

# Jammu and Kashmir Militancy

## ► 3.1 Historical Background

Jammu and Kashmir was the largest princely state in 1947. Despite having nearly 77 percent Muslim population, it was ruled by a Hindu king, Maharaja Hari Singh. The state was known for pluralism and a culturally diverse society. There were five main regions:

- Province of Jammu, a Hindu dominated, largely plain area or low hills, bordering Punjab.
- To the north of Jammu, the Sunni Muslims dominated the Kashmir valley with a significant population of Hindu Kashmiri Pandits. The valley was one of the most beautiful parts of India with large number of tourists in summer. There was substantial Sikh presence in both Jammu Province and Kashmir valley.
- To the east of the valley, the hilly area of Ladakh was predominantly Buddhist with a slight presence of Shia Muslims. It shared borders with Tibet.
- The last two are the regions of Gilgit and Baltistan. These two regions were very thinly populated with mostly Shia Muslims. Gilgit and Baltistan shared borders with Afghanistan and Sinkiang province of China. It was also very close to the former Soviet Union. The geo-political location of the state of Jammu and Kashmir made it very crucial strategically.

### ► 3.1.1 Instrument of Accession and Referendum

On 15<sup>th</sup> August, 1947, fearing forced accession to India on one hand and communal backlash (due to dominance of Muslims) from Pakistan on the other, Maharaja Hari Singh did not accede to either India or Pakistan. He hoped for an independent, sovereign and completely neutral state. But the popular will of the people of Kashmir under the leadership of Sheikh Abdullah was to join India. Sheikh Abdullah consistently refuted the two-nation theory and he was perceived as a custodian of secularism in Kashmir. Hari Singh offered to sign a 'stand-still agreement' with both countries which would allow free movement of people and goods across borders. Pakistan signed the agreement, but India said it would wait and watch. But relationship with Pakistan deteriorated soon when Pakistan suspended rail services between Sialkot and Jammu in September 1947. In October, while Sheikh Abdullah was leading a widespread agitation for complete transfer of power to the people in Kashmir, several Pathan tribesmen with the help of Pakistan Army invaded Kashmir.

The Maharaja asked Nehru for military help. Initially Nehru did not support accession without ascertaining the will of the people. But Mountbatten insisted that under international law, troops could be sent to Kashmir only after the state's formal accession to India. Sheikh Abdullah and Sardar Patel too insisted on accession. Finally, on 26<sup>th</sup> October, the Maharaja acceded to India by signing the '*Instrument of Accession*' and also agreed to appoint Abdullah as head of the state's administration.

As per this Instrument of Accession, except for Defence, Foreign Affairs, Finance and Communications, the Indian Parliament needs the State Government's concurrence for applying all other laws.

Even though both the National Conference and the Maharaja wanted firm and permanent accession, Nehru took a highly idealistic and controversial step by announcing that it would hold a referendum on the accession decision once peace and law and order had been restored in the Valley. This decision was taken to show India's commitment to democracy and to honour Mountbatten's advice.

The invaders were gradually driven out of the Valley except the area which is known as 'Pakistan Occupied Kashmir' (PoK) in India and 'Azad Kashmir' in Pakistan. Mountbatten suggested the Government of India to refer the Kashmir problem to the UN.

In 1951, the UN passed a resolution providing for a referendum under UN supervision after Pakistan had withdrawn its troops from the part of Kashmir under its control. The resolution has remained infructuous till date since Pakistan has refused to withdraw its forces from PoK. Plebiscite in Kashmir never took place. A UN Military Observer Group in India and Pakistan (UNMOGIP) still continues to supervise the ceasefire line and report the violation of ceasefire. It is only for the state of Jammu and Kashmir that the accession of the state to India is still a matter of dispute between India and Pakistan and is still on the agenda of the UN Security Council.

Since then, Kashmir has been the main obstacle in the path of friendly relations between India and Pakistan. India has regarded Kashmir's accession

as final and irrevocable and Kashmir as its integral part. Pakistan continues to deny this claim and tries to raise the issue on international platforms while India says that it is a bilateral issue.

### ► 3.1.2 Line of Control

Withdrawal of Pakistani troops from the northern areas, collectively referred to as Pakistan occupied Kashmir (PoK) by India—and its reintegration with the rest of J&K had been the primary objective of India during the initial phase of the conflict. However, this objective slowly changed in a shift that became visible during and after the 1971 war with Pakistan. A *Line of Control* (LoC) was established after this war, and it is widely believed that during negotiations leading to the '*Shimla Agreement*' that followed the war, India and Pakistan agreed to convert this line into a permanent border between the two countries. Ever since, India's primary objective in the conflict of Kashmir has been to maintain the status quo and convert the LoC into an international border.

## ► 3.2 Kashmir Militancy — Low Intensity War or Proxy War by ISI

### ► 3.2.1 Beginning of Insurgency

After losing the initial battle in 1947 and the two main wars in 1965 and 1971, Pakistan resorted to the tactics of low intensity warfare as it realised that it could not win over India in a full scale direct war. It first supported the terrorist movement in Punjab and then started a separatist and militant insurgency in Kashmir in the late eighties. This low-intensity war between the two countries continues even today in the name of Jihad. It is a perpetual cause of worry to India.

In 1987, a disputed state election acted as a catalyst for the insurgency when it resulted in some of the state's legislative assembly members forming armed insurgent groups. In July 1988, a series of demonstrations, strikes and attacks took place. In 1989, a widespread popular and armed insurgency, supported tacitly from across the border, started which during the 1990s escalated into one of the most dangerous internal security issues in India.

It was the beginning of the mujahideen insurgency, which continues to this day. The insurgency was largely started by Afghan mujahideen who entered the Kashmir valley following the end of the Soviet-Afghan war.

Initially, the already existing Jammu & Kashmir Liberation Front (JKLF) was used as part of this insurgency. It was created in 1964, reorganised in 1971 and was then used for the above purpose. The JKLF was the main insurgent Kashmiri group in the 1990s. Yasin Malik, a leader of the JKLF, was one of the Kashmiris to organise militancy in Kashmir. Its main demand was independence of Kashmir. *Since 1995, one faction of JKLF under the leadership of Yasin Malik has renounced the use of violence and calls for strictly peaceful methods to resolve the dispute.* But many new terrorist organisations have been leading the violent activities in the valley, like Hizbul Mujahideen, Lashker-e-Taiba, Jaish-e-Mohammed, Al-Badar, Harkat-ul-Ansar, Harkat-ul-Jihad-e-Islami (Huji).

They infiltrated through the Line of Control. Pakistan's intelligence agency ISI and the government of Pakistan directly supported, funded and provided training, weapons, etc. to these terrorist organisations. This could be a well-planned ISI move to replicate the Punjab militancy model. These terrorist groups succeeded in ethnic cleansing of Kashmir by forcing nearly four lakh Kashmiri Pandits to flee the valley. Their properties and land were seized resulting in an acute demographic change in the Valley. The displaced Pandits, many of whom continue to live in temporary refugee camps in Jammu and Delhi, are still unable to return safely to their homeland. The government's inability to protect them has been one of the stark failures of successive governments.

On the other hand, many human rights organisations such as Amnesty International and the Human Rights Watch (HRW) regularly accuse Indian armed forces for human rights violations like 'extra-judicial executions', 'disappearances', torture and suppression of freedom of speech, etc. in Kashmir.

### ► 3.2.2 Present Status

The elections held in 2008 were generally regarded as fair by the United Nations High Commissioner for Refugees. They had a high voter turnout in spite of calls by militants for a boycott, and led to the pro-India Jammu and Kashmir National Conference forming the government in the state. The high voter turnout was seen as a sign that the people of Kashmir wanted peace and harmony.

There has been a change of strategy by the ISI in Kashmir in the last 4-5 years. Crowd mobilisation has been used as a tactic to defame Indian security forces and to internationalise the Kashmir issue. Stone pelting has become a routine feature of street protesters in Srinagar since the summer of 2008 when Amarnath land transfer became a hot issue for widespread agitation in the valley. Kashmiri teenagers have been involved in stone-pelting. There have been protest movements in Kashmir since 1989. Even a small incident is exaggerated by separatists for gaining political mileage. There was an increase in these incidents after Afzal Guru, the prime accused in the Parliament attack was hanged to death in Delhi in February 2013. Compared to 2012, there has been almost a six-fold increase in the number of times protesters resorted to stone-pelting on security forces in 2013. The number of security personnel injured in such incidents has increased more than three times. Fidayeen attacks re-emerged in 2013 after a lull of three years.

The turmoil in Jammu and Kashmir has resulted in thousands of deaths, but has become less deadly in recent years. There have been protest movements in Kashmir since 1989. The movements were created to voice Kashmir's disputes and grievances with the Indian government, specifically the Indian military.

### ► 3.2.3 What is Low Intensity War & Why was it Adopted by ISI?

Low intensity war is a long and protracted strategy to achieve a desired result, which cannot be achieved through direct war. It can be in the form of:

- Armed revolt
- Guerrilla warfare

- Political revolution
- National war of independence

### ► 3.2.4 Modus Operandi of the Proxy War in J&K

- To run a malicious campaign from Pakistan and PoK to mar India's image in print and electronic media
- To facilitate infiltration of terrorists from across the border and keep Indian security forces constantly engaged in fighting terrorists
- To attack the secular foundation of the state and support fundamentalist Islamic activities and ensure exodus of Hindus from the Valley
- To internationalise the Kashmir issue at every forum and paint India as persecutor of Muslims
- To increase terrorist activities in Muslim dominated districts of Jammu region
- To change the low intensity war to high intensity war at an appropriate time and term it as war of independence

### ► 3.3 Government of India's Development-Oriented Programmes in Kashmir

In 2004, Prime Minister Manmohan Singh had initiated a reconstruction plan (PMRP) with an outlay of ₹24,000 crore. This was mainly in infrastructure, power and transport. Some of the other schemes are as follows:

- Newly developed rail network to connect the Valley.
- The project 'UDAAN', an initiative of the Prime Minister, the National Skills Development Corporation and the Ministry of Home Affairs and industry, was started with the aim of providing skills to 40,000 youth over a period of five years.
- ₹900 crore worth road infrastructure development program in J&K on the lines of the Naxal-affected areas.
- Special scholarship scheme for Jammu and Kashmir to encourage the youth to pursue higher studies outside their state. The total cost of the scheme will be ₹1,200 crore.
- Project 'Umeed' for empowerment of women
- Project 'Himayat' for capacity building and employment of youth
- People-to-people contact with the rest of India through 'Bharat Darshan' programmes
- i) Capital investment subsidy @ 15% of the total investment in plant and machinery subject to ceiling of ₹30 lakh. However, MSMEs would be eligible for capital investment subsidy @ 30% of the investment of plant and machinery subject to ceiling of ₹3 crore and ₹1.5 crore for manufacturing and service sector, respectively, to all new and existing industrial units on their substantial expansion.

- ii) 3% interest subsidy on the average of daily working capital loan to all new units for a period of 5 years from the date of commencement of commercial production.
- iii) Central Comprehensive Insurance Subsidy Scheme with 100% reimbursement of premium to all new and existing units on their substantial expansion for a period of 5 years from the date of commencement of commercial production.

### ➤ **3.4 Key Issues**

#### ➤ **3.4.1 Should Article 370 be Removed or Amended?**

##### ***Article 370 [C]***

This article specifies that except for Defence, Foreign Affairs, Finance and Communications (matters specified in the instrument of accession), the Indian Parliament needs the State Government's concurrence for applying all other laws.

Thus, the state's residents live under a separate set of laws, including those related to citizenship, ownership of property and fundamental rights, as compared to other Indians.

The Government of India vide 1974 Indira-Sheikh accord committed itself to keeping the relationship between the Union and Jammu and Kashmir state within the ambit of this article.

The President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may notify, provided that the recommendation of the constituent assembly of the state shall be necessary before the President issues such a notification.

The 1974 Indira-Sheikh accord mentions that 'The State of Jammu and Kashmir which is a constituent unit of the Union of India, shall, in its relation with the Union, continue to be governed by Article 370 of the Constitution of India'.

##### ***Applicability of the Constitution of India to J&K***

In exercise of the powers conferred by Clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir made the Constitution (Application to Jammu and Kashmir) Order, 1954, which came into force on 14th May, 1954.

##### ***Amendment of Article 370***

Under Article 370(3), consent of state legislature and the constituent assembly of the state are also required to amend Article 370. Now the question arises, how can we amend Article 370 when the Constituent Assembly of the state no longer exists? Or, whether it can be amended at all? Some jurists say it can be

amended by an amendment act under Article 368 of the Constitution and the amendment extended under Article 370(1). But it is still a moot question.

### ***Demand for Abrogation of Article 370***

Equally valid arguments are forwarded by those in favour of and against its abrogation.

**Arguments in Favour** The arguments in favour of Article 370 include:

- It has created certain psychological barriers and it is the root cause of all the problems in J&K.
- This Article encourages secessionist activities within J&K and other parts of the country.
- At the time of enactment, it was a temporary arrangement which was supposed to be repealed gradually.
- It acts as a constant reminder to the Muslims of J&K that they have still to merge with the country.

**Arguments Against** The arguments against abrogation of Article 370 include:

- Abrogation will have serious consequences. It will encourage secessionists to demand plebiscite which will lead to internationalisation of the issue of J&K.
- The contention of Article giving rise to secessionist activities is baseless as states like Assam and Punjab, which do not have any special status have experienced such problems.
- It would not only constitute a violation of the solemn undertaking given by India through the instrument of accession, but would also create unnecessary misgivings in the minds of the people of J&K, making the issue more sensitive.

**Conclusion:** It can be argued that abrogation of the Article is avoidable as it will certainly be raised internationally by Pakistan and it will give a chance to UN and the international community to intervene in J&K. So, maintaining the status-quo would be the best possible strategy as of now.

### **► 3.4.2 Should a Referendum be Done?**

In the present scenario, a referendum will be meaningless as a lot has changed in the last 65 years, including the demography of Kashmir as about four lakh Kashmir pandits were displaced forcibly in the nineties. Pakistan has never withdrawn its troops from PoK, which was a pre-condition to the referendum. Therefore, India should not agree to the demand for referendum.

### **► 3.4.3 Why are there Frequent Ceasefire Violations by Pakistan?**

Ceasefire violations are planned by the ISI mainly to keep the J&K issue alive, to try to internationalise it, keep the Indian forces engaged and to aid the infiltration of the terrorists into the Indian territory.

### ► 3.4.4 Should we Destroy Terrorist Training Camps in Pakistan?

This is a very sensitive issue. We should have complete intelligence about these camps and do surveillance to the extent possible. We should create a pressure on Pakistan to unilaterally destroy these training camps by giving ample proof. An attempt to destroy these camps from our side will be termed as war by Pakistan and it will surely internationalise the issue. Therefore, it would be better if we can mount diplomatic pressure on Pakistan to destroy such camps and stop abetting and aiding terrorism in India.

### ► 3.4.5 What Should be our Strategy Regarding the Rehabilitation and Resettlement of the Kashmiri Pandits?

Since Kashmiri pandits are original inhabitants of Kashmir since ages, they must be helped to get back to their motherland. We must create such a congenial atmosphere in Kashmir that these people would really want to go back.

Prime Minister Manmohan Singh in 2008 announced a special package for return and rehabilitation of Kashmiri migrants to the valley. The package includes housing, transit, accommodation, scholarship, employment and waiver of interest rates.

### ► 3.4.6 Should we Support Ladakh Demanding Union Territory (UT) Status and Jammu Demanding Separate State Within the Indian State?

Ladakh does need special status like many other undeveloped and remote areas. Similarly people of Jammu have a genuine grievance to some extent. But since all these were part of the state in 1947, their fate is interlinked. Any division of J&K will give Pakistan an opportunity to internationalise the issue which India wants to avoid. Therefore, we should take steps to ensure development of Jammu and Ladakh without bifurcating the state.

#### PROBABLE QUESTIONS BASED ON THIS CHAPTER

1. Write a short note on the instrument of accession of J&K with India.
2. What is the present political and security status of Jammu and Kashmir?
3. How has Pakistan's ISI changed its strategy regarding Kashmir in the last 5 years? Elaborate with suitable examples.
4. What is the modus operandi of ISI in aiding and abetting extremism in Kashmir?
5. What are the development initiatives taken by the central government in Kashmir?
6. What is Article 370? What will be the 'implications' of abolishing Article 370?