

Towards a Process of Reconciliation in Jammu and Kashmir?

A Tentative Analysis

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Introduction

The distress of the civilian population of Kashmir, hostage to a combat which it had wanted without its leaders possessing or acquiring the political, ideological, tactical or even military arms¹ needed to fight it, is moving. Without doubt the Valley, if one excepts the wave of enthusiasm raised by the first steps of the Jammu and Kashmir Liberation Front (JKLF) between the end of July 1988 and the first half of 1990, had little choice but to entrust its fate to political and military leaders who were, generally speaking, not only uncharismatic, but, for the most part, rapidly demonstrated the limits of the devotion they continued to profess to the ideal of *Kashmiriyat*², while,

¹ The inability to elaborate suitable political and ideological concepts to support the struggle is perhaps to be explained by the acceptance of a re-writing of the history of Jammu and Kashmir. It remains difficult to know whether the leaders of the struggle agreed intellectually with the Pakistani reading of events in Jammu and Kashmir, or whether they accepted it as the price to pay for the Pakistani support upon which they came to depend. The lack of a strategy other than one of 'hit and run' (tying down large numbers of Indian security forces without gaining any ground) is in part a reflection of the desire of Pakistan to prevent the emergence of a national Kashmiri movement – as witnessed by the neutralization of the JKLF from 1990 onwards.

² Unavowed heirs to the nationalism promoted by the founder, in June 1938, of the National Conference, Sheikh Mohammed Abdullah (1905–1982), the leaders of the Kashmiri armed movement, whose disunity was only too clear, attempted to give a boost to the synthesis of, on the one hand, a discourse which made a bare minimum of effort to reach out to Jammu and Ladakh, and, on the other, *Kashmiriyat*. Did they refuse to oppose the affirmation of an Islamic dimension which, with the rise of militancy, was being imposed as the dominant element in the definition of *Kashmiriyat* (which had until then promoted the existence of a historical, geographical, political and cultural identity unique to the Valley)? However that may be, no one thought of trying to convince the other religious groups of J&K to join the struggle, for example by removing references to Islam or including those to other faiths in order to show that the battle was principally political or even social or economic. Such an effort, it is true, was quickly complicated since the Kashmiri Muslim population, suffering as India intensified the battle against the insur-

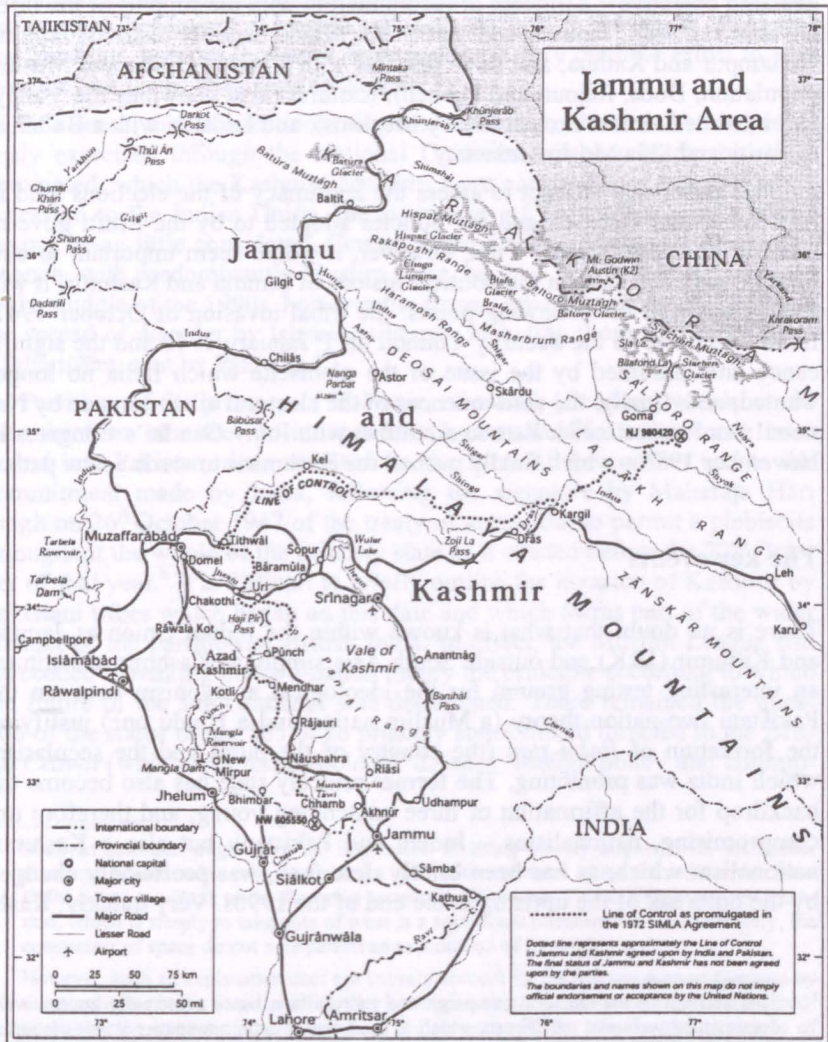
at the same time, associating it with a limited or even unconditional loyalty to Pakistan. Was it these leaders or those who succeeded them who would keep alight the flame of *Kashmiriyat*, or the fight taken on by India against what it termed terrorism (the same fight was denounced as a 'system of repression' by certain others) which pushed a youth tired of the conflict with which it was only too familiar to opt for an armed struggle and for a passive resistance to the Union, henceforth considered as an occupying power by a significant proportion of Kashmiris?

On the eve of the state assembly elections for which polling began on 16th September 2002 and ended on 8th October, the stakes in a dispute born in 1947 and which had taken on quasi-insurrectional proportions at the beginning of 1990 remained high. Apart from the nature of the struggle in an Indian state bordering on Pakistan, a series of several interrelated questions awaited answers: was New Delhi correct in declaring that terrorism fed by the Pakistani intelligence service (Inter-Service Intelligence, ISI), far from disappearing, was on the increase, the threat posed to J&K by the arrival of Islamic fundamentalists, including Taliban and perhaps even Osama Ben Laden, having been frequently raised? The former princely state remained a central ideological and strategic issue between two countries born in a rushed decolonisation, but was it anything more than that, given that the Kashmiri population was exhausted by the long unequal combat and that the populations of India and Pakistan could probably both be persuaded to accept the price of a less than wholly satisfactory resolution of the problem which had dominated fifty years of political life, provided that a new war was thereby avoided? Would the Indian, Pakistani and Kashmiri actors accept, at least tacitly, that they are stuck in the mud of a conflict which no longer makes much sense? Might New Delhi and Islamabad be intent on maintaining a source of external tension in order to promote a precious, if relative, internal peace?

Does the formation, on 2nd November 2002, of a coalition government whose principle components are the Congress and the Jammu & Kashmir People's Democratic Party (PDP) fundamentally change the situation? The task taken on by the new administration led by Mufti Mohammad Sayeed is something of a gamble, as it must move carefully to attempt to promote its

rection, came to consider religion as one of the few refuges open to them. Above all, the militant movement soon came to play an Islamic card, trying to impose a more 'Islamic' way of life. It was the JKLF which first called for the closure of cinemas and shops selling alcohol in the Valley.

It is perhaps useful to add here that in April 2002 the then Chief Minister Farooq Abdullah proposed a new definition of *Kashmiriyat*: it was now the principle of 'mutual coexistence of Hindus and Muslims' (cf. Humanity Greatest Need of Hour: Farooq, *Hindustan Times*, Jammu, 7th April 2002).



declared objective – a process of reconciliation with the support of the three Divisions of J&K: Jammu (with three clear Hindu majority districts, Jammu, Udhampur and Kathua; and three districts with a mixed Hindu and Muslim population, Doda, Rajouri and Poonch); Kashmir (also known as the Valley, and inhabited almost exclusively by Muslims); and Ladakh, with a Buddhist majority and Shia Muslim minority.

This paper will attempt to assess the legitimacy of the elections held in September and October, and the policies adopted to by the Mufti government in its initial phases.³ First, however, it would seem important to outline the issues at stake in the political history of Jammu and Kashmir. It will suffice to recall the following points: the tribal invasion of October 1947; India's recourse to the Security Council on 1st January 1948 and the significance later assumed by the issue of the plebiscite which India no longer wanted; and, finally, the consequences of the electoral alliance made by National Conference leader Farooq Abdullah with Rajiv Gandhi's Congress in November 1986 – which finally pushed the Kashmiris towards a new path.

The key events

There is no doubt that what is known within the Indian Union as Jammu and Kashmir (J&K) and outside South Asia simply as Kashmir, constitutes an interesting testing ground for the ideological antagonism between the Pakistani two-nation theory (a Muslim nation and a Hindu one) justifying the formation of *Pak-i-stan* (the country of the pure) and the secularism which India was promoting. The former princely state has also become the backdrop for the affirmation of three contending young, and therefore uncompromising, nationalisms – Indian and Pakistani, but also a Kashmiri nationalism which, as has been briefly described, was profoundly changed by the outbreak of the uprising at the end of the 1990s. Very quickly, Kash-

³ This account of the electoral campaign and its results is based principally upon a well-documented web-site, rediff.com, which is itself based upon newspaper articles (sources are often not clearly indicated) and press agencies releases such as PTI (Press Trust of India). A summary bibliography is included at the end of the article, which should permit the reader so wishing to find works with differing standpoints on the origins and evolution of the conflict in Jammu and Kashmir.

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miri nationalism attained a dual nature: one narrowly religious (Muslim), and another, hegemonic at least in ambition, addressing the whole of Jammu and Kashmir, without, however, ever making a very credible effort to win over the Hindus or Buddhists of the state.⁴

In a sense, the insurrectional movement is heir to the dominance, previously exercised through the National Conference whose leadership they dominated, which the Kashmiri Muslims have not ceased to maintain since accession to the Indian Union, the aspirations of Jammuites and Ladakhis having been little considered. Certainly, the districts of Doda, Rajouri and Poonch, with predominantly Muslim areas, became involved in the struggle in the middle of the 1990s, however the reason generally accepted for this is the spread of disorder by Islamic militants, including those 'recycled' from Afghanistan, sent by Pakistan.⁵

Partisans of the primacy of Kashmir, of *azaadi* (freedom) which would take the form of either an independent Jammu and Kashmir or one integrated into Pakistan, draw attention to the roots of the conflict and to the commitment made by India, following the signature by Maharaja Hari Singh on 26th October 1947 of the treaty of accession, to permit a plebiscite throughout the whole of the princely state as it existed before the 22nd October of that year.⁶ It is difficult to briefly outline the invasion of Kashmir by Pakistani tribes which began on this date and which forms part of the wider context of the partition of British India. In effect, the Muslim League had succeeded in making the two-nation theory the principle according to which the future of the sub-continent was determined. There remained the question of the status of the 565 or so princely states linked directly to the British Crown (which was responsible for defence, foreign policy and commu-

⁴ Such an assertion might give the impression of being closely aligned with the Indian discourse which makes religion (Islam) a constitutive element in the discredit which New Delhi hopes to adhere to the Kashmiri separatist movement. This is clearly not my intention, which is simply to take note of what is a significant phenomenon; unfortunately, the constraints of space do not here permit an exploration of its origin.

⁵ However, such an explanation does not entirely account for the logistic support received by these militants in the areas in which they were operating. One question must be answered: what was the impact of the presence of Indian troops in the Muslim-majority areas of Jammu, bearing in mind that with the exception of Doda with its significant Kashmiri-speaking population, the people had been little attracted by the struggle of their co-religionists in the Valley? Or were the sending of foreign militants, the Islamic message, as well as money, sufficient to do the job?

⁶ Today it is made up of *Azad Kashmir* (according to Pakistani terminology; *Pakistan-Occupied Kashmir* for India); the Northern Territories (Gilgit) currently under direct Pakistani administration; the Indian state of Jammu and Kashmir (*Indian-Occupied Kashmir* for Pakistan); an area controlled by China but claimed by India (Aksai Chin); and an adjacent mountainous area ceded by Pakistan to China in 1963.

nication). When the two dominions became independent, there were ten sizable princely states (not including Jammu and Kashmir) which were to join Pakistan and had been so integrated by March 1948. India had still to resolve the cases of Junagadh and Hyderabad. The Pakistani authorities considered that Muslim-majority Kashmir should be assigned to them. The prevarication of the representative of the Dogra dynasty, the Hindu Maharaja Hari Singh, who was probably contemplating the possibility of independence, doubtless did little to assuage their impatience.

When, on 1st January 1948 and upon the advice of Governor-General Lord Louis Mountbatten⁷, India officially informed the Security Council of the armed conflict which had begun and of the role played by Pakistan notably in the arming of the tribal troops, whose sudden unity was, to say the least, uncharacteristic, the authorities in Karachi replied that the tribes had decided of their own accord to rush to the help of their Muslim brothers in Poonch who were battling against a despotic and Hindu prince. This assertion was backed by Sardar Mohammed Ibrahim Khan, first President of Azad Kashmir who, in 1947, declared that it was not only the coercive methods employed by the Maharajah towards the Muslim population, but also the presence of elements of the *Rashtriya Swayamsevak Sangh* (RSS or Union of National Volunteers) trained in Jammu by Dogra army officers which drove Poonch into revolt.⁸ According to him, this organization terrorised Muslims in the districts of Kathua, Jammu and Udhampur in which they formed a minority. He suggested that the RSS had another target: Muslim refugees who were crossing the princely state to reach Pakistan. Sheikh Mohammad Abdullah, freed on the eve of the tribal invasion, however, argued that he and his partisans tried to 'defuse the communalist situation in Kashmir'⁹. He added that in spite of the efforts of the National Conference to dissuade them, the Muslims of Jammu decided to emigrate to Sialkot – on the Pakistani side.¹⁰

⁷ The role played by Mountbatten continues to be the object of almost unanimous criticism in India. C. Das Gupta, diplomat in the Indian Foreign Service, for example, devoted a work entitled *War and Diplomacy in Kashmir (1947–48)*, New Delhi 2002, to this question, focusing on British diplomatic sources. In his work *Kashmir. A Disputed Legacy 1846–1990*, Karachi et al. 1992, Alastair Lamb presents Mountbatten – first Viceroy and later Governor-General of India – as an almost unconditional partisan of India.

⁸ Sardar Mohammed Ibrahim Khan, *The Kashmir Saga*, Lahore 1965, p. 41.

⁹ Sheikh Mohammed Abdullah, *Flames of the Chinar* (translated from the Urdu by Khushwant Singh), New Delhi 1993, p. 97, p. 99, p. 102.

¹⁰ While a large number of Muslims took the path of exile to territory controlled by Pakistan, Hindus living there were forced to seek refuge in Indian Jammu and Kashmir. Pakistan, according to a Foreign Office document of 18th January 1950, received more than half a million refugees from the part of Kashmir under Indian administration, mostly from

The demographic balance of the regions which were to fall under Indian administration was thereby changed. If one takes the 1941 census as a base, the Muslim community formed about one-third of the population of Jammu, RS Pura, Kathua and the other Dogra zones. On 1st January 1949 (date of the proclamation of the cease-fire which would determine the Line of Actual Control separating Indian Jammu and Kashmir from Pakistani Azad Kashmir) the Valley comprised 53 % of the population of Indian Jammu and Kashmir.¹¹ Jammu, for its part, represented 45 %, with the Valley, a fiefdom of the National Conference, while the territories controlled by Pakistan favoured the Muslim Conference, the *de facto* division of the cessation of hostilities altered the balance between the regions; the National Conference was able to rule the whole state alone, on the basis of its unchallenged support in the Valley. Jammu Division remains bitter at what most of its inhabitants saw as, at the very least, the poor functioning of a system favouring Kashmiris. By way of evidence, there has never been a Chief Minister from Jammu Division, and during the recent negotiations about forming a coalition government, Mehbooba Mufti, Vice-President of the PDP, argued – winningly – for a Chief Minister from the Valley as the urgent problems to be solved were there.

Another issue: that of the treaty of accession which India, in one sense at least, obliged the Maharaja to sign, as Indian military intervention in Kashmir was conditioned on it. This treaty took the form of two documents: the first, more or less identical with those signed by other princes, was an official declaration by Mountbatten in which he accepted, as Governor-General of India, the request made by Hari Singh and Sheikh Abdullah (New Delhi had managed to convince the prince of the necessity of the latter's involvement). The second document was a letter from Mountbatten to the Maharaja in which he expressed the wish that the question of Kashmir, once peace and order had been re-established, be definitively decided by a 'reference to the people'. The terms used lend themselves to confusion, since the nature of the consultation is not specified. On 2nd November, however, Jawaharlal Nehru declared himself ready to organize a referendum under international auspices, as soon as peace returned to the former princely state.¹²

Jammu Division. The same source indicated that the number temporarily installed in 'Azad Kashmir' was even greater. The document added that India had not been significantly affected by refugees fleeing Jammu and Kashmir (cf. PRO (Public Record Office): FO (Foreign Office) 371 India and Pakistan, file 84206, Inward Telegram to Commonwealth Relations Office, FL 1015/23. Allotted to South Asian Department, Cypher (Simplex), from U.K. High Commissioner in Pakistan to UK High Commissioner in India, Karachi, 18th January 1950, No. 88, 3 pages, p. 3).

¹¹ Balraj Puri, *Kashmir Towards Insurgency*, New Delhi 1993, pp. 27–29.

¹² According to Balraj Puri, the referendum represented the only way to bring to an end the 'Maharajah's resistance'. Puri adds that India had two other aims: to demonstrate, in contrast with Pakistan, her confidence in the people of Jammu and Kashmir; and 'to annex

The reasons behind the issues being referred to the Security Council are complex, as were the debates which followed; we will not go into them here.¹³ Suffice it to note the failure of this international actor to resolve the conflict and organize the planned plebiscite, as well as the apparent 'tilt' towards Pakistan by Great Britain and, more cautiously, the United States, perhaps because the weakness of the 'new' state was seen as likely to make it more 'flexible'. New Delhi, for its part, was demanding the condemnation of its neighbour, whom it accused of the seizure by aggression of a part of its territory. It did not intend to leave the Organization of the United Nations to resolve the dispute, since, far from condemning Pakistan, the UNO treated India and Pakistan as equals. The Indian Union moved ahead unilaterally in October 1951 with the convening of a Jammu and Kashmir Constituent Assembly. Pakistan continued to call, in vain, for the organization of an impartial plebiscite – which the Kashmiris themselves seemed to be gradually forgetting.

The Rajiv Gandhi-Farooq Abdullah Accord of 1986 – aimed at bringing about the Congress hegemony to which Nehru and Indira Gandhi had aspired – and the elections to the legislative assembly of 23rd March 1987 which followed reminded India of two ghosts which she believed had been definitively exorcised: the plebiscite and the Kashmiri autonomy foreseen by Article 370 of the Indian Constitution, but which the successors of Sheikh Abdullah¹⁴, whose legitimacy was often questionable and who depended for their power upon New Delhi, had consented to dilute. Why did Kashmir suddenly rise up against a Farooq Abdullah who had, like certain of his predecessors, rigged the elections out of fear that the Muslim United Front¹⁵, portraying itself as the defender of a moderate Kashmiri

two other states' – Hyderabad which had proclaimed its independence and Junagadh, whose prince had chosen to join Pakistan (cf. *ibid*, pp. 14–15, p. 23).

¹³ Numerous sources examine this issue. Both Indians and Pakistanis tend to put the blame on British and American machinations. This author considers that the British archives of the Indian Record Office and the Public Record Office and the French archives of Quai d'Orsay permit an objective examination of the reasons for recourse to the United Nations Organization and the course of Security Council debates.

¹⁴ Suspected of seeking the aid of foreign powers to promote the cause of an independent and united Kashmir, Sheikh Abdullah was jailed for the first time after the accession to India in August 1953.

¹⁵ The MUF was an alliance of small parties including the *Jamaat-e-Islami* which considered themselves the moderate defenders of the Muslim cause. It argued for the need to fight against interference by New Delhi in the internal affairs of J&K. In addition, it called for the resolution of the dispute in conformity with the Shimla Accord which Pakistan had been obliged to sign on 2nd July 1972 following its defeat in the war which saw the independence of Bangladesh. The Shimla Accord was favourable to India as it com-

nationalism, might win the elections? As there was a strong anti-Congress tradition in the Valley, the Congress was perceived as synonymous with a Centre which had not respected the promises made in 1947 and had not ceased to interfere in internal Kashmiri issues. It was in these circumstances that the population of the Valley came to lose faith in the electoral process, with youth, especially those from unprivileged urban backgrounds, choosing to cross the line – metaphorical and geographical – to accept aid from Pakistan.

Ironically, it was Indira Gandhi who decided to negotiate with the aging and, so Mrs Gandhi hoped, flexible Sheikh Abdullah. He agreed to the Kashmir Accord of 25th February 1975, which confirmed him in power, but then went on to resurrect the fortunes of the National Conference in July of that year. In spite of their inability to respect their commitments to Kashmiri political identity, Sheikh Abdullah, who died in 1982, and his son enjoyed widespread popularity until 1986, when the agreement with Rajiv Gandhi's Congress brought too many historical issues under the spotlight. Of a different generation and having long lived abroad, even taking British nationality, the Sheikh's son was unaware of the strength of the sensitivities of his compatriots whose patience had worn very thin. Dismissed from power by the Centre in July 1984, he had assumed that only an electoral alliance with Congress would permit both stability and the flow of funds needed for the development of Jammu and Kashmir.

A change in the political and military situation following free state elections?

Like most states faced with separatist movements, India has always condemned Kashmir's armed struggle. One need not re-open the sterile debate on the concept of the nation-state or examine the use by new modern states of 'pacification', a concept closely linked to decolonisation movements, but one of which independent India has herself made considerable use. She reckoned on similar results in Kashmir. It may, however, be permitted, to examine, *a posteriori*, the gains New Delhi might have made had she analysed more carefully the movement of which the JKLF was the forerunner prior to allowing (more by omission than commission) the dissolution, at least as an armed movement, of a JKLF which still favoured independence, by the many small groups spawned by Islamabad at the turn of the decade.

mitted the two countries to seek a bilateral solution, whereas the UN resolutions had opted for a plebiscite under international supervision.

The ISI undoubtedly used the JKLF as the core around which an as yet (militarily) immature anti-Indian movement could be crystallized. The repressive measures of the Indian security forces certainly accelerated this process. Pakistan intended to thereafter shift its support from one group to another, creating groups whose power was often ephemeral, with the objective of spreading disorder and maintaining a fragmented militant movement. The aim, presumably, was that such an endless struggle would force India to the negotiating table with Pakistan which could then cast itself as an indispensable element in any such talks.

India, for all that, emphasized that what she was henceforth to call a struggle against terrorism was far from over – given Pakistan's involvement in the 'proxy war'. However, wary of the atomic weapon research that Pakistan had secretly begun, she might have excluded the option of going, once again, to war against Pakistan. Successive governments in New Delhi generally made do with the existing policy of reactive day-to-day repression. The government led by Atal Behari Vajpayee took a new line; most notably by keeping the promise he made during his Independence Day address on 15th August 2001 to organize free elections.¹⁶ Were it not for the seriousness of the situation one might easily relapse into cynicism. The central government which allowed, if only by virtue of its inactivity, the dramatic events in Gujarat to take place, made a show of its democratic credentials, leaving the Election Commission to carry out its work. The central government was taking a risk which all of its predecessors had avoided: to reject Farooq Abdullah, one of whose major political errors had been to give so much support to the armed (Indian Army and Rashtriya Rifles) and paramilitary (Border Security Force, Central Reserve Police Force, Indo Tibetan Border Police) forces – and, therefore, repression in J&K – as to leave his civil government without any real power, let alone control over the Unified Headquarters which directed counter-insurgency operations. Even the critics of the Vajpayee government would probably concede that the electoral process in Jammu and Kashmir was well organized, in accordance with the relevant constitutional and legal provisions. One year before the elections, political

¹⁶ The Prime Minister, tacitly putting the blame on fifty years of Congress governments, regretted that the voters of Jammu and Kashmir had been able to express themselves freely only once – in 1977 when Sheikh Abdullah won a clear victory. Vajpayee did not mention (deliberately?) the election of 1983, the second (or third depending how one views the consultation of 1951) free vote which had given Farooq Abdullah popular legitimacy. The Centre went so far as to imply that the latter (not only the incumbent Chief Minister, but the father of a junior minister in the National Democratic Alliance central government headed by Vajpayee himself) had rigged the state elections of October 1996, when J&K had been under direct central rule since January 1990 and New Delhi had needed to find a 'democratic solution'.

observers were no doubt aware of the improbability of a return to the electoral situation of October 1996 when, according to numerous sources which were quickly forgotten or silenced, voters in the Valley were obliged to go and vote for Farooq Abdullah's National Conference.

The international environment, it is true, had changed significantly between the two elections. South Asia in general, and the Line of Control in particular, had become a centre of international attention following India's position in the aftermath of the 9/11 attacks as well as that upon the Indian Parliament on 13th December of the same year, when India decided to implement Operation Parakram, massing troops along the border with Pakistan. India, to summarise the discourse adopted, maintained that she had been battling, alone, against fundamentalist terrorism of Pakistani inspiration for more than thirteen years. Indian diplomacy scored a victory on 12th January 2002: while making it clear that it expected words to be followed by deeds, New Delhi made a show of favourably receiving the televised speech of President (and General) Musharraf in which he had expressed the wish, if not to destroy Islamic extremism in Pakistan, then to at least rein it in. In conformity with the tactic employed by his predecessors, Musharraf appealed to the 'international community'¹⁷ as his witness, not failing to remind his viewers that only a plebiscite held under international auspices could resolve the Kashmir dispute, adding that the Kashmiris had begun a liberation struggle which he, for one, would not disown. The Bush administration, for its part, contented itself with taking the statement at face value; its priorities were elsewhere (Afghanistan) and the logistical support of Islamabad was indispensable. Washington did need to periodically appease India, which could but gnash its teeth in frustration in view of such double standards – for India, the problems, being at least in essence, one and the same. Had not the combatants or mercenaries simply changed their battleground, coming to Kashmir when Soviet troops left Afghanistan? Had not many Kashmiri militants or terrorists undergone military training in Afghanistan, reinforced by religious instruction which would ensure the spread of a fundamentalist ideology?

In the end, it might be argued that Vajpayee represents continuity as much as change in terms of the diplomatic history of his country and of its policy vis-à-vis the Pakistani 'enemy'. Because the government had failed to obtain the condemnation of Pakistan, despite its willingness, at least on this issue, to renounce the non-alignment dear to Nehru by aligning itself, after 9/11, more closely with the United States, if the latter were willing to

¹⁷ I prefer to put this term in inverted commas since the Western media tend to use it in the narrow sense of those states which are politically close to the USA and/or Western Europe as opposed to the broader sense, implicit in the term, of all the countries of the world.

pay the 'price' (the condemnation of the 'terrorist state of Pakistan'), and because the international context seemed to favour Musharraf, India was looking for another policy. The policy of confrontation, most notably the massing of troops on the western borders following the attack of 13th December 2001, did not seem to have brought any tangible gains. An elected government in Jammu and Kashmir which would proclaim its attachment to the fundamental values of India (in short, the nation and secularism), but which at the same time would have a programme which might on occasion go against New Delhi's inclinations, appeared indispensable. An administration preoccupied with the daily dramas of encounters between militants and the security forces, with the fate of a civilian population hostage to both of the armed parties, the lives of widows and orphans, with the issue of regional discrimination of which both Jammu and Ladakh considered themselves victim, would also be seen to be incapable of dealing with a fundamental problem – that of the frequent attacks by armed groups which would never 'listen to reason', i.e. agree to the conditions fixed by India prior to negotiations. The other challenge for a government emerging from the elections would be to convince the All Party Hurriyat Conference (APHC) to finally take into account the ground realities and alter its position.¹⁸

The Centre might take advantage of certain developments: the recent (1999) creation of the PDP capable of replacing the National Conference in the Valley – its Kashmiri founder Mufti Mohammed Sayeed wisely letting his daughter and the PDP's Vice-President take centre-stage and gain support especially through her 'politics of condolence' (often visiting families of victims of violence by *both* sides); the nomination of a Muslim from Jammu Division (Ghulam Nabi Azad was from Doda District and had spent most of his active life in other parts of India) as head of the J&K Provincial Congress Committee. His brief was as much to put an end to factionalism as to define an attractive programme. The Congress, certainly still influential in Jammu, probably gained a certain credit in the Valley through its strong position against the Prevention of Terrorism Act (POTA) adopted by its

¹⁸ Nonetheless, this fragile (it brings together, without uniting, twenty-three politico-religious opposition groups, some of which are considered close to armed opposition groups) umbrella organization has called for, since its formation in 1993, a tripartite solution to the conflict, bringing to the negotiating table Indians, Pakistanis and Kashmiris. It considers any elections within the framework of the Indian Constitution to be at best useless for its cause, calling instead for a plebiscite which would put into practice the self-determination promised in 1947. Even so, would the Hurriyat be free to redefine its policy to, at last, take into account the difficulties of the civilian population in the face of a struggle against a state which has clearly demonstrated its power? Should it not consider the assassination on 21st May 2002 (the anniversary of the murder in 1990 of Mirwaiz Maulvi Mohammed Farooq) as a warning to moderates, as both men were suspected of entering into discussions with New Delhi?

leader Sonia Gandhi. The moment was perhaps ripe, therefore, to put an end to the dynasty of the Abdullah family.

One issue which has gone more or less unexamined is that of the political optimism which very quickly came to be shared, or at least publicly expressed, by most Indian and foreign observers.¹⁹ Why was it suddenly alleged that an end to the Kashmir conflict was near, or at least possible, when the same observers knew that the armed opposition movements scarcely seemed ready to comply with the terms dictated by India and the Constitution of India? A nationalist reflex? Should it have been underlined that the democratic process was a key offered by the Centre to all parties that let themselves be shepherded – by that same Centre – towards peace? Was this piece staged for the United States which had no choice but to pretend to take it seriously? While it was considering its next move on Iraq, Washington – three days after the first round of voting on 16th September 2002²⁰, but three weeks before the end of the process – demonstrated its desire to show India every consideration: it welcomed, in simplistic terms, the courage of the voters who had gone to the polls that day, denounced the use of violence, and drew attention to a theme central to Indian concerns – the increase in infiltration over the Line of Control observed since the end of July.

This analysis in no way aims to denigrate the legislative assembly elections. Both the supervision of the electoral campaign and the organization of the election itself were no doubt extremely challenging tasks, in which the Election Commission did well. One might, however, note that the campaign was, of course, conducted on Indian terms: political figures considered to favour solutions for Kashmir outside India, such as JKLF leader Yasin Malik (accused of receiving funds from Pakistan) and Jamaat-e-Islami leader Syed Ali Shah Geelani, were taken out of circulation well before the height of the campaign and kept in preventive detention. Some observers nonetheless argue that the 2002 campaign was significantly more violent than that of 1996, militant groups based in Pakistan not even concealing their aim to disrupt the polls. As early as 2nd July, the United Jihad Council based in Muzaffarabad called upon the Hurriyat to intensify its campaign against the holding of elections. This deliberately public appeal served to underline the Hurriyat's limited level of independence. Despite boasting of the gains brought by Operation Parakram (an argument advanced after the elections when a pretext for the honorable withdrawal of troops was sought), India was

¹⁹ This analysis is based upon a regular reading of the national press in India (dailies such as *The Hindu* and *The Hindustan Times*, fortnightly such as *Frontline*), the Jammu and Kashmir press, as well as international media.

²⁰ Voting took place that day in the five districts of Kupwara, Baramulla (Kashmir), Poonch, Rajouri (Jammu), and Kargil (Ladakh).

unable to prevent violence; at least 88 political activists were killed during the campaign.

The elections were spread over four dates, for two main reasons: to allow the necessary concentration of security personnel in sensitive areas on polling day²¹, and permit government officials from other north Indian states who were familiar with the use of electronic voting machines to be deployed. If one looks at the conduct of the elections and the cases of fraud or pressure (which, in comparison with 1996, one should perhaps cynically emphasize, were limited in number and character), one might well ask whether the electorate which went to vote, and maybe even the candidates (of whom there were many in most constituencies), were not hoping – perhaps against hope – that the election might throw up a solution to the conflict. Or did they perhaps consider that the limited space for expression which they were offered was more by way of a local election, and therefore put their confidence in personalities from their own locality who might be able to offer help in one situation or another? From the results it indeed appears that personalities were more important than parties. Perhaps the voters considered that it was up to the politicians to sort out the bigger questions and that their own modest role was limited to throwing up an Assembly with 87 new members.

This is clearly an incomplete analysis – but that is inevitable when one looks at the electoral landscape of a hung parliament. In any case, the National Conference won 28 seats in Jammu and Kashmir. Was this thanks to its grassroots organization or to the ‘help’ it got from the notorious Special Operations Groups of the Jammu and Kashmir Police – to the extent that the Election Commission, taking note of a plethora of official complaints, ordered them to stay in their barracks from 28th September onwards?²² The PDP won 16 seats, all in the Valley, and the Congress 20, mainly in Jammu Division (see Table 1). The results were notable in another respect: Overall turnout was 46% of registered voters. This represents a considerable increase over the 1996 state elections (32%). Within the state the turn-out figure varied considerably: in towns in Kashmir it was very low, especially in Srinagar city, presumably as the boycott by Hurriyat and militants groups was respected there. Does this indicate a support for or a fear of such groups? Rural areas of Kashmir Valley generally saw turn-outs in the forties, while

²¹ In addition to more or less the entire strength of the Jammu & Kashmir Police and the army and paramilitary units based in J&K, several hundred companies of additional armed police personnel were brought in for election duty (see, for example, *Independent Election Observers Team Report. J&K State Assembly Elections-2002*, New Delhi, Civil Society Initiatives, Srinagar, J&K Coalition of Civil Society).

²² More than fifty public servants were transferred and the Election Commission reminded several hundred others of their duties.

much of the Jammu Division – keenly contested between the main national parties as well as the National Conference – saw quite high turn-outs.

Table 1: Election Results of 2002 for Jammu and Kashmir State Legislative Assembly

Political party	Seats won	Seats contested	Comments
National Conference	28	85	In Kashmir Valley and Muslim-majority areas of Poonch/Rajouri districts of Jammu
Congress Party	20	78	Mainly Jammu, four seats in Kashmir Valley
J&K People's Democratic Party	16	58	Exclusively Kashmir Valley, especially, but by no means only in South Kashmir (Mufti's home area)
J&K Panthers Party	4	36	Jammu area only
Communist Party of India (Marxist)	2	7	Kashmir Valley – strongholds of well-known individual leaders
Ladakh Union Territory Front	2	2	Won uncontested from Ladakh
Bharatiya Janata Party	1	58	Jammu area – lost support compared with 1999 national and 1996 state election
Jammu State Morcha	1	11	Jammu area
Bahujan Samaj Party	1	c. 15	Jammu area
Independents	12	383	Mainly Kashmir Valley. Dissatisfied former NC figures and former APHC second-level leaders seeking to return to the 'mainstream'
Total	87	–	

India's government and Election Commission did not cease to express their anxiety, especially following the assassination of Mushtaq Ahmad Lone²³, Minister of Law and Parliamentary Affairs in the National Conference government on 11th September 2002 while he was campaigning in Ratnag village in the Kupwara District of the Valley. Alarmism was already *de rigueur*, the pro-Pakistani Jamiat-ul-Mujahideen, for example, having threatened reprisals against any candidate who did not withdraw before 10th September, while *Lashkar-e-Toiba*, the composition of which was almost exclusively Pakistani, remained in the background, apparently to show it felt the elections to be a Kashmiri affair. An independent candidate had been assassinated in the Handwara area of Kupwara District in the week before Lone was killed. At the same time, India sought to reassure public opinion, recalling that only ten years previously Punjab had been the scene of what it considered to have been a similar battle between, on the one hand, the popular will and, on the other, the efforts at intimidation of terrorists. The Akali Dal had called for a boycott of that election, with the result that only 10–15% of the electorate had voted, which was nonetheless sufficient for India to re-launch the democratic process.

Government sources, resolutely optimistic, nonetheless acknowledged that state elections in J&K were out of the ordinary; in part because of the international interest which they raised. In addition to the foreign press, 28 diplomats followed the elections on the spot, although the diplomats, so India insisted, were present in their private rather than official capacity. The Election Commission granted such authorisation after President Musharraf, speaking before the United Nations General Assembly, expressed doubts as to the free and fair nature of the polling. Not surprisingly, the Commission added, however, that it would not pay any great attention to the opinion expressed by the diplomats. India also used the occasion to demonstrate both her unwillingness to compromise and her determination to preserve her sovereignty: US Secretary of State Colin Powell's suggestion that international observers oversee the electoral process was rejected unceremoniously.

At the end of the election the parties represented in the assembly, many of which had expressed doubts as to just how free and fair the process would be, praised it as the fairest in the history of Jammu and Kashmir. There was

²³ A militant hiding under a *burqa* (a fully veiled garment worn by some Muslim women) threw a grenade and then fired upon those on the stage, while accomplices also opened fire. The minister, his five bodyguards and a civilian were killed. The attack was initially claimed by a group calling itself *Al Ariffel* which, it was announced, had been formed with the sole objective of attacking electoral candidates. *Lashkar-e-Toiba* also claimed responsibility, its spokesperson indicating that *Lashkar's* Abdul-Qasim group contained Kashmiri militants. This is perhaps a significant detail as the foreign and mercenary nature of militancy is often used to show its unrepresentative character.

one important exception: the National Conference, which noted that the militants had, at least in relative terms, favoured the PDP by targeting National Conference supporters. Prime Minister Vajpayee expressed his satisfaction that the electorate had voted against Pakistan-sponsored terrorism and described it as a victory for Indian democracy. This provoked a sharp reaction from the All-Party Hurriyat Conference; if New Delhi considered the vote to have been in favour of India, why not allow the organization of a plebiscite? The group interpreted the results as a demonstration of opposition to the central government. Even as the Centre adopted, or pretended to do so, a welcoming attitude, declaring its willingness to work in close co-operation with the future state government so as to meet popular aspirations, politics in Jammu and Kashmir withdrew into 'smoke-filled rooms'. The protracted nature of these negotiations probably disappointed the electors, who might have been forgiven for concluding that all politicians were the same. It was evident that the two main victors, the Congress and the PDP, were, in the midst of their discussions with independent candidates who might agree to an alliance, above all concerned about their own political future. Following their agreement of 25th October 2002, they indicated that lengthy negotiations would still be needed to form both a balanced new government and to define a Common Minimum Programme; the 'healing touch'²⁴ slogan alone was scarcely enough. The PDP – with considerably fewer seats than either the National Conference or the Congress – insisted that a Kashmiri Muslim head the government, on the grounds that there was no other way to put an end to the alienation of the Valley. Ghulam Nabi Azad, a Muslim from Jammu Division who had been elected leader of the Congress legislative group on 14th October, would not, according to the PDP, satisfy the Kashmiris. Another stipulation by the PDP: that the post of Chief Minister be given to Mufti Mohammad Sayeed, although his daughter Mehbooba did tactfully acknowledge that other names could also be put forward. Besides, Mufti was not elected head of the PDP parliamentary group until 29th October; after the agreement with the Congress, but one day before 52 members of the assembly (Congress-20, PDP-16, Panthers Party-4, CPI(M)-2, Independents-10) officially met and informed Governor Saxena of their intention to support a new government²⁵. Saxena was probably rather relieved that he could put an

²⁴ This expression is borrowed from Ghulam Mohammad Sadiq, Chief Minister from 1964 to 1971.

²⁵ The Congress indicated that it would magnanimously take a back-seat in the wider interest of Jammu and Kashmir. Four factors had probably influenced this decision: sensitivities in the Valley; the feeling that a Congress-led coalition, with allies focused on their own agendas, such as the Panthers, that represented in the main the interests of the Pandits who had gone into exile in 1990, could be disastrous; that, were it to fall, a Congress-led government would be blamed for having tried to engineer defections from allied parties;

end to the Governor's Rule which he had been compelled to declare after Farooq Abdullah had refused to continue as interim Chief Minister (he resigned on 12th October, five days before the end of his mandate).²⁶ Saxena had made clear that his rule would be only temporary, but was certainly aware how long such 'temporary' measures had lasted in the past.

Another point agreed upon was that the post of Chief Minister would be shared on a rotational basis, coming to the Congress after three years at mid-term, provided, as a number of Congress supporters remarked as a kind of worry-cum-threat, the Mufti administration survived that long. The Congress politician Mangat Ram Sharma, a Hindu from Jammu, was given the non-constitutional post of Deputy Chief Minister. Mufti announced, on assuming power on 2nd November, that initially his cabinet would be a small one, with an expansion coming later, but gave an assurance, which would not be kept, that the ministry would remain a relatively small one; the Cabinet was enlarged from 9 to 29 at the beginning of January (the last National Conference ministry had comprised 32 ministers). This, it was explained, was to ensure that all sections of society would be represented. Similarly, Mufti justified the softening of some of the positions his party had favoured during the election campaign by the need for a coalition government to represent the majority. In their Common Minimum Programme, the new leaders proposed an *Ehtisaab* (Accountability) Bill so as to put an end to massive corruption in the state. This law, once enacted, would allow an inquiry at all levels, including that of the former Chief Minister. Another measure: no longer the dissolution of the Special Operations Group and its *Ikhwanis* ('surrendered' militants who worked with counter-insurgency groups), but their integration in the Jammu and Kashmir Police, a step which was taken on 24th February 2003.²⁷ Moreover, the Mufti government undertook to put an end to the use of POTA (Prevention of Terrorism Act – legislation enacted at the national level in 2002) in the state, without, however, saying how or when this would be done; what would be the fate of those, 190 in

and finally that, at the national level, the Congress might be unwilling to take the risk of adopting too high a profile in J&K. Ghulam Nabi Azad tried to quieten his dissatisfied party colleagues by telephone, but in the end had to go in person to convince them, apparently making generous promises in terms of ministerial berths.

²⁶ Had the Chief Minister hoped that the National Conference would play a major role in determining the formation of the new government, given that the PDP was perhaps reluctant to ally with the Congress, especially as Pakistani militant groups had warned against such a tie-up?

²⁷ In a piece of news given little prominence, *The Hindustan Times* of 16th January noted the creation by the Jammu and Kashmir Government of a new force responsible for the struggle against insurgency, the Jammu Kashmir Voluntary Force, which would comprise, to begin with, 500 former Special Police Officers.

number since the beginning of November, according to the press, detained under this law? Would they be released or kept in jail under other instruments? Similarly, did the J&K government, seeking to show its readiness for dialogue with a wide range of political actors, intend to free those held in preventive detention who were not considered a threat to security?²⁸ With the security forces already openly expressing concern about the consequences of loosening the grip on militancy, the attack of 24th November on the Raghunath Temple in Jammu city, in which twelve persons were killed, forced the government to put its policy on hold. A quarrel broke out with the J&K Government which declared, not without reason, that there was no link whatsoever between the measures it had taken and the temple attack. It also made known that it had informed New Delhi in advance of the releases planned. The central government denied having been so informed, and in the end Mufti adopted a more compromising tone and agreed to set up a joint decision-making body on prisoner releases. This saw, notably, on 9th February the release on medical grounds of the pro-Pakistani activist Syed Ali Shah Geelani.

In any case, Mufti Mohammad Sayeed was clearly up against elements of the Centre despite the protestations of the latter that it would work in close co-operation with the J&K Government. On 22nd February New Delhi named N.N. Vohra as its representative on Kashmir. Even if Vohra was by no means an unacceptable choice to Mufti, the nomination made it clear the central government would negotiate directly with different political groups in Kashmir. The future of the independent Kashmir Committee, led by former Union Law Minister Ram Jethmalani, was left ambiguous.

Towards a process of reconciliation?

The Common Minimum Programme included points which were difficult if not impossible to implement, but upon which the government had staked a considerable part of its credibility, thus putting it in a delicate position vis-

²⁸ Would the Mufti regime, by allowing the local courts to function freely, encourage a genuine separation of powers, or would detention remain an essential 'political' domain? The case of Mohammad Yasin Malik is intriguing. On 11th November 2002 the press announced the release of the JKLF leader. An article entitled 'A Peculiar Parole' by Praveen Swamy in the magazine *Frontline* of 17th January 2003 added that he had been released on parole for a period of 30 days, but that he had not been re-arrested. The writer wondered whether Mufti, who had campaigned against illegal detention practiced during Farooq Abdullah's chief ministership, was not "righting the previous rule's wrongs with another wrong: illegal releases". If nothing else, we await answers as to how 'reconciliation' is dealt with and the role to be played by the courts in a 'new' Jammu and Kashmir.

à-vis the central government which it knew to be intransigent. A warning? Militants had attacked Mufti's residence on 2nd November, the very day he was to be sworn in at Raj Bhawan. So began a term of office which, like its predecessor, was marked by assassinations, such as that (in mid-December) of Abdul Aziz Mir, a PDP Member of the Legislative Assembly. While the government rejected the idea of the trifurcation of J&K (two separate states of Jammu and of Kashmir, with Union Territory status for Ladakh), arguing that the state should serve as an example of communal harmony, militants killed 24 Hindu Kashmiri Pandits in South Kashmir in April. The message was unambiguous. The Mufti government, which had pledged to work for the return to the Valley of Kashmiri Pandits living in Jammu or elsewhere in India, was left appealing to those few still in Kashmir not to give in to the temptation to flee.

One may congratulate the government on its good intentions when, as militant groups tell women to wear a *burqa* and to withdraw from public activities, or tell young girls to marry by the 'fateful' age of fifteen years, it argued that such issues should remain matters of individual conscience. But there remains the near impossibility of doing anything about such problems, the lack of means and the lack of influential counterparts ready to listen, whether in civil society, central government or even militant outfits. Did not Yasin Malik declare, as soon as he was released from prison, that he had no reason to be grateful to the J&K government for this decision, since he and others had been jailed to permit the holding of the election? The JKLF leader concluded by denying the Mufti Mohammad Sayeed government any democratic legitimacy. The competing actors (Delhi, Islamabad, the militants) are thus encamped in their respective long-standing positions, and the bridge offered by Mufti has very little credibility. Perhaps the Kashmiris, and also the Muslims of Jammu, whether they voted or not, had simply hoped for nothing more exalted than a government which would try to listen to them, fully aware that there would be those who seek to profit personally by securing the privileged positions that 'accompany' political power. The civilian population merely seeks to survive, since after so many years of conflict, fear and distrust have taken root. Many are those who use sleeping tablets, others have psychological difficulties. Finally, the 'supporting cast' of the conflict, the women, have paid a heavy price, living in wait for a father, a husband, a brother or a son, terrified at the idea of rape – an unacceptable stigma for a wounded society which has taken refuge in orthodoxy.²⁹

²⁹ Two excellent works can be cited: Anuradha M. Chenoy, *Militarism & Women in South Asia*, New Delhi 2002; Urvashi Butalia, *Speaking Peace. Women's Voices From Kashmir*, New Delhi 2002.

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