

\* Secondly, the dispute relates to the status of the state — legal, political and moral. It is impossible to gloss over the historical, constitutional and contractual aspects, but the ground reality of the aspirations of the people of Jammu and Kashmir is the critical factor. That the people of the state are not prepared to accept the status quo, arbitrarily imposed upon them, is a fact, however blind those in authority may be. The alienation from Delhi's rule is universal. The mainstream resistance is indigenous. It has been built over the decades.

Even Indian Jurist Mr Tarkunde publicly acknowledged as early as 1990 that "It would be very difficult to find a Muslim resident of Kashmir valley who does not passionately desire complete independence from India". The movement has braced all forms of state repression. Carrot and stick both have failed. Kashmir is the most densely militarized territory on the globe.

According to reliable estimates the strength of military and para-military forces is over half a million. Even if there are a few thousand "militants", what strength they carry in the face of this formidable force. Their strength lies in the support and sanctuary they enjoy in the occupied territory. Every funeral is a mini-referendum expressing what the people think and want. Since 1989, when a non-violent political movement entered the phase of "militant resistance", over 88,000 Kashmiris have laid down their lives, more than all the US military fatalities during the Vietnam War.

The sacrifices made by the people of Jammu and Kashmir in the form of death, injury, mutilation, imprisonment, disappearance, custodial killings, rape and gangrape, property demolition, and economic deprivation are an index of people's resolve not to accept occupation and seek Azadi, their right of self-determination.

Human rights violations, state terror, custodial killings, political victimization, mass-scale detention, rape and gangrape as weapons of political subjugation; and the resultant resort to violence and militancy on the part of resistance movement, involving civilian casualties are all relevant dimensions of the problem — but the central issue is legitimacy of the political setup and the constitutional arrangement.

Pakistan is committed to its historical, political and strategic imperatives. India has its own constitutional, global and domestic concerns. But the issue of Jammu and Kashmir is not a territorial or border dispute between India and Pakistan, despite the claims of the two. The real issue relates to the right of the people of Jammu and Kashmir to decide their destiny freely, in accord with their historic aspirations and political dispensation. The dispute cannot be resolved bilaterally between India and Pakistan. There is a third party, the most impor-

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unlimited period of time.

This is the lesson we all must learn from the bloody history of the rise and fall of colonialism. Age-old disputes, whatever be the historical or legal nuances, had to be finally resolved by recourse to the will of the people. Whether it be the question of Saarland, Quebec, Ulster or East Timor, a time comes when a reference to the people becomes the only option. The question is how soon a people can see the light, so as to minimize the costs and sufferings that are the natural price of avoiding the right choice.

How to move in that direction? I may take this opportunity to share some thoughts:

1. Building on the declarations of the leaderships of India and Pakistan (Islamabad January 6, 2004 and New York, Sept. 2004) that a peaceful and negotiated solution is their agreed path, the next step is a joint declaration that both agree to refer the matter to the people of Jammu and Kashmir and would respect the wishes of the people as to the future status of the state. This statement of principle can open a new chapter, pave the way for cessation of hostilities, and initiate serious work on modalities to give to the people an opportunity to decide their future.

2. Immediate involvement of the genuine representatives of the people of Jammu and Kashmir in the negotiations process. It is a moot point who represents the people? In a situation of national political uprising it is they who suffer, and therefore, they are the real spokesmen. After the initial declaration, the entire process has to be tripartite.

3. Cessation of hostilities in Jammu and Kashmir and effective CBMs within Jammu and Kashmir involving withdrawal of military and Para-military forces to barracks in the first instance and then phased withdrawal from the state, de-militarization of both sides of the state, release of political detainees, abrogation of arbitrary and repressive laws, freedom of political activity, free access for world media and national and international relief agencies, opportunities for continuous interaction between all stakeholders in the whole state of Jammu and Kashmir and negotiated ceasefire by militant groups and their involvement in the peace process.

4. Hard work by working groups comprising of the three parties to prepare details and comprehensive plans

decision-making process.

If India's democracy is mature enough as is claimed, it should not bring in the canard of communalism, when the issue is that of the fundamental right of a people irrespective of their religion, cast or creed, to decide their future. Religion, culture, political aspirations are integral to any human situation.

The issue is political and relates to the universally accepted right of a people for self-determination. You can't hold 15 million people hostage in the name of alleged communal repercussions. Secularism does not mean dis-enfranchisement of a people only because of their faith or political aspirations.

Second, the issue relates to another category of alleged collateral repercussions i.e. integrity of India and implications for other separatist movements. This issue, too, is to be faced squarely and realistically. The issue of the status of Jammu and Kashmir is not at par with the claims of other separatist movements. It is a part of the 1947 agenda and even the Indian Constitution originally acknowledged its special and unique position.

Respect for the will of the people is a cardinal principle of democracy and the UN Charter. If Saarland opted to be part of Germany, France did not disintegrate. If the people of East Timor decided to have their own independent state, Indonesia did not disintegrate because of that. India is stronger and more integrated than Indonesia with its thousands of islands and regional diversities.

Thirdly, Pakistan should also be prepared to accept the verdict of the people, whatever it may be. If they opt for India we must accept their wishes whatever be its consequences. If they choose to delink from India, what should be their relationship with Pakistan should be decided in accord with their wishes. Pakistan's Constitution already lays down the basis for that in its Article 257 which reads: "When the people of the state of Jammu and Kashmir decide to accede to Pakistan, the relationship between Pakistan and that state shall be determined in accordance with the wishes of the people of that State".

Let them define what they mean by Azadi — the catch word of their national resistance. We should be prepared to accept what they want and decide. They have time and again expressed their solidarity with Pakistan. But it is only through their free choice that they may opt for Pakistan, and on terms and conditions they desire. The state of Jammu and Kashmir is one entity. Let it decide its destiny freely and honourably. ■

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