undisputed centre of political aspirations and its task of pursuing the collective interest when it itself has been enmeshed in a number of organisations? How do we democratise bodies that are out of the reach of representation? How do we ensure that democratic procedures take into account background inequalities? Governance in other words has thrown up major challenges for the liberal democratic project, and we need to think this through. Or should we raise new questions for the project of governance itself? This is the question (2003: 2967).

By and large, insofar as the governance indicators are concerned, the World Bank has identified six parameters with which progress or decline in governance can be measured (Kaufmann, *et al*: 2009). These indicators are:

1. Voice and Accountability
2. Political Stability and Absence of Violence/Terrorism
3. Government Effectiveness
4. Regulatory Quality
5. Rule of Law
6. Control of Corruption

## **THE KASHMIR CONTEXT**

It is not easy to relate the complex theoretical questions mentioned above to the problem of terrorism in Kashmir. Currently, the Centre of Law and Governance at Jawaharlal Nehru University is conducting a massive study to identify the governance indicators across the Indian states. Unfortunately, however, neither J&K nor India's North East is within the purview of this survey. As such, we do not have any hard data on governance record of Kashmir.

Given this handicap, to make the best out of a bad deal, we have to reconcile ourselves to whatever we know of the governance record of the Indian state and find its connection to Kashmir which is a part of India. And, for that matter the governance record of Pakistan may as well be considered for it is also an interested party. If one goes by the UN Human Development Index (HDI) over the years neither India nor Pakistan shows much promise in terms of human development. The HDI 2007, which ranks 182 countries in all, puts India at 134<sup>th</sup> place where it was in the previous year also and Pakistan at the 141<sup>st</sup> place which is one rank less than the previous year. Compared to these two states Sri Lanka has a much better record and is placed at the 102<sup>nd</sup> rank. But does such an index necessarily help us to measure the governance index or for that matter such regional turmoil like the one in Kashmir? In spite of a sustained and better human development record Sri Lanka had witnessed the gravest threat to its societal and territorial integrity in South Asia after the Bangladesh crisis. The argument, therefore, is that it is too simplistic to see any direct connection between insurgency and terrorism on the one hand and good governance per se on the other. In 2006-2007 Bangladesh democracy was under suspended animation and was under virtual military administration yet the same period witnessed a better human development performance by the state. The HDI 2007 puts Bangladesh at the 146<sup>th</sup> rank which is two places better than the previous year.

Good governance by itself is a desirable goal but not the necessary condition to solve all inter-ethnic or nation building problems. More directly speaking, the World Bank has ranked most of the nations of the world as per the six governance indicators which have been mentioned in the previous section. According to those indicators, India's record of governance is better compared to that of Pakistan (see Table 1 and Table 2), and if so, it is logical to guess that the same must be true of the Indian part of Kashmir compared to the Pakistan Occupied Kashmir (POK).

**Table 1****Indian Governance Indicators by Six Parameters, 1996-2008**

<b>Parameters</b>	1996	1998	2000	2002	2003	2004	2005	2006	2007	2008
Voice and Accountability	0.12	0.32	0.26	0.38	0.33	0.42	0.42	0.47	0.41	0.45
Political Stability & Absence of Violence/Terrorism	-0.99	-0.87	-0.68	-0.98	-1.20	-0.90	-0.74	-0.90	-0.98	-0.99
Government Effectiveness	-0.15	-0.16	-0.17	-0.17	-0.09	-0.08	-0.12	-0.04	-0.06	-0.03
Regulatory Quality	-0.01	-0.39	-0.11	-0.36	-0.33	-0.36	-0.21	-0.19	-0.22	-0.21
Rule of Law	0.34	0.23	0.23	0.03	0.07	0.08	0.18	0.21	0.13	0.12
Control of Corruption	1.79	1.94	2.27	2.24	2.44	2.36	2.53	2.49	2.62	2.32

Table 2

## Pakistani Governance Indicators by Six Parameters, 1996-2008

Parameters	1996	1998	2000	2002	2003	2004	2005	2006	2007	2008
Voice and Accountability	-0.71	-0.74	-1.36	-1.19	-1.23	-1.20	-1.05	-0.98	-1.06	-1.01
Political Stability & Absence of Violence/Terrorism	-1.44	-1.34	-1.02	-1.56	-1.67	-1.68	-1.70	-1.94	-2.39	-2.61
Government Effectiveness	-0.54	-0.65	-0.66	-0.59	-0.56	-0.58	-0.55	-0.53	-0.60	-0.73
Regulatory Quality	-0.38	-0.47	-0.70	-0.80	-0.73	-0.89	-0.59	-0.44	-0.56	-0.47
Rule of Law	-0.55	-0.73	-0.81	-0.79	-0.83	-0.88	-0.89	-0.85	-0.95	-0.92
Control of Corruption	-1.04	-0.83	-0.72	-0.81	-0.73	-1.05	-0.99	-0.76	-0.13	-0.15

Note: More the estimate, better the success.

Sources for both tables: Daniel Kaufmann, Aart Kraay and Massimo Mastruzzi. 2009. *Governance Matters VIII: Aggregate and Individual Governance Indicators, 1996-2008*. Policy Research Working Paper 4978. Washington, DC: The World Bank: 80-97.

The basic question is that governance and democracy are supposed to be closely intertwined. If so, Kashmir's democratic record, meaning thereby fairly and peacefully conducted elections and the smooth transfer of power to the newly elected representatives should be considered crucial in identifying the governance indicators of the state. But the problem is that Indian and Pakistani analysts see the results from two totally different perspectives making it difficult to arrive at any scientifically drawn conclusion. Here are two representative samples in respect of the J&K assembly elections held in November-December 2008. Amitabh Mattoo, an Indian and a keen student of Kashmir affairs, wrote in the *Economic and Political Weekly*:

Through the 1950s and the 1960s, stage-managed elections were seen as betrayal of the 'trust' of 1947.<sup>4</sup> The 1977 election, the fairest the state had witnessed since independence, became a leit motif of faith and accommodation. The 1987 election, neither free nor fair, paved the way for militancy in the state. Confidence in the democratic process was restored considerably when, for the first time ever, in 2002, the electorate was able to dislodge the ruling party. *The 2008 election will also be recognised as a marker for its inclusiveness and credibility*, despite considerable odds (Mattoo 2009: 39, emphasis added).

<sup>4</sup> In the 1951 Kashmir elections Sheikh Abdullah rejected almost all the nomination papers of his opponents as a result of which he won 73 of 75 seats. Jawaharlal Nehru was complicit in this sabotage (Aiyar 2008).



In contrast, Awais Wasi of the Islamabad-based Institute of Policy Studies commented on the same elections in the following words:

The state assembly does not have any mandate to determine the status of J&K. Therefore, the elections and their results have no bearing whatsoever on the people's decision concerning freedom or accession.... If the assembly elections had been the yardstick for measuring the freedom sentiments in the valley, the urge for freedom would have died down long ago and people would have accepted the state's accession to India. But this did not happen; rather, the call for freedom has intensified with time. The emergence of the mass uprising calling for freedom in the valley in 2008 and 2009 is a case in point (Wasi 2009: 11).

The crux of the matter is that the rules of the game that India and Pakistan accept are diametrically different and as such there is never a meeting point.

### **IMPLICATIONS OF SUICIDE TERRORISM**

Before one finds the connection between the phenomenon of terrorism and that of suicide terrorism, in this case in the Kashmir context, it is imperative to understand the meaning of terrorism itself. The definition of terrorism is still contentious though a general agreement seems to be emerging in the academic literature, which is: 'Terrorism is the systematic use of coercive intimidation, usually to service political ends. It is used to create and exploit a climate of fear among a wider target group than the immediate victims of the violence and to publicize a cause, as well as to coerce a target into assenting to the terrorist aims. Terrorism may be used on its own or as part of a wider unconventional war' (Wilkinson 2007: 72). In the particular context of Kashmir Stephen Cohen equates the terrorists, both the Pakistan-sponsored and the home-grown, to theatre artists who have three types of audience in mind, the enemies, the bystanders and the potential recruits. In the first case the enemy is the Indian state which is forced to retaliate and each such retaliation tends to 'decrease its own legitimacy and make the terrorist or freedom fighter the defender of Kashmiris'. The bystanders are the public in general. More they are unimpressed by violence more violence is to be perpetrated till they find it unavoidable to get involved in the affairs of the terrorists. The third category of 'potential recruits' whose moral justification to join the ranks is based on the theory that 'the death of many innocents who happen to be on the side of evil can thus be rebalanced by the death of a few martyrs who are on the side of good' (Cohen 2006: 193).

Sometime ago, at the 2002 Kuala Lumpur conference of the Organization of Islamic Conference (OIC), the Malaysian Prime Minister Mahathir Muhammad, a key U.S. ally in cracking the al-Qaida, proposed that all attacks targeting civilians be considered terrorism. This definition, if accepted, would have included not only all terrorist organizations but also many of the armed forces including India's own. Even Yasser Arafat's *al Fatah* would not have been spared. In any case, Israel had branded Arafat as the most dangerous terrorist. As could be expected, there was no OIC consensus on the matter. They were reluctant to label the Palestinian suicide bombers as terrorists arguing that their action was only part of a legitimate struggle against foreign occupation. India used to argue the same way about the LTTE in the teeth of protests from Sri Lanka. It was only the assassination of Rajiv Gandhi that made India change its stance.

The term 'suicide' by itself implies an extreme act of passion. If so, should all acts of suicide bombing carried out by terrorists be branded as mere fanatical acts requiring psychological treatment? A ten-year data-set for the period preceding 9/11 shows that eight countries were the victims of the phenomenon of which Israel was the worst hit. It accounted for 40% of the total 554 deaths caused by suicide attacks. India's share was 7%. Most of the suicide bombers were in their late teens or early twenties. Till the LTTE terrorist bombers included even young women into the cadre general agreement was that they were all men (Gupta 2002). It may be emphasized that suicide bombings are not spontaneous outbursts of emotion. They are carefully calculated strategic moves by the leadership of the terrorist groups. According to one of the noted authorities on the subject:

In fact, the leaders can simply turn on or off suicide bombings like a spigot, as part of their strategic move. They recruit their human weapons by using the same techniques as any other cult groups with paranoid world view, where threats to the community become paramount and immediate.... Also, suicide bombings rarely carry any military significance. The kamikaze pilots failed to stop the advancing US naval forces to Japan; neither it is likely that Israel will vanish from the map as a result of these attacks. However, the impacts of suicide bombings on the global stage far outweigh their numbers (Gupta 2002).

In Kashmir the first evidence of suicide bombing was noticed in the aftermath of the Kargil conflict. In August 1999 a group of the Lashkar-e-Toiba activists blew them up while storming a BSF post in Kupwara. During the following two years about 50 suicide attacks took place in the Kashmir Valley and the Jammu region several of which were aimed to gain entry or blast their way into high-security government installations. These targets included an army garrison in the Red Fort (22 December 2000), the J&K Assembly (1 October 2001), and the Indian Parliament (13 December 2001). Most of the suicide attacks were done either by the Lashkar-e-Toiba or Jaish-e-Mohammed who called the suicide bombers as *fidayeen* (those who make the supreme sacrifice) and *khudkush shaheed dusta* (voluntary martyrs' squad), respectively (Ramachandran 2002). The Indian state felt helpless. Kashmir's Inspector-General of Police, K. Rajendra, conceded that 'no one can stop anyone who is prepared to die'. According to Syed Tayyab Shah, a Kashmiri Muslim cleric: 'If jihad is undertaken according to the strict instructions of the Quran, suicide missions can be allowed if they offer military or strategic advantage to the Muslim Army.' Ghulam Mohammad, a Kashmiri sociologist, explained the phenomenon in these words: 'Disillusionment with their surroundings is the main reason why youngsters are drawn to seek refuge in religious fanaticism.' He argued that many Muslims saw the jihad as a means to purify the soul which a *fidayeen* stretched to dramatic effect hoping for instant purification. It was instant and glorious (*The Asian Age*, 16 December 2001). One must also try to rationalize this psychology in the context of what was happening to the Muslim sense of pride during and prior to this period. The events that preceded and followed the 9/11, in Palestine, Iraq and Afghanistan, caused almost two million Muslim deaths which made many Pakistanis see this as a 'Muslim Holocaust' (Ali 2008, Ghosh 2008). The way the Muslims criticized America and the way they gave their tongue-in-cheek rationalization of what happened on 9/11, tended to suggest that they attributed their perceived misery across the world, particularly in West Asia, to America's global role. Israel was their *bete noire*. There was an undercurrent of nostalgia about the glory that was Islam. One Indian psychologist who interviewed a number of Muslim terrorists in Delhi's Tihar Jail, mostly operating in Kashmir, found that one essential element in their

indoctrination was to remind them over and over again of their glorious past. None of them had any repentance for their violent acts and tended to suggest that given chance they would again and again indulge in such acts for their cause was just.<sup>5</sup>

As the number of the suicide attacks grew in several parts of the world the failure of the concerned state to curb them through punitive actions became more manifest. One strategy which was theoretically plausible was to draw the suicide squads and their leaders into a larger negotiation process like the Sri Lankan state had from time to time done (Gupta and Mundra 2005: 591). But like the Hamas and the Islamic Jihad in the Israeli context neither the Lashkar-e-Toiba nor the Jaish-e-Mohammed was willing to compromise on their demand, that is, total independence of Kashmir from the control of the Indian Union. Under the circumstances the Indian state has no option other than either dealing with the situation militarily or somehow or the other convince the Pakistani state that they were playing with fire and one day the flames would inevitably engulf them as well. In short it has nothing much to do with the improvement of the J&K administration except improving the state's human rights record which has direct connection with the justification for terrorist activities that we will discuss below.

## **TERRORISM AND HUMAN RIGHTS**

Insofar as the question of human rights is concerned most states abhor the tendencies of other states to discuss these matters as they are often found tendentious. This is so notwithstanding the fact that there is an International Declaration of Human Rights and all democratic countries call for their protection. India has its own National Human Rights Commission (NHRC) to serve as a watchdog against any violation of human rights. But when the same NHRC indicted the government of Gujarat for its failure to contain the anti-Muslim riots in the state in March 2002 it came in for criticism by none other than the ruling party in Gujarat itself, the BJP. Since the latter was the dominant partner in the ruling coalition at the Centre this criticism assumed more serious meaning. There were even charges that the party had edited the NHRC report in such a way so as to mean that the Gujarat Government did its job satisfactorily and it was only the media that tarnished its image by selectively quoting from the report. It was, however, exactly the other way around. Of course subsequent developments have overtaken the controversy and the complicity of the Gujarat government in the anti-Muslim massacre has by now become an open secret.

In the context of Kashmir the violation of human rights by the security forces is a constant complaint the latest evidence being the Shopian case of rape and murder of two young women. Theoretically it is explained that in trying to locate the sources of popular support for the terrorists ordinary citizens are subjected to torture. Sociologist Veena Das has called it 'surrogate punishment'. In the context of what happened in Sri Lanka she wrote:

In a situation in which militants or terrorists deliberately terrorise civilian population into providing them with food and shelter, it becomes difficult for any army to distinguish between the civilians and the militants. The nature of violence that an army has to face in the case of an internal insurgency is not what they have been trained to recognise as the violence of warfare. Hence

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<sup>5</sup> The psychologist is Rajat Mitra, Director, Swanchetan, a Delhi based NGO. This author has discussed the subject with him on several occasions.

reason gives way to panic; instruments for ‘disciplining’ a population become not open warfare but torture, detention, rape. Nothing shows the irrationality of this violence better than the widespread use of rape of girls and women and murder of children. As many torture victims testified, they were tortured not because they had crucial information to give but because every time the soldiers faced unexpected violence from the militants and suffered heavy losses, they tortured the people detained as a kind of surrogate punishment. Even after the withdrawal of the IPKF [Indian Peace Keeping Force] the same pattern of civilian reprisals was followed by the Sri Lankan army (see her ‘Foreword’ in Somasundaram 1998: 14-15).

The above syndrome can be witnessed in any comparable situation whether it is Kashmir, North East or Gujarat. Shopian is not Kashmir’s first such experience. In 2000 also there was a goof up about the DNA test. Following the Chittisinghpura massacre of some Sikhs in the Anantnag district, in a joint police-army operation in March 2000 five allegedly Lashkar-e-Toiba terrorists were killed. But the local Muslim community alleged that the killed persons were their relatives who had nothing to do with the Lashkar. When the protests mounted and the J&K government was under growing public pressure it ordered for the exhumation of the bodies for the DNA test. The idea was to prove once for all that they were indeed Lashkar men and not local youths. But when exhumed, five families identified the charred, decomposed bodies as those of their relatives who had gone missing after the Chittisinghpura incident. The J&K government, however, insisted that no action could be taken against the security personnel until DNA testing conclusively proved the identity of the five bodies. Following this the DNA samples were collected from the bodies and from their eight relatives and sent in April 2000 to the Centre for DNA Fingerprinting and Diagnostics, Hyderabad, an autonomous institute under the Department of Science and Technology of the Government of India. To ensure that the tests would prove negative, the officials apparently tampered with the relatives’ DNA samples. Naturally the samples did not match but an alert press (in this case the *Times of India*) exposed a massive cover-up operation in which even the samples taken from females were submitted as those of men.

In the controversy between terrorism and human rights 9/11 would remain a landmark; never before had the United States been exposed to such a massive attack from the terrorists threatening the lives of its nationals on their own soil. The response of the country was, therefore, massive. It was feared that while employing its foreign policy instruments, such as covert action, military assistance, etc., to rope in other countries into America’s war against terrorism, the United States might lower its guard against violation of human rights in these partner countries. While releasing the 670-page *Human Rights Watch World Report 2002*, Kenneth Roth, Executive Director of the organization, cautioned that the ‘terrorists believe that anything goes in the name of their cause. The fight against terror must not buy into that logic. Human rights principles must not be compromised in the name of any cause.... The fight against terror isn’t just a matter of security. It is a matter of values.’ He added: ‘In societies where basic freedoms flourish, citizens can press their government to respond to grievances. But in Saudi Arabia and other countries where Osama bin Laden strikes a chord of resentment, governments prohibit political debate. As the option of peaceful political change is closed off,

the voices of non-violent dissent are frequently upstaged by advocates of violent opposition.<sup>6</sup>

It is naïve to think that the menace of terrorism in Kashmir can be eliminated easily. It is equally naïve to think that in its efforts to counter the problem of terrorism the Indian state would be free from allegations of human rights violation. Since both would remain coexistent realities the only pragmatic policy is the one that balances the two. Since India is a plural society such balancing becomes even more important for otherwise inter-communal tensions would go out of bounds. Terrorists operating in Kashmir would love to see the situation in the state escalate into a Hindu-Muslim conflict inviting the Hindu fanatical outfits join the fray in a big way. If that happens, it will be an even greater challenge for the Indian state to deal with if Gujarat teaches us any lesson. After visiting the camps in Ahmedabad, where the Muslim victims of Gujarat riots were sheltered, the former Mumbai police chief Julio Ribeiro had written: 'I visited the Shah Alam camp where nearly 10,000 Muslims had been accommodated after their homes were burnt and looted and their relatives raped and killed. I had expected histrionics and wailing but I was astounded at the matter of fact manner in which young boys and girls recounted the sordid details of what they had seen and experienced. It gave me an uneasy feeling that these young people were not going to forget the injustices heaped on them. I do not know if the VHP and the Bajrang Dal, who had been gloating over their "success" in Guajrat, visualised the danger to which they are exposing their innocent co-religionists somewhere, sometime in the future' (Ribeiro 2002). It is unthinkable that Kashmiri terrorists do not take advantage of such developments in other parts of India. It may be underlined that the expulsion of the Hindus from the Valley, which was largely engineered by non-local terrorists, was in line with the same strategy.

### **THE PAK-AFGHAN-KASHMIR LINK**

The problem of Kashmir is essentially rooted in the original conflict between Indian National Congress and the Muslim League which the partition of India could not solve. On the contrary certain unfinished tasks of that exercise allowed the ghost of Partition to haunt the bilateral relations for ever thereafter. And in this Pakistan's sense of frustration is even more than that of India. Leave alone Kashmir it has not reconciled itself even to the 'loss' of Junagarh to India. Not only the Pakistani school maps, even the Website of the Pakistan Ministry of Foreign Affairs, still shows Junagarh and Manavadar as parts of Pakistan.<sup>7</sup> No wonder that Pakistan has so far fought three-and-a-half wars (Kargil is the half war) with India and for the last two decades fighting a non-conventional, low-intensity, and low-cost war in the Kashmir Valley. Ever since 9/11 when Afghanistan was roped in the US grand strategy to combat terrorism across the world Pakistan has tried to get yet another pretext to complicate the scene to its advantage. But how far has it really succeeded in that venture is of course an open question for records suggest that it combines three contradictory roles at one go. It is the victim of terrorism, it is the sponsor of terrorism and it is also the country that has killed and arrested more terrorists than any other country (Riedel 2008: 355).

<sup>6</sup> Human Rights Watch Press Release, 16 January 2002. <http://www.hrw.org/press/2002/01/wr2002.htm>.

<sup>7</sup> [http://www.mofa.gov.pk/Maps/PAK\\_Administrative.jpg](http://www.mofa.gov.pk/Maps/PAK_Administrative.jpg), accessed on 11 September 2009. Strangely, however, the 'Political Map' provided by the same Website does not include the two areas.

Immediately after 9/11 Pakistan was not so willing to go along with the United States in its war against terrorism. But as President George Bush insisted upon a clear and unambiguous commitment from Pakistan, or else getting itself branded as an enemy of America, Pakistan was left with no choice. It was this commitment that irked the Islamists. To wriggle out of this quagmire President Pervez Musharraf came out with a justification, which was rather well reasoned out. He argued that his support for the US anti-terrorist stance was motivated by the fear that in the post-Cold War phase the Americans might come closer to India and the latter by taking advantage of the situation could get them on their side to solve the Kashmir problem in India's favour (Riedel 2008: 358). Pakistan's larger involvement in the Kashmir militancy in the aftermath of the American military action in Afghanistan following 9/11 fitted the bill.

### **PAKISTAN'S CIVIL-MILITARY TANGLE**

Pakistan's involvement in the Kashmir problem is a permanent fixture in the nation's politics. If so, does it make any difference when there is a democratic set-up in the country and the army seems to be willing to accept the civilian superiority. Given the checkered history of democracy in Pakistan it is too early to be predictive but the way Pakistani army has reacted to the recent US aid package contained in the Kerry-Lugar bill does not augur well for civilian rule in the country. The army top commanders through a carefully drafted press statement, which itself is a departure from the past when most such press statements were short and of a routine nature, have expressed their 'serious concern' on some of the clauses of the bill that they believed would affect 'national security'. There are straws in the wind pointing to a perceptual gap between the Asif Ali Zardari government and the army. While leaders like President Zardari and the Information Minister Qamar Zaman Kaira have hailed the bill as a great piece of legislation and a pro-democracy sentiment the army has objected to its reference to Pakistan's nuclear programme, its counter-terrorist efforts and the civilian government's role in military appointments and promotions. One may see some glimpse of an impending civil-military face-off on such matters in the following statement of the presidential spokesperson, Farhatullah Babar, who tried to dispel the perception that accepting aid under the bill would mean that the army and its intelligence agencies were aiding the terrorists. He clarified that the former president Musharraf had pledged to the Indian Prime Minister Atal Behari Vajpayee on 6 January 2004 that Pakistan would not allow its territory to be used by the terrorists. Babar wondered: 'If it was not considered an admission that time, why this fuss now?' (Dawn.com, accessed from Internet on 23 October 2009).

Under the shadow of the military Pakistan's democracy always raises questions about its survival. The democratic institutions in Pakistan are still fragile while the army is a well-knit body of professionals which has tasted power for long years. How would the latter reconcile itself to a civilian authority to which it would be answerable is a concern for all democratically minded Pakistanis. According to a US-based Pakistani scholar:

Democracy in Pakistan is likely to remain stillborn unless the officer corps' praetorian norms and prerogatives undergo erosion and the military is brought under firm democratic-civilian control. The growing internal threat from terrorism, and the sense of public insecurity that it generates, do not augur well for democratic civil-military relations. For now, Pakistan's 'resurrected

civil society' will likely ensure that the military has no real occasion openly to undermine or overthrow an elected government. But some form of authoritarian backsliding with at least a hidden or partly hidden assist from the military must still be considered a not unlikely outcome for Pakistan (Shah 2008: 24).

## CONCLUSION

In September 2009 the Government of India approved a plan outlay of Rs. 65 billion for J&K for the year 2009-10. The outlay was 40 per cent more than the previous year's outlay. Its objective was to neutralize discontent. In addition to this outlay the fund under the Prime Minister's Reconstruction Plan (PMRP), which aims at improving infrastructure in the state, was also doubled from Rs. 10,120 million to Rs. 24,170 million for the same fiscal year (*Hindustan Times*, 24 September 2009). More development assistance is always welcome but as we have argued in the second part of this paper dealing with governance that it is not the only solution to the tangled problem of Kashmir. Rather if there is no effective utilization of these huge funds and corruption swallows large chunks of it is inevitable that a portion of that booty would reach the terrorists to further complications. Now that the state is under a dynamic and forward looking young leadership it may be wishfully thought that things might change but much will depend on his capacity of *Getting Politics Right* (see page 5). And this political task encompasses several things, namely, relations with the Indian centre, relations with the opposition in the state, playing to the Kashmiri gallery both within the valley and beyond, and over and above supplying necessary inputs into India's foreign policy insofar as it is concerned with Pakistan and the United States. A tall order, indeed!

There are two ways of looking at the present state of insurgency in Kashmir, one, as a virtually Pakistan-sponsored threat with limited local support, and two, as an externally-sponsored threat but with massive local support. If it is the former case it is going to be a war of attrition which the Indian state is capable of handling for many more years. If the situation falls in the second category it is more problematic for it warrants adept political handling both at the domestic and international levels. But the question of mass support is always dicey for who really decides when a movement becomes a mass movement is ever debatable. Who would deny that the Quit India movement of 1942 was a mass movement? But has anyone looked into the fact that while only 100,000 people joined it another 2,500,000 people fought in the Second World War on behalf of the British Empire exactly during the same time (Aiyar 2008). Do the numbers always matter, therefore? This enigma cannot be easily resolved by political theories, much more so in the Kashmir context. As such, probably just like the Cold War came to an end without giving any prior notice, the problem of Kashmir too could well be solved one day to the surprise of all Kashmiris, Indians and Pakistanis. Amen!

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