6.1: CONCLUSION

“Even today, perhaps the best of us do not quit realize the depth of Kashmir’s alienation and are unready to ponder ways and means of overcoming it.” -Professor Hiren Mukherji 25 Feb.1994. (A.G. Noorani vol.2 p 466)

On 26 December 1991, the Prime Minister of Pakistan, Nawaiz Sharief, told visiting Indian publicists: We all have to give up something, India will have to step back, and Pakistan will have to step back, and will have to Kashmiris. On 2 February 1992, Indian Prime Minister, P.V. Narasimaha Rao, told the British Prime Minister, Mr. John Major, in New York that a compromise was possible within the framework of the Simla Agreement. This was in reply to a specific inquiry, according to a spokesman for Mr.Rao, if he visualized a way out of the impasses. (A.G. Noorani vol.2 p 506)

On 26 February 1992, Mr. Mohammad Azad Inqilabi, a leader of one of the militant groups, the Jammu and Kashmir Mahaz –e – Azadi, publically appealed to the leaders of India and Pakistan to explore new ways to out of impasse in order to avoid bloodshed. He added that it would be more realistic for the Jammu and Kashmir Liberation Front to work for half – way goal rather than for the state of Jammu and Kashmir as it existed in 1947. (A.G. Noorani vol.2 p 506)

When visiting Indian publicists asked the JKLF leader, Mr. Amanullah Khan in December 1991, whether he would consider a solution that gave Kashmir a less than full independence, he said he had already scaled down his demand from Azadi to self determination. He showed an awareness that a peaceful solution can only come through a compromise which would be the product of conscious by all. (A.G. Noorani vol.2 p 512)

Above all, both must shed-righteousness. The Kashmir story has no heroes and no villains; only victims- two generation of people of the sub-continent, if not more in the days ahead. The leaders were great men but the abnormal times warped their judgment. (A.G. Noorani vol.2 p 60)
6.2: The promises given time to time be fulfilled

1: The Prime Minister of India, Jawaharlal Nehru’s telegram to the Prime Minister of Britain, Clement Attlee, on 25 October 1947, before Kashmir’s accession to India, which was repeated to the Prime Minister of Pakistan Liaquat Ali Khan, in 26 October 1947.

I should like to make it clear that the question of aiding Kashmir in this emergency is not designed in any way to influence the State to accede to India. Our views which we have repeatedly made public is that the question of accession in any disputed territory or State must be decided in accordance with the wishes of the people and we adhere to this view.

2: Governor-General Mountbatten’s letter to the ruler of Jammu and Kashmir, Hari Singh, on 27 October 1947, in reply to his 26 October letter offering Kashmir’s accession to India:

“In the special circumstances mentioned by your Highness, my Governments have decided to accept the accession of Kashmir State to the Dominion of India. Consistently with their policy that, in the case of any State where the issue of the accession has been the subject of dispute, the question accession should be decided in accordance with the wishes of the people of the State, it is my Government’s wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader, the question of the State’s accession should be settled by a reference to the people.”

He accepted the appeal for military aid and said: ‘action has been taken today to send the troops of the Indian Army to Kashmir to help your own forces to defend your territory and to protect the lives, properly and honour of your people’.

This letter mentions ‘action’ taken today (27 October). There is some controversy on precisely when the Instrument of Accession was signed and when Indian troops landed in Srinagar. This subject is, however, beyond the purview of this essay.(Nooranivol.p124)
The accession was legally made by the Maharaja of Kashmir, and this step taken on the advice of Sheikh Abdullah, leader of the All Jammu and Kashmir National conference, the political party commanding the widest popular support in the State. Nevertheless in accepting the accession the Government of India made it clear that they would regard it as purely provisional until such time as the will of the people could be ascertained.

4: This formulation was repeated in the same document, with yet greater emphasis in part IV defining ‘India’s Objectives’. It said:

“In Kashmir as in other similar cases, the view of the government of India has been that in the matter of disputed accession the will of the people must prevail. It was for this reason that they accepted only on a provisional basis the offer of the ruler to accede to India, backed though it was by the most important political organization in the State. The Question of accession is to be decided finally in a free plebiscite; on this point there is no dispute. It is however, impossible to hold a plebiscite so long as the State is infested by free booters from outside. The only purpose for which the Indian troops are operating in Kashmir is to ensure that the vote of the people will not be subject to coercion by tribesmen and others from across the border who have no right to be in Kashmir.”

5: Nehru’s telegram to Liaquat Ali Khan, on 28 October 1947:

In regard to accession also it has been made clear that this is subject to reference to people of the State and their decision. Government of India has no desire to impose any decision and will abide by people’s wishes. But these cannot be ascertained until peace and law and order prevail.

6: Nehru’s telegram to Iiaquat Ali khan on the same day, 28 October 1947: I earnestly hope that there will be corporation between Pakistan and India in stopping raids and putting down disorder and then leaving choice about future to people of Kashmir.

7: Statement issued by Government of India on 30 October 1947: It’s is desirable to draw attention to the condition on which the Government if India have accepted Kashmir’s accession.’ It proceeded to mention that “the people of the State should
decide the question of accession’” (The Times of India, 31 October 1947). (Noorani vol.1 p.125)

8. Nehru’s telegram to Liaquat Ali Khan on 31 October 1947. Kashmir's accession to India was accepted by us at the requested of Maharaja’s government and the most numerous representative popular organizations in the State which is predominantly Muslim. Even then it was accepted on the condition that as soon as the invader has been driven from Kashmir soil, and law and order restored, the people of Kashmir would decide the question of accession. It is open to accede to either Dominion then. (White Paper on Jammu and Kashmir 1948: 51)

Further:

Our assurance that we shall withdraw our troops from Kashmir as soon as peace and order are restored and leave the decision about the future of the State to the people of the State is not merely a pledge to your government but also to the people of Kashmir and to the world.

9: Nehru’s broadcast to the nation on 2 November 1947:

We decided to accept this accession and to send troops by air, but we made a condition that accession would have to be considered by the people of Kashmir later when peace and order established. We were anxious not to finalize anything in a movement of crises and without the fullest opportunity to the people of Kashmir to have their say: it was for them ultimately to decide.

Let me make it clear that it has been our policy all along that where there is a dispute about the accession of a state to either Dominion; the decision must be made by the people of the state. It was in accordance with this policy that we added a proviso to the Instrument of accession of Kashmir..... We have declared that the fate of Kashmir has ultimately to be decided by the people. That pledge we have given, and the Maharaja had supported it, not only to the people of Kashmir but to the world. We will not, and cannot, back out of it, we are prepared, when peace and law and order have been established, to have a referendum held under international auspices like the UN. We want to be a fair and just reference to the people, and we shall accept their verdict.
The next day, on 3 November, Nehru drew Liaquat Ali Khan’s attention to his broadcast:

I wish to draw your attention to the broadcast on Kashmir which I made last evening. I have stated our Government’s policy and made it clear that we have no desire to impose our will on Kashmir but to leave final decision to people of Kashmir. I further stated that we have agreed on impartial international agency like UN supervising any referendum.

10: Nehru’s telegram to Liaquat Ali Khan on 21 November 1947:

I have repeatedly stated that as soon as the raiders have been driven out of Kashmir or have withdrawn and peace and order have been established. The people of Kashmir should decide the question of accession by plebiscite or referendum under international auspice such as those of the United Nations. (Noorani vol, 1 p 126)

11. Nehru statement on Kashmir in the Constituent assembly (Legislative) on 25 November 1947: “Kashmir and India have been bound together in many ways from ages past. These last few weeks have forged a new link which none can surrender” An ominous declaration.

12: India’s complaint to the UN Security Council on 31 December 1947:

But in order to avoid any possible suggestion that India had taken advantage of the state’s immediate peril for her own political advantage, the dominion Government made it clear that once the soil of the State had been cleared of the invader and normal conditions were restored, the people would be free to decide their future by the recognized democratic method of plebiscite or referendum, which, in order to ensure complete impartiality, may be held under international auspices.

The complaint was made under Article 35 of the UN Charter in Chapter VI.

13: India’s delegation to the United Nations Security Council, N. Gopala Swamy Ayyanger’s opening speech on 15 January 1948:

The question of the future status of Kashmir vis – a vis her neighbours and the world at large, and a further Question, namely, whether she should withdraw from her
accession to India, and either accede to Pakistan or remain independent, with a right claim admission as a Member of the UN – all this we have recognized to be a matter for unfettered decision by the people of Kashmir, after normal life is restored to them. (227th Meeting, UN Security Council 1948:32)

14: Gopalaswamy Ayyangar’s statement at the United Nations Security Council on 3 February 1948:

Before I proceed I might say that, apart from the stoppage of fighting the two parties interested in the Jammu and Kashmir Question – each for its own reason – are the insurgents, who want responsible government, and Pakistan, which wants the question of accession to be finally settled. As far as the insurgent are concerned. I have indicated what the Maharaja is prepared to have announced in his name as his decision. As the Security council is aware, the government of India is fully committed to the view that, after peace is restored and all people belonging to the state have returned there, a free plebiscite should be taken and the people should decide whether they wish to remain with India to go over to Pakistan or remain independent, if they choose to do so. (239th meeting, UN Security Council 1948: 302) (Nooranivol.p127)

15: Gopalaswamy Ayyanger’s statement at the United Nation Security Council on February 1948:

We accepted Kashmir’s offer of accession at a time when she was in peril, in order to be able to effectively to save her from extinction. We will not in the circumstances, hold her to this accession as an unalterable decision on her part. When the emergency has passed and normal condition are restored, she will be free, by mean of a plebiscite, either to ratify her accession to India or to the change her mind and accede to Pakistan or remain independent. We shall not stand in the way if she elects to change her mind. That, I think, is the proper description of India’s attitude. (242nd meeting, UN Security Council 1948:37)

16: M.C. Setalvad, member of the Indian delegation to the United Nations Security Council, said on 23 January 1948:

But I make bold to say that the conduct of my Government has been entirely above board on this matter. It was not until the ruler of Kashmir and the popular leader of
Kashmir approached the Indian Government for assistance in the extremity which I have described, that the Government stated – and, I submit, rightly stated – that the it could not interface in the matter of Kashmir unless the State was a part of Indian territory, which could come about only if Kashmir acceded to the Indian Union. On that understanding, in the peril in which it found itself, Kashmir offered to accede to the Indian union- not only the ruler but also the popular leader. The Indian Government was careful, even though the request came from both, to stipulate that it was accepting the accession only on the condition that later, when peace had been restored, the expression of the popular should be ascertained in a proper manner. It was on that condition and that condition alone, that the Indian Government accepted accession. (234th Meeting UN Security Council 1948:208)

17: Nehru’s speech at Jammu on 15 February 1948: “We have not come here to rule; we have been called here by the people and by the National Conference leaders and the Maharaja to save the beautiful country and the people from the invaders; we have not come here as aggressors or to forcibly rule over Kashmir .... We are here at Kashmir’s request to help the people of Kashmir from the enemy. (The times of India, 17 February 1948)

18: Nehru’s speech in the Constituent Assembly (Legislative) on 5 March 1948: “Even at the moment of accession, we went out of our way to make a unilateral declaration that we would abide by the will of the people of Kashmir as declared in a plebiscite or referendum. We insisted further that the Government of Kashmir must immediately become a popular Government. We have adhered to that position throughout and we are prepared to have a plebiscite, with every protection for fair voting, and to abide by the decision of the people of Kashmir” (Noorani vol. P 128)

19: Deputy Prime Minister Vallabhbhai Patel’s speech at a public meeting in Bombay on 30 October 1948: “Some people consider that a Muslim majority area must necessarily belong to Pakistan. They wonder why we are in Kashmir. The answer is plain and simple. We are in Kashmir because the people of Kashmir want us to be there. The moment we realize that the people of Kashmir do not want us to be there, we shall not be there even for a minute .... We are asked why we are in Kashmir. The reply is clear. If the Muslims in Kashmir tell us to go away. We will get out. We shall not let the Kashmiris down. (The Hindustan Times, 31 Oct. 1948)
20: Resolution of the UN Commission for India and Pakistan, Dated 5 January 1949, which both sides accepted: “The question of the accession of the State of Jammu and Kashmir to India of Pakistan will be decided through the democratic method of a free and impartial plebiscite”.

21: Sir B.N. Rau’s speech in the United Nations Security Council on 7 February 1951: “Kashmir has the right of representation [in India’s Constituent Assembly] ever since April 1947; it acceded tentatively in October 1947” (463rd Meeting. UN Security Council 1951: 21). Here Rau’s use of the word “tentatively” is significant and must be noted. He was a judge of the Calcutta High Court, Constitutional Adviser to the Constituent Assembly of India, and judge of the International Court of Justice”.

22: Nehru’s speech at a public meeting in Srinagar on 4 June 1951: “First of all, I would like to remind you of the fateful days of 1947 when I came to Srinagar and gave the solemn assurance that the people of India would stand by Kashmir in her struggle. On that assurance, I shook Sheikh Abdullah’s hand before the vast multitude that had gathered there. I want to repeat that the government of India will stand by that pledge, whatever happens. That pledge itself stated that it is for the people of Kashmir to decide their fate without external interference. That assurance also remains and will continue. Indian troops came to Kashmir in the hour of great peril at the invitation of the constitutional authorities of the state as well as representatives of the people. They will not remain here a single day if they are unwanted for the purpose for which they came or if the people of Kashmir feel that they do not desire any longer here”. (The Hindu, 5 June 1951) Noorani vol.1 p 129

23: Nehru’s speech at Calcutta on 1st, January 1952: “He [Syama Prasad Mookerjee] wants to know what we are going to do about the one – third of Kashmir which is under Pakistan control. Let me explain first of all, Kashmir is not the property of either Pakistan or India. Kashmir belongs to its people. The people of Kashmir have acceded to India of their own free will and we accepted gladly. Even then we have made it clear that once the war was over, we would hold a plebiscite to allow the people of Kashmir the right to express their view about the accession. If then, the people of Kashmir tell us get out, we will do so. We will not stay there by force. We did not conquer the territory...There is no doubt about it that he is the leader of the people of Kashmir, a very great leader. If tomorrow Sheikh Abdullah wanted Kashmir...
to join Pakistan, neither I nor all the force of India would be able to stop it because if
the leader decides, it will happen.... Since the matter has been referred to the UN, we
have given our word of honour that we shall abide by their decision. India’s pledge is
not small matter and we shall stick by it in the eyes of the world.

24: Nehru in Parliament on 26 June 1952: “And I say with all respect to our
constitution that it just does not matter what your Constitution say, if the people of
Kashmir do not want it, it will not will not go there.... Let us suppose there was a
proper plebiscite there – and the people of Kashmir said, we do not want to be with
India’, well we are committed to it, we would accept it. It might pain us but we would
not send an Army against them; we might accept that, however much hurt we might
feel... and we would change our constitution about it”.

25: Nehru in Parliament on 7 August 1952: “so, while the accession was complete in
law and in fact, the other fact, which has nothing to do with law, also remains, namely
our pledge to the people of Kashmir, if you like, to the people of the world, that this
matter can be re- affirmed or cancelled or cut out by the people of Kashmir, if they so
wish. We do not want to win people against their will and with the help of armed
forces, and if the people of Jammu and Kashmir state so wish it, to Part Company
from us, they can go their way and we shall go our way. We want no forced
marriages, no forced unions like this. I hope this great republic of India is a free,
voluntary, friendly and affectionate union of the State of India.... Ultimately – I say
with all deference to this Parliament –the decision will be made in the hearts and
minds of the men and women of Kashmir, neither in this Parliament, nor in the United
Nations, nor by anybody else”. (Noorani vol.p.130)

26: Even after Sheikh Abdullah was dismissed from the office of Prime Minister of
Kashmir and arrested on 9 August 1953, Nehru said on 15 August 1953: “I want to
repeat: it was not today but five and a half years ago that we gave a pledge that only
the people of Kashmir can decide their future, we said this and later repeated it. Today
also it is also our firm opinion that the Kashmir issue can ultimately be decided only
by the people of Kashmir. This issue cannot be settled by force”. (The Statesman, 16
Aug. 1953)
27: India – Pak Prime Minister’s joint communiqué issued at New Delhi on 21 August 1953: “Kashmir dispute was especially discussed at some length. It was their firm opinion that this should be settled in accordance with the wishes of the people of the state, with a view to promoting their well – being and causing the least disturbance to the life of the people of the state. The most feasible method of ascertaining the wishes of the people was by fair and impartial plebiscite. Such a plebiscite had been proposed and agreed to some years ago. Progress, however, could not be made because of the lack of agreement in regard to certain preliminary issues. It was even decided that ‘the Plebiscite administrator should be appointed by the end of April 1954’. However, following all these claims and assurances; Nehru soon changed tack.

28: Nehru, on 1961: “There is no question of any plebiscite in Kashmir, now or later.... I am sick of the talk about plebiscite, which does not interest anybody’ (time of India, 20 July 1961)

29: Nehru’s statement in the Constituent Assembly (Legislative) on 7 September 1948: “the moral aspect of this question (Kashmir) has always troubled me.” As Milton wrote, ease recant vows said in pain as unsaid and void. Nehru’s own admission in his note to Abdullah on 25 August 1952 traces his recantation to 1948; a fact confirmed by his secret offer of partition of the state to Liaquat Ali Khan at Paris on 27 October 1948, and his secret assurance to Abdullah on 11 January 1949. The question arises, why did he make these pledges repeatedly and in terms so earnest and unqualified, dripping with political morality, from 11948 to 1953? Indeed, on 27 October 1950 he wrote to Girija Shanker Bajpai, ‘We cannot now be asked to confine ourselves to the plebiscite issue’ (Selected Works of Jawaharlal Nehru,) Regardless, it is these pledges which Kashmiris recall today and it is these pledges P. Childambaram will have to reckon with in his exertions, to fulfil them in the light of the realities of 2012. Plebiscite is ruled out; not so a decision in the accordance with the will of the people. That is where the judicial statesmanship and creativity shown by the Supreme Court of Canada in the Quebec case helps. The Centre cannot crush the people or the secessionist sentiment by force. The secessionists cannot declare in independence unilaterally. In keeping with its pledges, India must negotiate – and so must the advocates of Azadi. To repeat, the self – rule element in the agreed Indo – Pak Four Points fits a revised Article 370, with cast – iron guarantees, like a glove. The issue is
not redressal of grievances. It is rejection of the present political and constitutional order based on force and fraud, and its replacement by one that rests on consent and sincerity. To win the allegiance of a people as creative as the Kashmiris will be a gain for the Union. India’s diplomacy and aspirations will receive a boost. Incidentally, arrogance of power was not absent in the councils of the other Parties in 1977 either. However, the world was not, and indeed is not, blind.

At last the way forward, India has to give up its stubbornness and engage with the sentiments in Kashmir and simultaneously India and Pakistan have to talk to each other. The process of conflict resolution is a process of deliberation and discussion about before that it is about being on the same page in terms sincerity and willingness to solve the problem. If that part is overcome frameworks and options immediately open up. One available framework to start with is the four point agenda of Vajpayee and Mushraf era in 2004. It talked of progressive military de escalation to begin with, a huge relief for the people of Kashmir. Unfortunately for the people of Kashmir we are also held hostage to internal and external dynamics of Indo-pak politics. India and Pakistan have to get together and begin to think of Kashmiris as people demanding freedom from the tyranny of victimization that is being forced on Kashmiris and for which Kashmiris are paying a massive price. Kashmiri people are in turmoil everywhere, almost every day a youth is martyred, and all it becomes is political grist for them. As the dispute lingers the people of India and Pakistan are also paying a price.

Why should anyone, we ask? Sending human beings to live on an ice glacier in Siachen or die in avalanches guarding barren mountains what kind of national pride is this. It is totally inhuman and thoughtless, you cannot be treating human beings as instruments… it’s time to think about these things to reach out politically and find humane solutions. It is the responsibility of the leaders in India and Pakistan to understand this and to initiate steps for resolution.

Let’s put an end to this and release the subcontinent of this burden. Only then can we look forward to a new beginning where all the people can live in peace with dignity and honour, where petty politicking can give to harmony and happy co-existence, where both the countries can divert their resources from huge military upkeep to eradication of poverty and illiteracy afflicting both of them. The solution to Kashmir,
may friends, holds the key. (The videclip, of, of the two day Confrence held at the Harvard Kennedy School for Business and government on the 12th Feb. 2017 it was also attended by former CM Omer Abdullah. It was also published by Greater Kashmir on 15 Februarys, 2017)