

Enigma of Kashmir Problem

English poet Edmund Spenser described tragedy as a theory killed by a fact. A theory on anything is one of the greatest works of a human mind. So, when a theory is proven wrong on account of a fact discovered in the subject being observed, it is tragedy for the mind.

Kashmir Problem has had the life of a theory being offered to a set of situations in Jammu and Kashmir state of India since the onset of the independence of India and Pakistan in 1947. While Jammu and Ladakh provinces of the state are allied fully with India, it is the province of Kashmir that has given creeps to India since about 1950.

What ails the fabled Kashmir Valley? It is its obtuse Muslim majority of 96.4%. It would like to have an absolute Islamic governance as well as the culture in it. In the earlier years, 1950 -2000, it wanted to join Pakistan. But subsequently seeing that nation's epic and disgusting political and governance problems, the Valley Muslims were pushed to choosing the independence path alternative. But why an independent Kashmir? India is the world's third largest Muslim country, with about 189 million people. They have an absolute freedom to pursue their Islamic faith, including being governed by Sharia laws, which cover some parts of their social life. In fifty years from now, it is projected, that India will become the largest Muslim country in the world. Then why this desire to become an independent Muslim country? At 1947 epic partition of Indian subcontinent into India and Pakistan, about 30% Muslims chose to remain with India than join Pakistan.

Kashmir has been a Shangri-La place for most of its history due its natural beauty, natural barriers to enter it, foreign occupations, and closeness to many foreign countries. This has created an aloofness with the rest of India. Maharaja Hari Singh, the erstwhile king of Jammu and Kashmir state and Sheikh Abdullah, its first Prime Minister and fabled hero, wanted it to be an independent nation.

Kashmir's integration with India has been a perfectly legal thing. When in 1947 578 Indian princes were asked to choose between India and Pakistan, 565 chose India and 13 chose Pakistan. Kashmir's accession to either of them was delayed due to Maharaja's harboring a desire to make Kashmir an independent nation, a choice that was not on the table. Even after Pakistan and India became two new nations on August 14 and 15 respectively, Maharaja continued to remain undecided. When on October 22, 1947 Pakistan attacked Kashmir under the disguise of a tribal uprising against its government, Maharaja ran away from Srinagar to save his life. This precipitated, painfully, for him to sign the Instrument of Accession on Oct. 26, in order to get military assistance from India to fight Pakistan out of his state. India signed the treaty on the following day and rushed its military the same day to push the invaders out.

India attached a rider to the treaty stating that when the life in the state returned to normal, a plebiscite would be conducted to determine its people's wish to affirm the treaty or join Pakistan. This was done because Kashmir had a majority of Muslims living in it, even though its king was a Hindu. Same logic was used in the choice of accession of the states of Junagarh and Hyderabad between India and Pakistan, where the majority people were Hindus but the princes were Muslims. In case of the former a plebiscite determined that the majority of the people wanted to accede to India, while in latter the will of the majority Hindus to join India required a military intervention of India.

India's war with Pakistan in defense of Kashmir went on through 1948, but on January 1, 1948 India went to U.N. to plead for forcing out of the invader, a ceasefire, and a plebiscite. Pakistan accepted the ceasefire, which took effect on Jan. 1, 1949. But it took U.N. sometime to investigate the Pakistani attack. Then on April 21, 1948, under U.N. Security Council Resolution 47, in Chapter VI jurisdiction, it asked both the countries to accept certain conditions before a plebiscite was conducted. Because Pakistan would not fulfill U.N. conditions, therefore, the plebiscite was never conducted. U.N. could not enforce its resolution because its Chapter VI status was non-binding. Later, U.N. declared

that since the demographics in J&K had changed significantly since the Pakistani attack in 1947, it was unfeasible to conduct the plebiscite. In 2003, President Musharraf of Pakistan announced that Pakistan will drop the demand of a U.N. resolution on Kashmir Problem. In Nov., 2010, U.N. announced that it had dropped J&K among the disputed territories in the world.

Kashmir decided to have its own constitution, as it was allowed to do so under the Instrument of Accession, which the other 564 princely states did not. J&K Constitution Assembly was set up on Oct. 31, 1951 by J&K Legislative Assembly. It went through rigorous steps of establishing the basic principles of the future constitution and covered significant matters affecting its citizens and its relationship with India. J&K Constitutional Assembly was dispersed on Nov. 17, 1956 and was dissolved on Jan, 25, 1957. President of India, by his Order on Jan. 26, 1957, made it effective. Significant parts of the constitution relating to the relationship between Kashmir and India are:

Preamble: J&K has acceded to India on Oct. 26, 1947.

Article 3 (Part II): J&K is and shall be an integral part of the Union of India.

Article 5 (Part II): The executive and legislative power of the State extends to all matters except those with respect to which Parliament has powers to make laws for the State under provisions of the Constitution of India.

This article stipulates that the relationship between Kashmir and India is to conform to the requirements of Articles 370 and 35 A

Article 147 (Part 12): No bill shall be introduced or moved in State Legislative assembly to amend or change the above indicated Articles 3 and 5.

After the creation of Kashmir's constitution both India and Kashmir thought everything in their relationship was engineered meticulously, that too willingly, therefore, future should flow smoothly for their alliance. It did, in a rough way, for about three decades. The malevolent Islamists in Kashmir would time to time raise their heads in form of meetings, speeches, and protests, expressing their deep unhappiness with Kashmir's alliance with India. They believed Kashmir naturally should be a part of Pakistan. But their evil designs were manageable by the state. Then in 80's disturbing and ugly political infighting got out of control, resurrecting the bogey of Kashmir's integration with Pakistan. Pakistan seized the opportunity and planned to overturn India's hold on Kashmir and prepare grounds for its empowerment there. One of the consequences of the anarchy it unleashed was the forced exodus of about 350,000 Kashmiri Pandits. Subsequently, Kashmir regained stability, but the opposition to Indian rule became stronger than before, and Separatists became a force to reckon with.

Kashmir province's militants know no rest. They want to turn it into an Islamic Republic of Kashmir. For which effort they are financed by and morally supported by Pakistan and some Middle Eastern countries. In a decade Kashmir has seen the profusion of several hundred Wahhabi Islamic mosques. Besides the religious centers that they are, they are also militancy centers. They support militants with money and encouragement. When a strike is called for by the Separatists, the shopkeepers and the other non-government workers are paid by these mosques against the losses incurred due to the strikes. This is treason. There are many other treasonable activities that militants and non-militant sympathizers indulge in.

Even with a lot of improvements in the world moral level, it is still a very unfair place to live in. Take for example women's equality with men. U.S. is the country where maximum progress has been done in this area. Yet the progress is still far from the desired level. There are lesser number of women CEO's than men CEO's, and they are judged more strictly than men are. There is still high level of racial discrimination in the world. There are many more problems of morality that still

exist in the world, though they have made progress. When a part of a country wants to leave that country there is a strong resistance to it from the country. This is because the country thinks that the part has been with it historically, culturally, and legally, and, generally, over a long period of time. That is why countries do not give a divorce to their parts easily.

Kashmir has been a part of India for seventy years in its recent political history, and beyond that overall for thousands of years. Demands of Kashmiri separatists to let it become an independent nation are fraught with tremendous difficulties. First of all, only India's parliament has an authority to break Kashmir off India. There is not a single vote in the parliament to let that happen now and in foreseeable future. Even the members of the parliament from Kashmir are not expected to vote for it. The reasons for it are that Kashmir is legally a part of India, also, its severance from India puts it in a huge militaristic deficit with India's arch enemies, Pakistan and China. The separatists do not have the military power to break away Kashmir from the clutches of India. So, for foreseeable future there is no chance that Kashmir will become an independent nation.

So, Kashmir Valley Muslims are damaging themselves in hitting against a concrete wall. This is seen in the high rate of depression and suicide there. The life in the valley is depressive, anxiety-laden, bereft of joy and excitement of yore. Cultural and social activities are meager. Many a youth have given up schooling, leading a life of purposelessness, devoid of ambition. Drug use has shot up. Murder rate has shot up and every other day militants do their misdeeds of disturbing the peace and create arson. Why cannot genuine Kashmiri political leaders talk with the separatists and reason with them that an independent Kashmir is impossible to achieve? That being the case why disturb Kashmiris' peace of mind and let people concentrate on their lives, help their children achieve a good education, and have some joy in their hearts. I recently talked with a Kashmiri leader about this line of thinking. He agreed with me on all the points, but said emphatically that separatists do not want to hear that their wishes are insane. But good leaders would try.

How long will such a state of anarchy and mayhem last in Kashmir? Apparently indefinitely, as Kashmir leaders are dishonest in wanting a reasonable level of peace there. Even though separatists constitute only 5% of the people but there exist 95% soft-separatists. The latter are pro-India during peaceful times, but when terrorism and strikes occur they show their support for the die-hards quietly.

What should India be doing to enforce a reasonable normalcy in Kashmir. It can stop the treasonable actions of mosques from aiding militancy. It can freeze their bank accounts. It can monitor and cut off suspected foreign communications and financial assistance, through electronic and other means. It can talk to Middle Eastern countries aiding treasonable activities in Kashmir. It can threaten them with breaking diplomatic relations with them. It can threaten the so-called soft-separatist leaders, who are in the high-level government jobs, with dismissals. It can send, every few months, a high-level Indian leader to Kashmir who would tell Kashmiris bluntly that India would never give Kashmir the independence they are clamoring for. Turning their eyes off the soft-separatists has been a monumental problem created by India since the exit of Sheikh Abdullah. If only India had been bluntly honest in dealing with them Kashmir Problem would not have grown to such a difficult level as it is at now.

Although there are several elements that have been driving the Kashmir Problem for seven decades, as described earlier, but Pakistan's role is the most pivotal among them. India could have held its feet to fire for that. A blunt and vigorous stand against its intervention in Kashmir could have if not completely but quite to a significant level reduced its leverage in the creation of anarchy there. Why does not India keep the bogey of Pakistan's illegal occupation of Azad Kashmir alive, a 36% area of the original Jammu and Kashmir state, thereby keeping them defensive. Any Western country in place of India would have done much better than India has done to keep its legitimate state away from Pakistan's greed to snatch it from them

.That brings us back to the assertion made at the beginning of this article:

tragedy lies in the death of a theory by a fact. After Kashmir's constitution was made by Kashmiris in 1957, which specified an unamendable article in it, which prohibits the separation of Kashmir from India, one would have thought that that would bring the demise of the Kashmir Problem. But it proved to be only a good theory. Due to India's laxity in keeping the dragons of independent Kashmir in check, the facts developed thus killed a good theory. So, Kashmir Problem will go on existing for an unknown time. I think when a new generation of Indians come to political power in not so distant future, they will pursue it with utter honesty and vigor, thereby taming Pakistan's greed and Kashmiri separatists' insanity.

Suffern, New York, October 13, 2018

www.kaulscorner.com

maharaj.kaul@yahoo.com