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Continuity and Change in Indo-Pak Relations

Sukhwant S. Bindra

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Narottam Gaan

Confidence Building Measures Between
India and Pakistan

Sudhir Kumar Singh and Ana Ballesteros Peiro

UN Sub-Commission on Human Rights
(53rd Session): A Report

Sharad K. Soni

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Editor's Page

That the Indo-Pak peace process and “composite dialogue” which was initiated by the previous NDA government led by Atal Behari Vajpayee has been continued by the new UPA government headed by Dr. Manmohan Singh, reflects continuity in India’s approach towards Pakistan. Rail and diplomatic links that were snapped in December 2001 following terrorist attacks on Indian parliament stand restored. The agreement to start Srinagar-Muzaffarabad bus service (across the LOC in Jammu and Kashmir) and Munabao (Rajasthan)-Kokhrapar (Sindh) bus services would facilitate the union of divided families. There have also been exchange visits of Indian and Pakistani parliamentary delegations, media and cultural groups, thereby giving a new fillip to people-to-people contacts, which are bound to remove mistrust and promote understanding at the grassroots level. In September 2004, the Foreign Secretaries of India and Pakistan met to review the progress of dialogue and build up the areas of convergence. In November 2004, both countries agreed to establish a dedicated link at the Foreign Secretary level, which would serve as a nuclear hotline between India and Pakistan aimed at ensuring confidence and trust as well as averting any untoward incident. Now the spectre of South Asia being a “nuclear flashpoint”, which was raised by Pakistan, no longer exists.

Though the bilateral official trade increased from 157 million US \$ in 1997-98 to 476 million US \$ in 2003-04, it is a mere 0.29 percent of the total trade of two countries. However, about 5 billion US \$ unofficial trade in pharmaceuticals, auto spares, cosmetics, DVDs, videotapes, chemicals, viscose fibre etc is conducted via Dubai, Singapore, or by smuggling. There exists the trade potential of about 5 billion US \$ per year, which once realized would generate huge tax revenues for Pakistan. There is vast scope for free trade in goods and merchandise and for free flow of investment and services. There has been a remarkable increase in the level of India’s trade with Sri Lanka following the Free Trade Agreement signed in 2001. In the following

year (2002), Sri Lanka's export to India grew by 137 per cent. Pakistan's exports to India during the past five years have increased by 74 per cent, which is higher than the growth of 43 per cent in Pakistan's total exports during the same period. Yet the trade balance has remained in favour of India, which is also due to Pakistan's overall export performance. Implementing the spirit of SAFTA between India and Pakistan will have a very positive impact upon the bilateral peace process.

Notwithstanding these Confidence Building Measures (CBMs), continued existence and operationalisation of the terrorist infrastructure including training camps in Pakistan, its harbouring of terrorists sought by India and undermining India's sovereignty over Jammu and Kashmir, extending support to extremist and militant groups in the northeast, Bangladesh and Nepal against India, continue to cloud the process of normalization of relations between India and Pakistan. Even though India has accorded the MFN status to Pakistan, the latter has refused to reciprocate. Both countries being members of the WTO are obliged to provide each other the MFN status.

The road map for ending the Indo-Pak confrontation has to follow a step-by-step approach through structured and meaningful negotiations and not by dramatic announcements or any cosmetic moves aimed at attracting media and international attention. Both countries need to make forward movement in bilateral relations by lifting existing curbs on economic, trade, transit and energy cooperation, promoting tourism and cultural, sports, media, literary and academic exchanges. There is need for consistency and pragmatism instead of resorting to rhetoric and taking any hasty steps under external pressure. The peace process has to reach a stage where it turns out to be functional, enduring and sustainable. On the issue of Kashmir, Indian Prime Minister Manmohan Singh has articulated the basic parameters of India's policy - that India would not accept any redrawing of borders or any partition of territory on religious basis.

K. Warikoo

CONTINUITY AND CHANGE IN INDO-PAK RELATIONS

Sukhwant S. Bindra

The continuity and change has been evident in Indo-Pak relations since August 1947 when both emerged independent nations on the world political map. So far they have fought four major wars, detonated nuclear devices in May 1998, initiated and implemented a number of Confidence Building Measures (CBMs), signed declarations and agreements but their relations are far from being friendly. The creation of Pakistan on the basis of “Two Nations Theory”¹ by dividing the British India, gave birth to number of problems, mostly solved by adopting peaceful methods like mediation, conciliation and bilateralism, but the foremost and fundamental issue popularly known as the Kashmir Issue, is a bone of contention in their relationship. Further, the Kashmir issue has assumed international dimensions. To quote Stephen Cohen, “the region is the site and the source of some of the world’s major terrorist groups. Aside from Al Qaeda, these include a number of groups based in or tolerated by Pakistan.”²

The origins of the India-Pakistan conflict have been traced to a number of sources-the failure of the British to smoothly transfer power and “manage a peaceful and politically acceptable partition, the deeply rooted political rivalries between the subcontinent’s major religious communities, Hindus, Sikhs and Muslims, the struggle for control over Kashmir and Kashmir’s importance to the national identities and the greed or personal shortsightedness of leaders on both sides of the borders-in particular, Nehru’s romance with Kashmir and his Brahmanical arrogance (the Pakistani interpretation), or Mohammed Ali Jinnah’s vanity, shortsightedness, and religious zeal (the Indian interpretation).”³

The religious fanaticism continues to be one of the main characteristics of Pakistan which is symbolized by the official name

given to the country, “Islamic Republic of Pakistan”.⁴ The armed forces, has always played a definite role in Pakistan and it is considered to be highly politicized.⁵ These two factors also contributed to widening the gulf between the two countries. Many observers have characterized Pakistan as a failed state, or even a “rogue” state, particularly, for its support to the Taliban regime in Afghanistan prior to the 11 September 2001 terrorist attacks. “Armed with nuclear weapons and sympathetic to separatist and radical Islamist groups operating against arch-rival India, Pakistan is also portrayed as hapless and on the verge of imminent catastrophe, even as it commands a powerful military capability.”⁶

Upto mid-sixties, both countries remained busy in solving the problems and issues that emerged as a result of the partition. The evacuee property, the minority issue, the problem of sharing of river water, the division of military stores, and the integration of princely states etc. were solved by adopting peaceful as well as coercive methods. As such one aspect of the Indo-Pak relations has established its roots deeply, i.e., peaceful methods are the only way to sort out the differences, which would create peaceful environment in the sub-continent.

The story of Indo-Pak relations is a story of two neighbours, having different religious ideologies, socio-economic bases, international perceptions, national interests and foreign policy objectives. Hindu-Muslim rivalry is considered to be the basic cause which over the years played a role in keeping the two countries apart. Since the 8th century A.D. when the Arabs made inroads into India and established their foothold in Sind, the rivalry between the two religious communities has been going on. This rivalry has further been strengthened by the power hungry politicians and the fanatic Hindu and Muslim leaders. During the freedom struggle, the Muslim League was considered to be the sole organisation of Muslims. It tried its best in order to implement the “Two Nations Theory,” to widen the gulf between the Hindus and the Muslims. Mohammed Ali Jinnah had always branded the Congress party as a purely Hindu body.⁷ Prior to 1937 the differences were

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based on prejudices and social attitudes between the two communities, but afterwards, the differences began to be institutionalised,⁸ and Congress-Muslim League rivalry became more bitter.

The partition of India on the basis of religion further embittered the rivalry between the Hindus and the Muslims. Some believe that the Muslims owed the creation of Pakistan to the Congress in the sense that had the leaders of the Congress party treated the Muslims at par with the Hindus there would have been no Muslim separatism and therefore no Pakistan,⁹ and the Congress never made a serious attempt to understand the problems of the Muslims. It had no definite policy on the matter and always tried to meet the crisis as it arose.¹⁰ Coupland, Lord Eustace Percy, Sir Stanley Reed, Sir Ivor Jennings, Sir Francis Taker, Ian Stephens, Rushbrook Williams, Penleral Moon and other competent judges of the Indian affairs were unanimous that the “arrogance” of the Congress sparked the partition of India.¹¹ It led to Jinnah resigning from the Congress party, as he strongly believed that the Hindus and the Muslims differed in ideas and outlook, conduct and modes of behaviour,¹² and he demanded the division of the country on these points. The creation of Pakistan gave Hindu-Muslim rivalry a permanent constitutional form.¹³

Since the partition, both India and Pakistan have always looked at each other with hatred, mistrust, suspicion and fear. The Pakistani elites (political, military and civil) presumed that India would not allow her to live in peace and destroy her whenever she had an opportunity. Ayub Khan, a former President of Pakistan wrote in his autobiography that “India’s ambition was to absorb Pakistan and turn her into a satellite.”¹⁴ Somewhat same feelings the Indian elite also had in their minds that Pakistan won’t miss any opportunity to malign India at the first opportunity. These perspectives compelled the leadership of both countries to adopt whatever measure available to strengthen their military capability.¹⁵

The unstable political condition in Pakistan, which continued throughout the history of Pakistan, is one major issue which created

tense atmosphere between India and Pakistan. The Muslim League, the party of big landlords and bourgeoisie, the intelligensia, the peasantry and even the working class, started running the affairs of Pakistan after its emergence as an independent nation. Not a single political party or public organisation could in the post-partition period compete with the power and influence of the Muslim League upto 1954. The Muslim League dominated over the political life of Pakistan and controlled the Government at the centre as well as in the provinces. Liaquat Ali Khan, the first Prime Minister of Pakistan (August 1947 - October 1951), had expressed the true state of affairs when he said: "I have always considered myself as the Prime Minister of the League. I never regard myself as the Prime Minister chosen by the members of the Constituent Assembly."¹⁶

But after the death of Jinnah and assassination of Liaquat Ali Khan "the Muslim League was unable to present to the public either a convincing programme or an inspiring leader. It had, therefore, to turn for support to local politicians and local issues."¹⁷ At that very juncture, the electorate in Pakistan were pre-dominantly rural, who accepted illiteracy as a part of their life. They could understand either a very general idea "such as Pakistan and the triumph of Islam, or a very particular idea, such as the curtailment of the power of this landlord or that policeman." Jagirdars and Zamindars, Pirs and Mirs. Makhdooms. Khans and Nawabs having vast political influence, were quite active politically. The political map of Pakistan, particularly the West Pakistan, was dotted with the signs of entrenched area of personal political power.¹⁸ The rich landlords and big businessmen were in control of the governmental machinery of Pakistan. The big landlords from West Punjab – Malik Feroze Khan Noon, Mushtaq Ahmed Gurmani, Mian Mumtaz Mohammad Daultana, Syed Ahmed Nawab, Shah Gardezi- and a few of the biggest landlords from Sind, such as Mohammed Ayub Khusro and Mir Ghulam Ali Talpur, were also members of the central and provincial governments. They shared power with descendants of the landed aristocracy, members of rich and distinguished Muslim families from India, leaders of the Muslim League who had migrated to

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Pakistan from India, like Liaquat Ali Khan, Chaudhury Khaliquzzaman, Ismail Ibrahim Chandraigar and S.A. Azam. They wanted, “the greatest consolidation of the position of the semi-feudal landlords and the big bourgeoisie of West Pakistan in all spheres of country’s economic and political life. The alluring promises given to the Muslim working people on the eve of the partition were forgotten, and even mere mentioning of these promises was declared a crime.”¹⁹

L.F. Rushborok Williams, who studied Pakistan’s political life and culture feels that: “During the period which immediately followed Quaid-i-Azam’s death, there developed a fierce competition for influence, wealth, power and prestige between the various interests and personalities which made up political life. The arena in which this competition first manifested itself was the organisation for framing the constitution which was to give formal expression to Pakistan’s polity.”²⁰

What would be the nature of political system to be established in Pakistan? It was not possible to introduce a federal structure in Pakistan because the ruling party elites were not in its favour. Its style of functioning and the policies it pursued in the beginning to protect its vested interests from time to time, had created unfavourable atmosphere for the introduction of federalism. During the freedom struggle the moderate leadership of the Muslim League fully exploited Islam and in order to achieve narrow political demands used it frequently, but after the creation of Pakistan, they failed to establish Islamic State based on *Shariat* as promised. The orthodox *Mullah* and *Ulema* were in favour of unitary form of government but the logic of situation prevailing in Pakistan with the presence of a number of distinct nationalities (Bengalis, Punjabis, Pathans, Buluchis and Sindhis) with strong cultural identities demanded that a federal structure would be more suitable for Pakistan.²¹

The framers of the Constitution were confronted with a number of problems and it seemed very difficult to solve them without hurting the feelings of the forces involved in the whole process.²²

- a) How power was to be divided between the centre and the provinces, East and West Pakistan?²³

- b) How the different competing interests-landlords, religious leaders, businessmen, industrialists, could receive recognition of their claim to power and influence?²⁴
- c) How far the shape of a modern state could be reconciled with the principles of Islam.”²⁵

An eminent Indian scholar Sisir Gupta feels that: “the making of a constitution has been an unusually perplexing task in Pakistan. The peculiarities of the country’s geography, the history of its people and the conditions in which the state took its birth have combined to make Pakistan a unique country for which was required a unique constitution that could reconcile the conflicting interests and trends within the country to the satisfaction of all concerned.”²⁶

The parties in Pakistan became a vehicle for politicians’ political careers. Generally, the new political parties were formed when a career seemed to be making no progress in an old party. Some parties were formed almost entirely from among members of legislatures and constituted in effect, a temporary grouping within an assembly for the purpose of making or breaking a ministry. These factors hampered the emergence of a workable system of responsible government.²⁷ Furthermore, the logic of partition on religious basis was allowed to be carried a little too far.²⁸

The political environment in Pakistan was not conducive during the period from August 1947 to October 1958 for the smooth running of any type of political system. The main consideration of the rulers in Pakistan during this period was the making of a new political centre. It was dominated by the strategic elite comprising the political leadership from across the border as well as the Punjab based army and bureaucracy. Both the charismatic leadership of Quaid-e-Azam and “Two Nations theory” emerged as strong legitimising forces; their multifarious interpretations manifested the increasing division in the body politic of Pakistan along ethnic, regional and class lines. Keeping hostility with India alive provided an overall perspective for operationalising these resources of legitimacy. Similarly, the institution

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of army took strident measures towards maturity, and finally occupied a pivotal position in the new political centre.²⁹

While the state institutions grew up rapidly, there took place vast demographic changes in the nation at large in the wake of a massive migration of people across the border. Millions of refugees from India affected a significant change not only at the level of recruitment to bureaucratic institutions but also in terms of lending an overall subjective colouring to the people's thinking, in the context of anti-Indianism, concentration of power at the centre, an idealised role of Islam and unitary model of government in Pakistan. As far as the non-bureaucratic institutions are concerned, political parties emerged as the most frequent channels to articulate public interests.³⁰

A keen observer of Pakistan affairs, Prof Keith Callard writing as early as in 1957 concluded that "if representative government collapses, it will be because its legs are not strong enough to sustain its own body. Pakistan, by its constitution, is publicly committed to the cooperation of democratic institutions. It is too early to say whether those institutions are likely to mature."³¹ The politically unstable environment in the first decade of its existence, in fact, was responsible for the continued uncertain conditions. It gave new shape to country's domestic and foreign policies. At the domestic front people were fed up with the frequent change of leadership,³² and no strong leader was present on the political scene. Robert Laparte Jr. sums up the situation in a correct way when he says: "most of this period (from 1947 to 1956) was spent in trying to reach some constitutional consensus. During this period the only institutional development which occurred, took place within the civilian and military bureaucracies, cabinets and Prime Ministers came and went, but the civil servants and the military leadership retained positions of importance and power to the new state."³³

On 7 October 1958, President Iskander Mirza, transferred power to General Ayub Khan who declared himself to be the President on 8 October 1958. President Ayub, in his autobiography made it clear that the "unprincipled behaviour of Pakistani landlords, lawyers and

civil servants led directly to the October 1958 coup". Laporte was of the view that "military bureaucrats in league with President Iskandar Mirza chose to move and perform the coup in the name of parliamentary corruption and immorality is undeniable. At any rate the instability of this period and the inability of the civilian politicians in and out of the Parliament to appease the civilian military bureaucratic coalition did contribute to the abandonment of the parliamentary democratic facade."³⁴

The political parties in Pakistan waxed, waned and suffered eclipse and its leaders kept on arguing on different issues reducing each other to impotence. Men of religion have laid claim to complete authority and failed miserably. In the meanwhile, the state was being run largely by the civil services backed by the army, which had carried much as it did before independence.³⁵

PAKISTAN'S JOINING OF MILITARY PACTS AND INDO-PAK RELATIONS

It was during this decade that the Government of Pakistan took major foreign policy decision, i.e., to formally join the US block by signing the military pacts SEATO and CENTO. This decision of Pakistan gave a new direction to Indo-Pak relations. It is widely assumed that Pakistan joined the military pacts because of the Kashmir issue which was awaiting solution. To get the US support and military aid Pakistan was convinced that they would be having an upper hand when the issue would be debated in the UN Security Council. It was also believed that only with strong military base, they could turn the Kashmir issue towards them favourably.³⁶ Pakistan, infact, was ready to adopt any method to strengthen its military capability in order to challenge the Indian Army.³⁷ Feroz Khan Noon, the then Minister for External Affairs said: "We want them (members of the Baghdad Pact) for our defence, our first duty is to strengthen our defence particularly against India no matter what others might say."³⁸ Unfavourable political and economic conditions seemed to be the other reasons.³⁹ But President Ayub Khan dismissed all these arguments. He said that the

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main consideration was to oblige the US which had been giving considerable economic aid to Pakistan.⁴⁰

These alliances directly affected the Indo-Pak relations as they limited the sphere of Pakistan's foreign policy as she would not be able to solve all her differences with India without the prior permission of its alliance partners.⁴¹ No doubt, Pakistan got enough military aid to further improve its military capacity but it intensified rather than relaxed Indo-Pak tensions. It also changed the whole context of the Kashmir issue in the sense that bilateral negotiations became impossible.⁴² The Indian Government declared that it was not possible to hold plebiscite in the valley because Pakistan's joining of military pacts had made the situation in the subcontinent quite complex. The relations of the two countries reached the lowest ebb. The military alliances "became a constant factor in the reaction and counteraction which determine subsequent relations between the suspicious neighbours."⁴³

The Indo-Pak relationship assumed a triangular relationship, with the US as a third party. Thus a beginning was made for the US active role in the affairs of the sub-continent. The US moves were considered anti-Indian and the Indian government thenceforward became more cautious, and lost faith in the moves initiated by the US in relation to India and Pakistan with far reaching consequences for future Indo-US relations.⁴⁴ The alliance paved the way for the US involvement in the internal politics of Pakistan in several distinct but related fields. Military aid strengthened the hand of the officers vis-à-vis the civilian politicians. American prestige was thus committed not just to Pakistan as a country but primarily to a particular group which reduced contacts with other groups. By dealing with the officers and their civilian allies, the US aid also strengthened the position of West Pakistan in relation to that of East Pakistan, as most of the officer corps and civil servants were from the West where the disputes with India were also centred.⁴⁵

ROLE OF ARMY

From 1958 onwards, although political stability prevailed in Pakistan, it was of a different nature. Between October 1958 and December 1971, the Pakistani people were governed by Ayub Khan and Yahya Khan, both having a sound army background. The power was centralized. President Ayub Khan launched the concept of “Basic Democracies” and its introduction coincided with the first anniversary of Ayub’s assumption of complete power. Herbert Feldman, a keen observer of Pakistan affairs, writes that: “Undoubtedly, this was the first clear step towards conferring upon the citizen a right of participation in the government of his country, and in a land where circumstances admittedly contribute has been variously hailed as the ultimate in political wisdom on the one hand and on the other, as a mere sop to democratic sentiment at home and abroad.”⁴⁶

Ayub Khan and his military bureaucracy became more ambitious. There has always been a great rapport between the army’s top brass and the senior bureaucrats because of the similarity in background and training. These two groups were responsible for laying the foundation stone of military bureaucratic complex in Pakistan. The only difference was that while upto 1969, it was the bureaucratic element that was in command, since 1969 the rules have been reverse.⁴⁷

Another most important factor which strengthened their bond of friendship was that no effective Prime Minister emerged after Liaquat Ali Khan. As a result there was no consensus on either domestic or foreign policy. The politicians had no choice and they turned to bureaucrats and soldiers to build factions capable of pursuing effective public policies. It was in this period that General Ayub Khan forged close working relationship with Iskander Mirza, the then Secretary of the Ministry of Defence and other key civil servants. Probably, Ayub Khan was well aware that without the active cooperation and help of the civil servants, he would not be able to run the affairs of the army, and if needed,⁴⁸ the affairs of Pakistan also.

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The fact remains that Pakistan's defence policy was, and is inseparable from its foreign policy to a much greater degree than in most countries. There was no defence industry worth the name in Pakistan in existence for even the manufacturing of the most simple and conventional arms. It was wholly dependent upon external powers for military supplies. Furthermore, its military policy planners were facing a number of problems ranging from Kashmir and water disputes with India, and its divisions into two wings separated by a thousand miles of Indian territory. And because foreign and domestic policies were, for the new state, matters of survival, they had to dictate domestic policy. "By this choice of logic, the leaders of the Pakistan Army were propelled to the Centre of the decision making process and became first its arbiter and then its monopolist."⁴⁹

Hasan Askari Rizvi, a Pakistani scholar and a keen observer of the politicisation of military in Pakistan strongly feels that the major responsibility, "falls on the shoulders of the political leadership". He has identified five factors for an increasing participation of the military in non-military governance of the state: (i) the sense of insecurity of the new state following the partition and demographic shifts, the military moved with determination to provide stability, (ii) the weak social base and disarray of the political leadership and erosion of political institutions, (iii) discipline and cohesion of the military and bureaucracy, (iv) utility of skills for civil purposes, and (v) the high prestige of the military as a competent, important and effective organisation.⁵⁰

Though civilian governments led by Z.A. Bhutto, Benazir Bhutto and Mian Nawaz Sharif ruled over Pakistan, the Army had upper hand in the affairs of Pakistan. Z.A. Bhutto, a seasoned politician was well aware of the politicised nature of the Army. In the initial years of his rule he was successful in curbing the role of Army to what it should be in a democratic set up.⁵¹ But with the change of political climate in the country, Bhutto realized that it would not be possible for him to run the country and maintain its constitutional and increasingly unpopular rule, without the absolute support and loyalty of the armed forces. Bhutto otherwise maintained the armed forces in good humour, by allocating

more funds and equipping these with modern weapons. Deep rooted internal problems became his compulsion in the later part of his rule.⁵²

During the army rules, India and Pakistan fought two major wars, in September-October 1965 and December 1971. These wars were imposed upon India by the military rulers of Pakistan. The third major undeclared war was that of Kargil in 1999, which was the brainchild of Parvez Musharraf, the then Chief of the Army Staff, without properly informing the Prime Minister Mian Nawaz Sharif. The omnipresence of Army everywhere in Pakistan did not like the softening of attitude towards India. One can say many ups and downs are visible in Indo-Pak relations. Laporte has broadly identified four categories which influence the decision making process in Pakistan.

The modern “ruling elite” includes top level military officers, the civil services of Pakistan and leading businessmen and industrialists (including the forty families). This elite group has its education in western oriented schools. They have a faith in the status quo and are not much interested to take any broad initiatives, political or economic, in terms of basic political values and attitudes and behaviour. The ruling elite enunciated and implemented a conservative domestic policy and an expedient foreign policy. They had always supported the strengthening of “controlled democracy,” with severe limitations on popular participation.

The “transitional-dependents” in Pakistan are the educated middle class, who are economically weak, but are sophisticated enough to realize the possibilities of social change or reform. They are dominating in laws, academics and journalism. They are well aware of their limitations and that is why not in a position to act. The “transitional-independents”, consist of millions of students studying in the universities and colleges. They are branded “traditional independents” because they lack the economic needs and necessities of their elder brothers, uncles or fathers in the “traditional dependent” category.

Traditionalists are the parochial provincial rural and urban dwellers. This category lumps together an especially broad mass of people, perhaps 90 per cent of the undivided Pakistan, undifferentiated

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by location (urban or rural), occupation (industrial workers, unskilled urban labourer, village craftsman, peasants, agrarian proletariat, mini farmers), regional affinities (Punjab, North-West Frontier, Baluchistan, Sind) language, religion, caste, tribal identity, or other distinctions.⁵³

Political instability in the first decade, Hindu-Muslim rivalry, politicisation of Army and Pakistan's joining of military pacts, were some of the prominent factors responsible for the deterioration of Indo-Pak relations upto the installation of a civilian government in Pakistan under Z.A. Bhutto in 1972. While these factors dominated in determining the Indo-Pak relations, a new dimension was added, i.e., the drive of Islamisation launched by General Zia-ul-Haq, the successor of Bhutto from July 1977 until his death in 1988. It was a calculated move by General Zia to legitimize his rule. It was also a general feeling that Islamisation played a pivotal role in holding together Pakistani society -Punjabis, Sindhis, Pathans, Baluchis etc. The Indo-Pak relations remained the same as Zia-ul-Haq remained busy in consolidating his position at home.

President Zia laid too much emphasis on the role of religion in the affairs of a state. All that General Zia did was to carry on the Islamisation process with vengeance and certainly not without reasons of political expediency. The death of Zia and the change of guards in Pakistan, and its reversion to civilian rule for a decade did little in changing the state of affairs between India and Pakistan. The signing of the Geneva Accords and the subsequent events in South Asia, particularly in Afghanistan, deeply affected the Indo-Pak relations. In 1989, Congress Party lost the elections and non-Congress government was installed in New Delhi. As the situation in Afghanistan changed dramatically, the Soviet Union withdrew its armed forces. The Pakistan government launched a proxy war in the valley of Kashmir with the active support, commitment and help of the *mujahideen* who were earlier busy in Afghanistan.

The "Proxy War" in Kashmir was a product of the Afghanistan crisis, and we can say, the US was indirectly responsible for the whole

affair. It was the US, which trained and supplied sophisticated weapons to the *mujahideen*, which they started using and supplying to the terrorists in the Kashmir valley. These *mujahideen* shifted their venue, and on the instigation of Pakistan created chaos in the valley. Also known as foreign mercenaries, they polluted the minds of the valley people by injecting religious fervor in the Kashmir issue. The Indo-Pak relations took a new turn after the situation in the Kashmir valley became explosive. India alleged direct involvement of Pakistan providing training and other facilities to the subversive elements in the valley. It was the Kashmir issue and proxy war which dominated the Indo-Pak relations, and tension between the two reached at its zenith.

The coalition era started in India after the Congress defeat in 1996 general elections. The unstable political environment prevailed in India for quite some time, which of course was one of the major causes of detonation of nuclear devices by the Vajpayee government in May 1998, followed by Pakistan in the same month. At that juncture, the US stepped up in the South Asian affairs and tried to convince the political leaders of the two countries to adopt more balanced approach towards each other by starting the peace process and initiating the CBMs. The US was instrumental in diffusing the tension between the two neighbours during and after the Kargil conflict.

The 9/11 terrorist attack on the US followed by another terrorist attack on the Indian Parliament also affected the Indo-Pak ties in a big way. Both the countries were on the brink of war when the US and its allies took extra care of the situation, and virtually compelled General Parvez Musharaff and Prime Minister Vajpayee to sit across the table and solve their differences. That is considered to be an important contribution of the US as it supported and backed the CBMs. The change in the political environment in the sub-continent is also due to the rise of President Musharraf in Pakistan. President Musharraf is in full control and running the country smoothly, no doubt occasionally facing the wrath of the religious fundamentalists. As the present government in India is also on the strong footings, it is assumed that the changes that occurred in the Indo-Pak relations will hopefully be

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carried forward and further strengthened. However, Kashmir issue will remain the main plank, and will be a determining factor in the relations, but step-by-step approach will create a more workable atmosphere.

The situation in Afghanistan and tackling of the terrorist menace, are the main issues governing the US attitude towards India and Pakistan. If the situation in the South Asian region remains tense, it will not be possible for the US to achieve its foreign policy objectives in West Asia. The strategic importance of Pakistan in the calculations of the US State Department has increased. With a strong army and nuclear weapons, closely lying on the eastern fringes of a volatile but energy rich belt, command considerable value for achieving US objective in the Middle East.

An interesting analysis of Indo-Pak relations in the present context is given by Ashley J. Tellis, a leading expert on South Asian Affairs. He feels that Pakistani leaders must take into account the “reality” regarding their country’s emergence as “an important international player.” The US “can help Pakistan take stock of its own position, instead of making it feel that it is more powerful or globally important because it has America’s blessings.” He further writes that “the Indians need a little more convincing that Pakistan is not something they can just forget about, and move on, India’s ambition to be a great power on the world stage will simply not be realized until this thorn in its side-Pakistan is attended to. The US can help reinforce that realization.”⁵⁴

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RECRUDESCENCE OF VIOLENCE IN PAKISTAN'S CITIES: ROOTS IN ENVIRONMENTAL SCARCITY AND DEGRADATION OF RESOURCES

Narottam Gaan

The focus on the military dimension of security, typical of cold war and realistic logic, is being re-examined as the definition of security has been widened to include environmental dimension. The threats stemming from the inability of the states to meet the basic needs of its inhabitants and increasing deterioration in the quality of their life, and environmental degradation or scarcity of resources and ecological disasters, are being considered to be more menacing than the spectre of nuclear holocaust. The civil strife, sub-national and ethnic conflicts and violence plaguing Somalia, Rwanda, Pakistan etc. have led both the policy makers and the analysts to conclude that there is almost a causal linkage between environmental degradation and conflict.

Buttressing this, World Commission on Environment and Development (Brundtland Report) entitled *Our Common Future* states: "Environmental stress is both a cause and effect of political tension and military conflict." According to this report, "nations have often fought to assert or resist control over raw materials, energy supplies, land, river basin, sea passages and other key environmental resources." It further states, "such conflicts are likely to increase as these resources become scarcer and competition for them will increase."¹

While defining environmental conflict Libiszewski states: "An environmental conflict is a conflict caused by the environmental scarcity of a resource, that means caused by a human made disturbance of its normal regeneration rate, environmental scarcity can result from the overuse of a renewable resource or from the overstrain of the ecosystem's sink capacity, that is pollution. Both can reach the state of a destruction of the space of living."²

SOURCES OF ENVIRONMENTAL SCARCITY

According to Dixon, resource scarcity has become an omnipresent feature of human existence. Scarcity of renewable resources has become so severe that it has the potential to seriously threaten the very survival of human beings. It can arise in three ways, which can be called supply induced, demand induced and structural induced.³ Supply induced scarcity occurs and becomes worse when the resource shrinks because it has been degraded in quality and depleted in quantity.

Any human caused increase in supply induced scarcity is the product of three factors: the total human population in the region, the per capita use of each technology available to that population and the amount of resource consumption or degradation produced by each unit in using these technologies. Per capita use of each technology in turn is influenced by available natural resources including non-renewables and renewables and by ideational factors including institutions, social relations, preferences and beliefs. Resources depletion or degradation can also influence ideational factors, for example, by prompting or impeding institutional reforms. Finally, the amount of consumption or degradation of a renewable resource arising from a technology's use is influenced by the sensitivity of the region's ecosystem to the use of that technology. The depletion of fisheries can be a best illustration showing how it is a function of the size of the human population consuming the fish, the type of fishing technologies used by this population, the per capita use of these technologies and the impact of technologies on the fishery per unit use.

Apart from this, renewable resources will be depleted or degraded not by direct consumption but by technological activities that indirectly harm the resources. The western pattern of development based on industrialisation and extraction of non-renewable resources can have immense indirect effects on renewable resources in terms of degradation and pollution. Demand induced scarcity arises, when a burgeoning population divides the static resources into smaller slices

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for each individual. It is a function of population size multiplied by per capita demand for a given resources. An increase in either population or per capita demand increases total resource demand. For example, if the number of people living in an arid region increases, there will be an increase in total demand for water or a constant number of inhabitants might instead demand on average more water for new agricultural technologies. In both these cases, if only a constant or limited flow of water is available, water scarcity will increase. If water is further degraded or polluted by industrial activity, the problem of water scarcity is compounded.

Thus increased population size and increased per capita demand for a given resource can decrease supply by contributing to the resource's depletion and degradation. Structural scarcity is caused by unequal distribution that concentrates the resources in the hands of some groups and subjects the rest to greater than average scarcity.

INTERACTIONS AND SOCIAL EFFECTS

These three kinds of environmental scarcity often interact and two patterns of interaction such as resource capture and resource marginalisation are found.⁴ Resource capture occurs when a deterioration in the quality and quantity of a renewable resource interacts with population growth to prompt powerful groups within a society to shift resource distribution in their favour subjecting poorer and weaker groups to dire environmental scarcity and its social effects. Ecological marginalisation occurs when unequal resource access combining with population growth causes migration to regions such as steep upland slopes, tropical rain forests, urban areas and other areas at the risk of desertification, which are ecologically fragile.

Environmental scarcity and its various patterns of interaction including the above terms may cause innumerable changes in the developing societies. Research has identified five main social effects that either singly or in combination may increase the probability of violence in developing societies.⁵

- a) Constrained agricultural productivity;
- b) Decline in economic productivity;
- c) Migration of affected people in search of better lives;
- d) Greater segmentation of society usually along existing ethnic cleavages; and
- e) Disruption of institutions especially the state.

These effects are often causally co-related, sometimes with feedback relationship. For example, the migration caused by a decline in food production can reduce the amount of labour available for work in fields further causing a fall in food production. Economic decline can lead to flight of people with education and wealth to within or outside of state, which in turn eviscerates universities, courts, and institution of economic management – crucial to a healthy economy.

It is very significant to note that environmental scarcity is always a sufficient cause of any of these social effects. Scarcity always interacts with other factors to produce these effects. Therefore, contextual factors are important to influence the linkage between scarcity and social effects. These contextual factors include the physical characteristics of a given environment, and ideational factors unique to the society in question including its institutions, social relations and culture. Some critics suggest that contextual factors especially failed institutions and policies explain poor harvests, large migrations and inter-group cleavages. To them, environmental scarcity is an aggravator of the already existing problems or a trigger releasing accumulated non-environmental pressures. According to Homer Dixon, “it suggests a naive, almost dichotomous view: if environmental scarcity in itself cannot be shown to be sufficient cause of certain social hardships, then something else must be the cause. Yet a more accurate view of environmental scarcity’s role is that it often acts as a deep, underlying stressor of social systems and it produces its effects by interacting with contextual factors unique to the society.”⁶

VIOLENT CONFLICT

Violent challenges to the state that range from rebellion to guerrilla war are explained and predicted by a combination of relative deprivation theories and structural theories of civil strife. These two theoretical perspectives suggest that insurgency is a function of both the level of grievance motivating challenger groups and the opportunities available to these groups to act violently on their grievances.⁷ The likelihood of insurgency is greatest when multiple pressures at different levels in society interact to increase grievance and opportunity simultaneously. Environmental scarcity can change both variables by contributing to economic hardship and dislocation, by increasing segmentation, and by weakening institutions such as state. As environmental scarcities hinder economic progress, relative deprivation theory says that some groups will become increasingly frustrated and aggrieved by the widening gap between their actual level of economic achievement and the level they feel they deserve. At some point the disadvantaged groups may cross a critical threshold and will act violently against those groups perceived to be the agents of their economic misery. To cause civil conflict economic crisis by the environmental scarcity of resources must be severe, persistent and pervasive enough to erode the legitimacy of the political system. If people come to this belief that the state is responsible for their plight and deprivation, the legitimacy of the state will be challenged and the possibility that they will ignite violence against the state will increase. As Dixon elucidates, “the extent and degree of grievance caused by environmental scarcity of resources is a function of relative deprivation but this relative deprivation must be measured at the level of a specific sub groups within a society and it is powerfully influenced any local contextual factors such as the groups blame systems and conceptions of economic justice.”⁸

LINKS BETWEEN URBAN GROWTH AND VIOLENCE

In the 1960s some scholars suggested that rural to urban migration in the developing world would cause an increase in urban violence. According to Wayne Cornelius, the three key hypotheses⁹ in this regard include the following: Firstly, migration would breed economic frustration and migrants' expectations would not be fulfilled. Awareness of their marginal status would increase with the exorbitant consumption and inordinate life style of the elites. As a result, they would experience rising relative deprivation, and they could become increasingly involved in radical political activity.¹⁰ Secondly, problems of social and psychological adjustment on the parts of migrants in the urban environment would arise from culture conflicts and disruption of past living habits and costumes, resulting in personal identity crises. As migrants sought entry into new protective groups, they would be easily recruited into extremist political movements.¹¹ Thirdly, rural to urban migration would increase political awareness, and mobilisation of radical opposition would go hand in hand. Organised political activity in an urban environment among various interest groups would politicise migrants and encourage mass involvement in political action.¹²

In recent years, there has been little critical analysis of the links between migration, urban growth, and violence. Yet it is clear that the links are strengthened when large migrations interact with other factors. A protracted economic crisis, for instance, squeezes tax revenues and weakens all state institutions including the bureaucracy, judiciary, police, and military. The state becomes unable to cater to the demands of competing elites or the grievances of rapidly growing population; opportunities for popular protest and rebellion, therefore, increase.¹³

THE CASE OF PAKISTAN

Environmental scarcity in Pakistan's rural areas caused by reasons mentioned above – declining per capita availability cropland and water, decreasing productivity and population growth – has impelled the rural people to migrate to urban areas. Coalesced with this, the increasing

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incapability of the Pakistani government to meet the basic needs of its population has made the marginal groups in Pakistan's major cities, especially Karachi more grievous. Protest against the state has exacerbated tension and conflicts among diverse ethnic groups. This in turn shakes the very fibre of the stability in Pakistan society and state.

Environmental Scarcity and Degradation

Pakistan's environment has been degraded by soil erosion, salinity, water scarcity, uneven distribution of water, and high levels of deforestation. The state controlled development strategy imitating western pattern of development based on extraction of fossil fuel and industrialisation, burgeoning population growth and above all the nature of ecosystem are preponderant factors contributing to Pakistan's environmental degradation on a large scale.

Population Growth

Currently having more than 135 million population Pakistan is the tenth populous nation in the world. Given the trend of its growth and lack of effective population policy, its population is expected to cross over 200 million by 2010. With the current population growth rate of 3.1 per cent, the present population is likely to be doubled in 22 years or so.

Soil Degradation

Pakistan has a serious problem of soil salinity. Water logging and salinity are seen as major factors impeding agricultural productivity in the Indus plains. In addition to the loss of valuable top soil and water, the massive siltation in the downstream reservoirs, flood plains, river beds, canals, and water distribution system prove to be a phenomenal problem of the total surveyed land area in Pakistan. Less than 20 per cent of the land area retains the potential for intensive agricultural use, while 62 per cent is classified as having low potential for crop, livestock, and forestry production. Availability of irrigation has been a major source of production. Yet considerable irrigated areas are abandoned annually mainly due to salt damage. Other problems of

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environmental concerns are sinking ground water levels and salt-water intrusion in coastal areas. Another serious problem, which looms large under intensive agriculture, is the pollution of aquifers by nitrates and pesticide residues. Thus water and wind erosion, salinity, water logging, flooding, and the loss of organic matter have reduced agricultural productivity.

Water Scarcity

In rural Pakistan the major problems relating to water degradation are those of water logging, salinity, deterioration of ground water supplies due to water mining as well as seepage of pollutants, surface water pollution because of industrial and municipal wastes and agricultural chemicals.¹⁴ The extension of canal network with lack of drainage system has led to an increase in the area of salinity and salinity-affected land. As much as 65 per cent of the agricultural land in Pakistan is considered to be irrigated. However, the system is inefficient as almost 40 per cent of the water diverted for irrigation is lost due to seepage and evaporation.

The contamination of ground water from agricultural run off, industrial effluent discharge and human waste discharge has been a matter of concern. Many rivers in urban areas are virtually open sewers. In urban areas, there are four causes of water pollution: human and organic wastes, industrial effluents, chemical fertilisers and pesticides, and inadequate water storage, transmission and treatment facilities. Surface water samples collected from localities in large cities reveal that more than 70 per cent are contaminated with sewage organisms. Large quantities of organic matter and heavy metals are discharged into the rivers from the industries situated in cities like Lahore, Karachi and Islamabad. Toxic discharges from industrial establishments have poisoned waterways and estuaries rendering many thousand hectares of soil unfit for crop production. Karachi's 1900 industrial units and 200 hospitals churn out nearly 75 tonnes of solid hazardous industrial waste per day, thus wreaking environmental havoc in Karachi.¹⁵

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Deforestation

Pakistan has one of the lowest forest endowments in the world. Forests have been mainly cleared for irrigation projects, farmlands, new townships, markets, roads, industries and fuel wood for people. Hundreds of thousands of hectares of riverine, scrub, and forestlands in the Indus plains have been cleared for agriculture. Energy demand also causes deforestation. Nearly 50 per cent of heating and working requirements are met by fuel wood every year. As its 76 per cent of rural population depends on wood for heating and cooking, massive encroachments on state forests and pressures on trees and shrubs on marginal lands are found.¹⁶ What has been a matter of concern is the exclusive dependence of over 80 million livestock and numerous wild animals on the country's degraded lands and forest areas for grazing.

The negative consequences of uncontrolled forest exploitation are soil erosion, sedimentation, desertification of once productive upland areas, siltation of water ways in the plains and market scarcities of fuel wood and building timber creating an economic burden on low-income communities.

Air Pollution

Industrial centres in Pakistan like Karachi, Hyderabad, Lahore, Faisalabad etc. report atmospheric levels of carbon monoxide, ozone, sulphur dioxide and nitrous oxide higher than safe limits. In metropolitan industrial areas such as Karachi and Faisalabad pollution and pollution related diseases are found to be rampant. Karachi has registered an increase of six times in lung cancer during the last decade.¹⁷

Vehicle emissions in urban areas of Pakistan are the major sources of air pollution because of the use of leaded fuel. It is estimated that the average Pakistani vehicle emits 25 times as much carbon monoxide, 20 times as many hydrocarbons and 3.6 times as much nitrous oxides in grams per kilometre as the average vehicle in the United States.¹⁸ On the basis of volume, vehicular emissions represent a greater threat to human health than industrial emissions.

NEGATIVE IMPACT ON PAKISTAN'S ECONOMY

Environmental scarcity of resources and their degradation have affected Pakistan's economy negatively.

Economic Decline

Pakistan is mainly an agricultural country with 51.15 per cent of the labour force engaged in agricultural activities, producing 26 per cent of the country's GNP. The National Commission on Agriculture shows that since the green revolution in the mid-1960s, agricultural output has been growing marking a decline in the import of cereals. But despite dramatic increases in output and productivity agricultural yields continue to be relatively low. In fact, in recent years the high growth rate of yielding experienced during the initial years of the green revolution has not been sustained.¹⁹ It is unlikely that the agricultural productivity attained in the 1960s and 1970s as a result of increased availability of irrigation water can be maintained as chances of further increase in irrigation potential are remote. Consequently, it will be difficult for crop production to keep pace with pollution growth in the future. Under the existing system of water management, the probability of severe food shortages in the next two decades cannot be ruled out.²⁰ Excessive use of bio-fuels and firewood in the absence of alternative energy use in Pakistan has a direct impact on agricultural production in terms of fertilisers and changes in pattern of rainfall.

According to a report of the Household Energy Strategy of Pakistan quoted by the Panos Institute, 95 per cent of energy consumed in rural households and 56 per cent in urban homes come from bio-fuels. Global warming, it has been projected, is likely to bring about an increase in the frequency, intensity and range of cyclone and storm activity which consequently will cause changes in monsoon patterns. There will be an increase in the intensity of monsoon winds and a smoothening of annual variations in monsoon precipitation.²¹ While this will reduce the livelihood of drought years, it will increase the frequency and intensity in the country's rivers. With the expected doubling of atmospheric carbon, average monsoon rainfall in Pakistan

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could increase by 17 to 59 per cent resulting in unprecedented floods. Yet another Panos report prepared by Najma Sadeque, the Director of Pakistan Institute of Environmental Development Action, fears this would cripple Pakistan's agricultural dominated economy.²² These are likely to be worse than 1988 floods, causing devastations to both agriculture and human lives. Due to global warming there will be a rise in average air temperature and poleward shift in rainfall. Both of these will affect existing vegetation and cropping patterns in Pakistan and adequacy of human responses to the environment.

Since in Pakistan most crop zones are situated on the semi-arid and the marginal extremes of temperature and precipitation, disastrous effects due to global warming, are likely to be felt on agriculture. Studies point to a potential decrease by 0.45 tonnes per hectare for every 1°C (degree centigrade) rise in temperature or 10 per cent decrease in precipitation. Taking into account the short, medium and long term impacts of rise in temperature these studies show that production of wheat would decline by 2.5 per cent, 7.3 per cent and 12.2 per cent and rice production would dwindle by 4.6 per cent, 13.7 per cent and 22.7 per cent in respect of its affecting 10 per cent, 30 per cent and 50 per cent of wheat and rice areas respectively. It is also expected that changes in hot and humid weather due to global warming will make the country vulnerable to a spat of diseases, pests and weeds, thereby making Pakistan dependent on excessive use of pesticides and insecticides.²³

In the context of the decline in agricultural productivity due to environmental degradation, the sea level rise and green house effects as seen, will seriously affect the overall agriculture and economy of Pakistan.

Rural-Urban Migration

In Pakistan due to environmental scarcity of resources in the rural areas, people from rural areas used to migrate to urban areas. The urban population increased from 24 per cent of the total in 1965 to 31 per cent in 1988. In 1960, only 33 per cent of the urban population lived

in two cities with more than 5,00,000 people by 1980, the figures were 51 per cent of the urban population in seven cities.²⁴ Along with the multiple problems such as housing, water, electricity, drainage and sewage, mushrooming of illegal settlements in terms of slums and squatters have mounted due to the inaccessibility of the urban poor to the few available high priced developed land. About 25 to 30 per cent of the urban population in Pakistan are squatters, which are expected to increase to 60 per cent by the end of the century. In Karachi, squatter settlements that are estimated at 41 per cent of the total population are growing by approximately 400,000 persons per year, twice as fast as the population of Karachi. Residents of slum dwellers account for about 23 per cent of the population of other cities.²⁵

The increasing rate of slum dwellers in urban areas has made the efforts of the government to provide the basic amenities like water, electricity, gas, sanitation, health, education, drainage and sewage facilities more difficult. The result has been a growing failure on the part of the government to do the above job along with protecting the population against pollution, congestion and other health hazards and promoting distributional equity and other welfare and social obligations.

Sea level rise as predicted, will submerge most part of the city of Karachi turning many people as refugees. The result of the gradual sea level rise is that 1,700 kms.² of low-lying areas have submerged over the last century. This problem has been compounded by the withdrawal of fresh water from the Indus delta because of dams, barrages and irrigation projects. The result is increasing salt-water intrusion into delta areas. Keti Bandar, which was once a prosperous city, is now adversely affected by salinity due to sea encroachment. Since Karachi is the country's main industrial center and port city, the loss of its prime real estate due to further sea level rise will be of high magnitude. Also, the frequency of flood due to change in rain pattern, as will be caused by sea level rise, will not only damage property and life but also turn many as refugees for settlement elsewhere. This will further deepen the crisis of environmental scarcity of resources opening up the prospect of riot and conflict between ethnic groups.

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Weakness of Pakistan State

Government and development authorities are not able to provide residents with basic services, the city's aging infrastructure is overtaxed and does not properly service new communities. Housing is in critically short supply, the government being able to meet only about one-eighth of total annual demand.²⁶ Meanwhile, an informal system of illegal occupation and subdividing state land for sale to low-income families has developed. Managed by middlemen and corrupt government officials, this system of blatant rent seeking defies state regulations.²⁷

Karachi is seriously affected by acute shortages of electricity and water. Powerful communities in the city are able to procure better service through political pressure and bribes and by digging private wells and installing electrical generators. High demand for water along with rampant corruption and mismanagement in the Karachi Water and Sewage Board has created a tanker mafia who obtain water from illegal hydrants or from power districts in the city and then sell it for profit.²⁸ The customers are often the inhabitants of the very districts from which the water was taken, and exorbitant prices force many to buy water on credit. The results are growing impoverishment for low income urban dwellers at whose cost the entrepreneurs and local authorities amass huge profits.²⁹

Karachi's transportation system largely made up of privately owned minibuses is in disarray. Operators work long hours to repay loans taken for purchasing buses. Traffic laws and established transport routes are routinely violated, passengers are mistreated and accidents are common. The result is an acute public resentment, both against the government for its inaction and against an overwhelmingly Pathan core of operators.³⁰ Adding to the problem is the ever present influence of organised crime. Karachi has become the business centre for trafficking in narcotics and arms because it is an exit point for the narcotics trade to the rest of the world. Working with Afghan refugees and corrupt government and police officials, mafia type syndicates prey on the city's weaknesses and are adept at exploiting ethnic rivalries to impede state challenges to their power.³¹ Following the Afghan war and Pakistan's

involvement in the Taliban capture of power, the accessibility of inexpensive armament has increased which magnifies the potential for violence among rival groups.³²

A general climate of insecurity pervades the city. The population is increasingly divided on ethnic and class affiliation. With lack of institutionalised channels of protest and action on grievances, state legitimacy suffers. The people's loyalties and allegiances remain local, and efforts to redress grievances often take the form of ethnic and class based violence. Evidence of Pakistan's inability to cope up with the urban explosion is abundant. In Karachi, while population rises at 6 per cent per annum, urban services expand by only 1.2 per cent. The government has been able to meet only about one-eighth of the demand for housing from low-income groups. An illegal system of occupation and sub-division of state land for sale to low-income families has developed involving many corrupt government officials and inter-media agricultural land near the city.³³

Local governments are unable to provide cities with even a minimally acceptable level of basic services. In Karachi, only 15 to 20 per cent of sewage is treated, while the rest flows directly into the sea. Similarly 33 per cent of the city's solid waste is transported to dump sites. The public health cost of such improper sanitation is disastrous. Water borne diseases due to poor sanitation account for 25 to 30 per cent of total cases in public hospitals nationwide and account for an estimated 40 per cent of deaths. Migrants generally settle in low income areas characterised by high population densities and rudimentary living conditions. Because of high urban prices they are often forced to establish their settlements on the least desirable land which is subject to frequency of flood and lack of basic services. Despite their low quality, these lands are often subject to resource capture by powerful urban entrepreneurs. The terms of settlements for these migrants have been highly exploitative.

The 3.5 million Afghan refugees along with over 1 million Pakistani workers returning from the Middle East have staggered the urban growth from 4 per cent to almost 5 per cent per year in major cities.

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Inequitable Distribution of Resources

The elite and middle class represent narrow strata of society controlling an exceedingly large share of resources and industry. The green revolution benefited the large land owners. The use of high yield crops, fertilisers, and irrigation has favoured the large land owners, while very small farmers remain landless.

The existing inequalities have been further widened by the phenomenon of resource capture. With the renewable resources like land, water, forest etc. becoming scarce and degraded, their prices increase. Higher prices heighten the incentive for powerful groups to seize control of these resources and use them for private profit. Land speculation thrives in illegal squatter settlements.

Orgy of Violence

Successive waves of migration in Karachi have made this a city of considerable ethnic diversity. With the partition of the Indian sub-continent in 1947, the city's indigenous Sindhi population was overtaken by Urdu speaking *Mohajir* refugees. During the 1960s, the Pakistan government's green revolution and industrialisation caused a wave of Pushto speaking Pathans to move in from Pakistan's northern provinces. These changes have marginalized Karachi's Sindhi population both linguistically and culturally, yet the new migrants are under-represented within the provincial bureaucracy.

Today, Mohajirs run much of the city's business and industry. The Pathans making up the majority of the working class have gained a virtual monopoly over Karachi's transport sector. Retaining deeply rooted tribal traditions and support systems, they are in effect a separate state within a state,³⁴ and the Sindhi minority dominates government and educational institutions through a system of quotas.³⁵ Rivalries among these groups are common and flow largely from the positions in a society that the groups occupy. The presence of contending religious sects worsens the conflict; Shia-Sunni confrontations occur with almost ritualised regularity.

The Pakistani state at the national, provincial and local levels lacks the capacity and basic institutions needed to accommodate the needs of the city's diverse and quarrelling population. Pakistan's overdeveloped military-bureaucratic oligarchy is rife with corruption and patronage. Truly independent and representative political institutions have never been developed at any level of governance and few public institutions are available to ease the transition of migrants to urban life. Local government is characterised by murky lines of authority, few taxing powers, and little accountability.

Pakistan's high urban growth rate and rapid migration of rural people to urban areas have accentuated the long-standing rivalries among various groups. New permutations and combinations have taken place on ethnic and class lines often resulting in violence and conflict. Frustration stemming from the lack of urban services has prompted attacks on the offices of the Karachi Electricity Supply Corporation and the Karachi Water and Sewage Board.³⁶ Minibus accidents spark ethnic riots, and fights between Karachi residents and an underfounded police force are common. The fact that the police are heavily drawn from the Northern Provinces heightens ethnic tension.³⁷

A recrudescence of violence and civic strife has become in recent days a common phenomenon in urban cities of Pakistan more particularly in Karachi. Clashes, murder and riots have stained the city of Karachi. The causes may be economic and ethnic but the environmental scarcity of resources and the growing inability of the state to meet the basic service needs of the people has exacerbated the long time historical rivalry among various groups on ethnic and class lines. The recent frequency of riots in Karachi entwining the Mohajirs bears strong evidence to this fact of the urban poor and the migrants being inadequately supplied with urban services. Decreasing land-man ratio and considerable lack of economic opportunities to the poor urban and rural migrants, have given an ethnic shape to a stray conflict or incident.

As seen, the migration from rural to urban areas has been constantly rising. A growing number of shanties are seen around

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Karachi. As predicted, sea level rise submerging Karachi may result in flight of people for food and shelter to relatively secure urban areas and other places. This will accentuate the already existing conflict among various contending groups. Competition for jobs, economic benefit and basic modern amenities among the urban population will entwine migrants and the original inhabitants in various conflicts. Government's attention is concentrated on urban areas and for meeting their basic modern demand such as provisions for water, education, electricity, health and sanitation by diverting a sizeable part of the total budget. The disillusioned rural people and poor urban people will be thus disenchanted with the government, setting the stage for political instability. This strong elite urban bias in terms of providing such amenities as education, health, electricity and water, land allotment widens social inequities and increases spectre of conflicts among various social groups.

Overall, violence in Karachi stems from a myriad of factors that interact to magnify the impacts each might produce separately. The environmental scarcity of resources in rural areas and their accentuated poverty has impelled rural migration to urban areas. The increasing rural migration in interaction with burgeoning urban growth in the overall context of environmental scarcity of resources have put pressures on the state. As a consequence, the inability of state institutions to address diverse demands accentuates latent ethnic and class tensions. High population growth and increasing migration further boost the grievances and expose the impotence of reducing its legitimacy. Criminal elements exploit the state weaknesses and social cleavages and conflicts, and they import small arms that make it easier for all contending parties to resort to violence.

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CONFIDENCE BUILDING MEASURES BETWEEN INDIA AND PAKISTAN

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Throughout its history, there have been some well-accepted tools to defuse hostilities among the neighbours and bring peace. Even in the pre-modern world, when there was no developed mode of communication, the mediator or the *duta* used to travel on the back of the horse to mediate for settling disputes among nations. However, with the changing dimensions of development and the application of modern techniques, the international community has seen modern ways of settling disputes between nations. It is significant to note that prior to the First World War period, there was an atmosphere of hostility, which was confined to the imperialist powers, especially among those who were hell-bent to expand their respective spheres of influence. The First World War broke this tendency to divide the world among some limited nations. It was the Second World War that really changed the entire dimension of international relations. Almost all the third world countries, which were languishing under the oppressive regimes of the colonial powers, became suddenly independent. The appearance of a number of newly independent countries on the world map also increased tensions among their neighbours for several reasons. That is where confidence building measures (CBMs) played significant role in bringing peace among nations. Its importance in defusing tension and hostility and establishing an atmosphere of peace and cooperation among nations became more relevant in the post-Second World War period.

However, the post-Second World War scenario also accelerated the pace of hostility and competition between the Communist (Soviet Union) and the Capitalist (the U.S.A.) blocks. As such, the ideological difference divided the comity of nations into two different poles. Their

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conflict sometimes reached even to the brink of a Third World War, thus pushing the world into the danger of a nuclear holocaust. However, this hostile atmosphere became a part of history after the collapse of the former Soviet Union in 1991 and consequently the end of the Cold War. But a new phenomenon of hostile and dangerous situations in international relations occurred in the post-Cold War period. Relations between the nations began to be determined largely on the basis of ethnic and religious factors. After the infamous terrorist attack on the American installations on 11 September 2001, the world community has witnessed a new wave of violence with the potential of escalation of terror around the world.¹ Growth of terrorist activities created more dangerous situations before the international community, thus increasing the importance of confidence-building measures for maintaining peace and cooperation among nations. As regards India and Pakistan, the 13 December 2001 terrorist attack on the Indian Parliament followed by another attack on an army barrack on 14 May 2002 and yet another attack on a locality in Jammu on 14 July 2002 also created a situation where war became imminent between India and Pakistan. But it was avoided due to the application of Confidence Building Measures. There are so many other places in the world, where violence can easily erupt in the absence of confidence-building measures. It is in this context that this paper focusses on the need for confidence building measures for normalizing Indo-Pak relations.

CONFIDENCE BUILDING MEASURES

Cordial international relations depend upon mutual trust and confidence, and these in turn can only be acquired if there is an adequate communication. If there is fear and distrust, instead of trust and communication, the chances of peaceful coexistence become remote.

Confidence building is an exercise to establish peace and trust among nations. It is an extension of diplomacy. According to the *World Encyclopedia of Peace*:

Peace is everybody's business, and whether it is built in the council chambers and the corridors of the United Nations or in the cabinets of governments or whether it develops from a people's diplomacy, it is a holistic commitment to everyone. New perceptions and perspectives of international understanding are needed at all levels if a confidence is to be generated which will create a new basis on which the defence of peace can be constructed.²

Each and every religion preaches peace and cooperation. When Mahatma Gandhi fought against the mighty British (post-Second World War), he gave the famous theory of non-violence. It should have been an ideal for the restoration of complete peace and the atmosphere of cooperation in the world. Even Martin Luther King in a message said "No individual can live alone; no nation can live alone, and as long as we try, the more we are going to have war in this world – we must learn either to live together as brothers or we are all going to perish together as fools".³ On the basis of the above-mentioned discussion, we can say that a confidence-building measure is a broader concept to defuse tension and increase the possibilities of peace among the nations. Every effort, which is useful in decreasing tension at the international level, would certainly come under 'confidence-building measures'. Here it is very pertinent to mention that the level of confidence building measures depends on the particular country's position within the international community. Sometimes it may increase at the level of intervention. In today's context, confidence-building measures are working smoothly at the required level around the world except for few examples of still strained international relations.

Building Confidence in Hostile Environment

The existing theoretical aspects define confidence-building measures (CBMs) as tools for reducing tension and the avoidance of war.⁴ This concept developed from the East-West experience of confidence building to minimize the threat of an accidental outbreak of conflict and war.

The 1975 Helsinki Final Act and the 1990 Vienna document are some of the agreements that formalised the means to reduce tension

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through exchanging information, developing communication channels and adopting constraint measures that could then help build confidence in each other's intentions. The primary concept was to introduce an element of predictability in the behaviour of hostile states so that tension would not escalate to an uncontrollable degree. It has been used successfully to avoid direct confrontation between the USA and the USSR at the peak of the Cold War. It has also worked properly in the case of India and Pakistan. Both India and Pakistan have fought two major and two minor wars. Since the 1971 war, which resulted in the creation of Bangladesh as a new nation, confidence-building measures are working to avoid direct confrontation between the two countries despite incidents of small level regular clashes and skirmishes at the border. Notwithstanding the proxy war launched by Pakistan against India in Kashmir since 1990 and even after the 13 December 2001 terrorist attack on Indian Parliament, both countries continued to engage themselves to normalize their bilateral relations.

Need for Confidence Building Measures

South Asia is the home of more than one fifth of the world's population. In the last few decades, it has been one of the most volatile and conflict prone regions in the world, particularly since May 1998 when it entered a period of strategic arms race between India and Pakistan. The bilateral conflicts in South Asia are an extension of the internal conflicts and dilemmas of the region, accelerated by jingoistic sections of the media. India and Pakistan constitute more than 80% of the whole South Asian region. Therefore, if peace is to be established in South Asia, first there must be peace between India and Pakistan. Here it is important to note that the very aim of the establishment of the SAARC has been to enhance economic cooperation among South Asian countries. And it is only with the establishment of peace and cooperation between India and Pakistan that the main aim of the SAARC could be fulfilled. Besides, South Asia constitutes the largest number of poor people in the world. According to the World Bank estimates, the people earning less than \$ 1 per day come below poverty line. Even by this yardstick 43.5% of the total world's poor people live in South Asia alone.⁵

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It is well known that poor people lack opportunities. They lack political power, societal prestige and voice. At the same time, they are extremely vulnerable to sickness, violence and natural disasters. This situation is prevalent in India and Pakistan as well, where in floods or heat waves, people are dying in large numbers. As regards other problems, South Asia has the world's highest adult illiteracy rate. 59% of women are unable to read or write. Apart from one-third of the world's maternal deaths, malnutrition affects more than half of the region's children under 5 years of age. Lack of access to health care, major public health threats such as HIV/AIDS and malnutrition, low primary school enrolment rates, environmental degradation, inadequate infrastructure, and social exclusion are among the many obstacles.⁶ The largest number of sick, blind and handicapped of the world also live in the South Asian region. East Asia, Europe and other regions excluding sub-Saharan region are far ahead of South Asia, as becomes evident from the following Table.⁷

	South Asia	East Asia	Europe and Central Asia
Population	1.3 billion	1.8 billion	0.5 billion
Population Growth	1.9 %	1.1%	0.2%
Life expectancy at birth	62 years	69 years	69 years
Infant Mortality per 1000 births	75	35	22
Female illiteracy	42%	5%	2%
1999 GNP per capita	\$440	\$1000	\$2150
Poverty	43.5%	23.2%	2%

Despite this dismal status in key areas of human welfare and human development index, India and Pakistan are spending huge amount on defence budget. Pakistan spends 7% of its GDP on defence, i.e., more than what it spends combinedly on health and educational facilities. The key areas of welfare like education, sanitation, health care and drinking water have been affected due to this huge expense on defence.⁸ High defence expenditure and military dictatorships after the

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first military coup in Pakistan (1958) have derailed the process of democratisation of the country's fundamental institutions. Military has come into prominence by capturing every rampart of power and is determined to maintain it. It has also reduced the possibility of strengthening democratic roots within the corridors of power. And to maintain its prominent position in Pakistan the military has been maintaining and promoting a hostile atmosphere towards India. As a result, the poorest sections of the society, which constitute around 30% of the total population, are the main sufferers.⁹ In the case of India, where more than 30% people are living below the poverty line, the defence budget is almost equivalent to the education budget.¹⁰

The continued tension between India and Pakistan especially after 1990 has created so many problems for both the countries. India has been working very hard to tackle terrorism sponsored by Pakistan's Inter Services Intelligence (ISI) and the army. Pakistan has been under the grip of internal problems for several years now sectarian conflict and associated violence being the worst. Even mosques in Islamic Pakistan are not safe to pray to the Almighty. Regional imbalances and failure to accommodate genuine aspirations of various ethnic and linguistic groups have created severe problems within Pakistan. In such a situation confidence building measures are badly needed to establish friendly relations between India and Pakistan so that the two countries could be able to minimize their defence budgets and allocate adequate funds for the welfare of the general masses. Main hurdles in the way of CBMs are discussed below:

MAIN HURDLES IN CBMs

Legacy of Partition

Indo-Pak relations have suffered greatly since independence due to mistrust, suspicion and uncertainty. The founder of Pakistan, Mohammad Ali Jinnah perpetuated the communal hatred after the electoral debacle of the Muslim League in the pre-partition 1937 elections. Since then communal hatred became part and parcel of the League's political strategy. Jinnah became Governor General of Pakistan

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after its creation in 1947. Through his 11 August 1948 famous address to the Constitutional Assembly, Jinnah advocated the need for a composite society in Pakistan where religion, region and caste would not matter.¹¹ After Jinnah and Liaquat, the army took over Pakistan's reign. Maulana Maududi became an ardent advocate of the establishment of an Islamic order in the country. Following General Zia's taking over power on 5 July 1977, for the first time in the history of Pakistan, he gave direct entry to the Islamists into the corridors of power. In November 2001, when the US-led attacks were going on in Afghanistan against the Taliban and Al-Qaeda, these Islamist forces came out openly in favour of the Taliban and the Al-Qaeda.¹² However, it is also an open secret that these forces have evoked limited response from the general masses. But they are very organised and able to arrange street protests at least at the urban places within a short notice. Another important source of their strength is university campuses. They have captured the campus politics, especially after Z.A. Bhutto's period (1971-77) came to an end. Now they have tremendous clout over the appointment of faculty members in the universities of the country.¹³ Their student wings are quite active in campus politics and even do not allow any body to go against their ideology.

The Kashmir Issue

In the history of Indo-Pak bilateral relations, Kashmir has occupied the most prominent position. India and Pakistan have had several rounds of talks for a better relationship but Kashmir issue has always remained as the biggest hurdle. After 13 December (2001) terrorist attack on the Indian Parliament, the two countries came to the brink of war. Similar situation arose between the two countries in June 2002 following the terrorist attack at Kaluchak army cantonment on 15 May 2002. But somehow the war was averted.¹⁴ It is now being realised that Kashmir problem cannot be resolved by outside intervention or mediation but only through direct negotiations between India and Pakistan.

What happened in Kashmir during partition is well known. Pakistan wanted Kashmir because there was a feeling that partition would remain unfulfilled without the merger of Kashmir into Pakistan. They believe that continuance of Kashmir, as part of India is the negation of the notion of the 'two nation theory'. However, the formation of Bangladesh has repudiated. Even though, the Pakistani ruling elite is unable to concede the fact that they cannot occupy Kashmir by whatever means. President Musharraf, who was the Chief of the Army Staff when the Pakistani army launched its intrusion in Kargil in its bid to annex part of Kashmir in April-July 1999, is well known to be the architect of this failed attempt.¹⁵ Ironically it was Musharraf who was party to the agreement signed on July 4, 1999 by Prime Minister Nawaz Sharif in Washington to withdraw Pakistani army or intruders from Kargil.¹⁶ Musharraf, notwithstanding his public postures for peace and to curb terrorism, he has been trying to legitimize terrorism in Kashmir as war of liberation (*Jang-e-Azadi*).

On the other hand, Kashmir is the symbol of Indian secularism as it is the only state where Muslims are in majority. If it is separated from India, the very loyalty of country's 12% Muslim population would be clouded by suspicion. However, the fact remains that India has not been able to recover Pakistan occupied Kashmir, despite the Parliament passing so many resolutions to take it back. As it became impossible for Pakistan to claim its authority in Kashmir, they started encouraging terrorism particularly in the Kashmir valley. But in the post-September 11, 2001 situation there has been increased international pressure on Pakistan to stop harbouring terrorism. International opinion has veered round the view that the conversion of the present Line of Control (LoC) into a permanent international boundary is the only viable solution to the problem. Both governments are spending their money in Kashmir either for promoting or combating terrorism. Now there is need to divert this money to areas like education, health, sanitation and for the development of infrastructural facilities.

FACTORS FOR STRENGTHENING CBMs

It is worth to be noted here that despite traditional hostility the two countries have also been engaged in CBMs ever since independence in 1947 and have managed to resolve a number of conflicts between them. The CBMs include the signing of a pact in April 1950 about the treatment of minorities in their respective countries, and the conclusion of the Indus Water Treaty in September 1960 for the joint sharing of water from the Indus basin. In 1968, a three-member Commission was able to resolve the Rann of Kutch boundary dispute and in 1969, the two countries were able to resolve five disputed claims along the border.¹⁷ In 1988, an agreement on non-attack on each other's nuclear installations was formalised. The two sides also entered into an agreement on not to violate each other's air space and also to notify each other about their military exercises. Tashkent, Shimla and Lahore agreements or declarations have also contributed much to ease tensions and strengthen confidence building between the two countries.¹⁸

Irrespective of the hostile relationship, both countries have a strong tradition of similarity at least at the societal behaviour, language etc. The Islamabad SAARC summit (January 2004) again created a new hope among the region's 1.5 billion people. President Musharraf's call for *Jehad* against *Jehadis* has certainly the potential to reduce tension between the two traditional adversaries.¹⁹ The pace of CBMs can further be strengthened by implementing the following factors:

Economic Cooperation

Both India and Pakistan form the core of South Asian Association for Regional Cooperation (SAARC). More than 80 per cent of the region's population, resources and other important things are in India and Pakistan. If India and Pakistan cooperate with each other, then there can be any ray of hope for reconciliation and goodwill among the SAARC countries. After the Second World War many countries of the world became independent. They had hostile relations in the initial years, but later on they established cordial relationship to reap the benefits of

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economic development. Regional cooperation has now become the reality especially after the end of the Cold War. Regional cooperation has the potential to reduce hostility among neighbors on the one hand, and on the other, it creates beneficial economical scenario for the members of the concerned regional groupings. It is very pertinent for the developing countries because of their overall backwardness. Needless to say, South Asian region comes under this category, where 44 per cent of the people are living below the poverty line. It is also true of India and Pakistan where large number of people are living below the poverty line.

Today the European Community has become a successful example of regional cooperation. But perhaps people have forgotten the fact that France and Germany fought bitterly against each other during both the World Wars. It is only due to economic compulsion that they are now cooperating with each other. The whole world has become like a global village due to high technology and all pervasive sources of communication, not to forget the end of the Cold War, which has changed the dimension of international relations. The economic factor has compelled even the developed world to cooperate with each other, despite the fact that they possess almost 80 per cent of the world's resources. North-South cooperation has been a debating point since the end of the Cold War. However, an equitable world economic system can only be established by building a strong South and for this goal South-South cooperation remains a key pre-requisite. It is also a fact that Southern countries are scattered everywhere in the world. Therefore, there should be two ways of cooperation within Southern countries. Firstly it should be amongst all the Southern countries and secondly it should be at the regional level.²⁰ ASEAN is the best example of this kind of successful regional economic cooperation. SAARC is yet another effort for regional economic cooperation among South Asian countries. But there is a strong need to strengthen intra-economic cooperation among SAARC countries. Only through this kind of cooperation, the SAARC countries can strengthen their position at the international level in various financial matters. There are several

commodities, which are cheaper in SAARC countries, and, therefore, it would be beneficial to take these items from the neighbours than from other far off countries. For example, iron rods, bicycle, wheat and tea would be extremely cheaper for Pakistan if these items are imported from India. It is an open secret that the success of SAARC also depends on cordial trade relations between India and Pakistan.

The Islamabad SAARC summit thus reiterated its commitment to enhance the pace of trade relations among member countries. The agreements to lower tariffs and elimination of non-tariff barriers formed part of a landmark free trade agreement reached during the summit. Under the terms of the deal, SAARC members are required to reduce intra-regional tariffs to 5 per cent or less over the next decade while eliminating informal trade barriers. SAARC also committed itself for developing a regional development bank, a common currency and, ultimately, the economic union.²¹ There has been an apprehension in Pakistan and smaller member states of the SAARC that accelerating trade relations would flood smaller countries' markets with Indian products due to its supremacy in technology over other SAARC countries. But reality is far from this apprehension. Tariq Sayeed, a former President of the Pakistani Chamber of Commerce, says that he has been pushing his government for more than a decade to forge a free-trade agreement with India. Local companies in Pakistan suffer on account of huge transport costs due to restrictions on imports from India. According to him, this move for free trade was long overdue. Without this, "we run the risk of falling behind the rest of the world," he adds.²²

Ironically, despite opportunities at the ground level, the frequency of cooperation between India and Pakistan in accordance with SAARC provisions has been at a low level. Officially, bilateral trade between India and Pakistan amounts to just 200 million dollars.²³ The reason behind this set back is that the fundamentalist forces in Pakistan have been opposing economic cooperation between New Delhi and Islamabad. Even then, Indian goods are very popular in Pakistan's markets, which are going there through smuggling and other non-official

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channels. According to Pakistan's Central Board of Revenue, its losses in 1998 amounted to 30% of the government's revenue of 6 billion dollars.²⁴ Smugglers, drug barons and the military have developed a nexus to nurture this smuggling for retaining their personal economic gains. According to trade experts, the real trade figure per annum in smuggled goods is over 2 billion dollars. However, this trade is taking place through third countries. With the result, common people in Pakistan are the sufferers as they are compelled to buy commodities at high prices. Besides, this smuggling deprives the Pakistani government exchequer of huge tax revenues, which could have been utilized for infrastructural development and public welfare scheme. At the same time the smugglers provide the funds for the *jihad* factories.

Lahore Declaration and High Level Talks

The whole world was surprised when former Indian Prime Minister Atal Behari Vajpayee decided to visit Lahore in February 1999. This initiative was significant as it was taken by a coalition government led by the Bharatiya Janata Party (BJP). Since the BJP was labeled as a Hindu nationalist party, any initiative by such a party for political accommodation with Pakistan had the best chance of acceptance by a majority of the Indian people. Further, in April 1999, Indian and Pakistani Parliamentarians as well as Speakers of both countries met in Islamabad.²⁵ They decided to continue the process of negotiation at the highest political level. But the Pakistani military intrusion into the high peaks of the Kargil sector in Kashmir, late April and May 1999 gave a rude jolt to this process.

After the Shimla Agreement (1972), the Lahore Declaration (February 1999) was considered to be a landmark in Indo-Pak relations. This declaration was significant so far as CBMs are concerned. The two countries agreed to intensify efforts to resolve all issues including that of Jammu and Kashmir. Other important provisions of the Agreement included refraining from intervention and interference in each other's internal affairs, reducing the risk of accidental or unauthorised use of nuclear weapons, as well as a reaffirmation of

determination to combat the menace of terrorism.²⁶ With the military took over in Pakistan, the Chief of Army Staff General Pervez Musharraf came into power. After initial reluctance to normalize relations with India, Musharraf agreed to a summit meeting, which was held in Agra in July 2001. But nothing substantial came out even after this summit. December 13, 2001 terrorist attack caused a setback to the process of normalization. But at the SAARC forum in Kathmandu in January 2002, Musharraf shook hands with Vajpayee.²⁷ May and July 2002 terrorist attacks in Kashmir again made the things difficult. However, despite these summit failures, high-level talks have been continuing both at unofficial and official levels, which would help decrease tension between the two countries.

Tourism Cooperation

The common cultural heritage and other shared legacies provide a firm basis for close cooperation in the fast emerging area of tourism between the two countries. A common Pakistani would not find himself spiritually and religiously satisfied himself without paying a visit to Ajmer's Dargah, Hazrat Nizamuddin in Delhi or Taj Mahal at Agra. Similarly there are very important religious shrines in Pakistan for Hindus and Sikhs. Therefore, there is a need to have mutual cooperation between the two sides to encourage such visits to the historical and religious places in both countries. Promotion of intra-regional tourism is a part of the SAARC agenda too. In June 2002, a seminar organized in Thimpu explored the possibilities of enhancing cooperation within the SAARC countries. The seminar observed that cooperation in tourism should be immediately enhanced, otherwise this area will lose badly needed foreign currency, as well as goodwill among the citizens of the SAARC nations.

Professional Exchanges

Interaction between various academic, scientific and technical institutions and professional groups between the two countries need to be enhanced. Few groups have been exempted from the visa formalities in the SAARC charter. Interaction should be accelerated between the

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academics, advocates, students, media persons, literary, theatre persons and others. For example, SAARC law meet, which was held in Jaipur in September 2002, called for distributive equity among the SAARC countries. Various lawyers of almost all SAARC countries including the Chief Justices of Pakistan, Nepal, Sri Lanka, Bhutan and the Maldives had participated in this meet.²⁸ Similarly, cooperation in the area of sports is bound to lead to increased interaction between the people of the two countries at the popular level.

CONCLUSION

The pace of intra-regional economic cooperation is increasing everywhere in the world. The frequency of intra-trade relationship in EC has been above 70%, in ASEAN- 50% and in NAFTA- above 30%, but it is a poor 4% in the SAARC, which is great injustice to the poor masses of India and Pakistan. The January 2004 SAARC summit created a new hope for better relations between India and Pakistan. Through process of CBMs, India and Pakistan will not only reduce their traditional hostilities but also strengthen the SAARC as well as the South-South cooperation, which would be beneficial for the people of this region.

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UN SUB-COMMISSION ON HUMAN RIGHTS (53rd SESSION): A REPORT

Sharad K. Soni

The UN Sub-Commission on Promotion and Protection of Human Rights, the principal subsidiary organ of the UN Commission on Human Rights (UNCHR) held its 53rd Session from 30 July to 17 August 2001 at Palais des Nations in Geneva. The Sub-Commission, which was created in 1947 by the UNCHR consists of 26 independent experts representing countries from the five regional groups. According to its mandate, the Sub-Commission carries out studies and makes recommendations to the Commission on Human Rights for necessary actions on the concerned human rights issues. The Sub-Commission basically keeps abreast of trends in the field of human rights and explores issues that are considered important and have not received sufficient attention. It has already been credited with arousing worldwide interest in the promotion and protection of the rights of indigenous peoples as well as with leading a campaign to end traditional practices such as female genital mutilation that are harmful to the health of women and children.

Mr. David Weissbrodt of USA was elected as Chairman of the fifty-third session, while Vice-Chairmen included Mr. Paulo Sergio Pinheiro of Brazil, Mr. Soo Gil Park of the Republic of Korea, and Mr. Stanislav Ogurtsov of Belarus. Mr. Godfrey Bayour Preware was elected as Rapporteur for this session. Having elected officers, the Sub-Commission on the Protection and Protection of Human Rights heard an address by High Commissioner for Human Rights, Mary Robinson. She said “the Sub-Commission had made important contributions to preparations for the upcoming World Conference against Racism and also had regularly made unique contributions in the field of human rights through its thematic working groups and its studies on emerging issues, such as globalisation and its effects on human rights.”

Highlighting that the Sub-Commission had taken many steps to advance human rights over the years, David Weissbrodt in his address said that it was among the first to interact closely with NGOs, besides being one of the first to propose and support the World Conference against Racism. He said that the Sub-Commission had not only established working groups on vital issues such as indigenous populations, contemporary forms of slavery, minority rights, the administration of justice and the working methods of transnational corporations but also continued to discuss human rights situations in particular countries. He added, “It was important for the group to remember that it was part of a broader network of human rights bodies and that it must continue to carve out a useful and unique position within that system” he added.

Meanwhile, while highlighting the progress made by the Sub-Commission on important issues, the Chairman of the UN Commission on Human Rights, Leandro Despouy, said that one recent accomplishment of the Sub-Commission was approval by the Economic and Social Council of a permanent forum within the United Nations system for indigenous populations – a matter dating from the Sub-Commission’s establishment of a working group on indigenous populations years ago.

While reporting on her activities on behalf of the Sub-Commission since its fifty-second session, the outgoing Sub-Commission Chairperson, Ms. Antoanella-Iulia Motoc, called for further efforts to streamline the Sub-Commission’s work so that it could continue to make important contributions in its field. She regretted that the number of bodies dealing with human rights was still very small compared with the number and variety of violations of human rights. Ms. Motoc also announced the death of former Sub-Commission Expert Ahmed Khalifa, who had served from 1969 to 2000. Several Sub-Commission members recalled the contribution of Mr. Khalifa and a moment of silence was observed.

A number of issues deliberated at the 53rd session of the Sub-Commission on Promotion and Protection of Human Rights

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included the Realisation of Economic, Social and Cultural Rights and Right to Development; Rights of the Indigenous Peoples; Prevention of Discrimination against and Protection of Minorities; Freedom of Movement including Population Displacement and the Right to seek asylum from Persecution; Elimination of all forms of Intolerance and Discrimination based on Religion or Belief; Promotion, Protection and Restoration of Human Rights at national, regional and international levels; Encouragement of Universal Acceptance of Human Rights Instruments; Elimination of Racial Discrimination including the situation of migrant workers and their families; Rights of Women; Rights of Children and Youth; Contemporary forms of Slavery; Adverse consequences of the transfer of arms on the enjoyment of human rights; Arbitrary deprivation of nationality; Implications of humanitarian activities for the enjoyment of human rights; Terrorism and Human rights; Administration of Justice, Human rights and disability etc.

Question of Violation of Human Rights and Fundamental Freedoms

As in the previous sessions the 53rd Session of the Sub-Commission on the Promotion and Protection of Human Rights once again debated this agenda item that always remained one of the most contentious issues. The Sub-Commission, under instruction from its parent body, the UN Commission on Human Rights, did not field resolutions on situations in particular countries. Under this agenda item the Sub-commission had before it a note by the High Commissioner for Human Rights transmitting the report on the International Commission of Inquiry for Togo (E/CN.4/Sub.2/2001/3) which contained allegations against Togo from the Amnesty International report as well as reactions from the Government of Togo and the actions undertaken jointly by the United Nations and the Organisation of African Unity (OAU).

Before the debate began, various national delegations briefed the Sub-Commission on progress on human rights made in their countries, or alleged violations by other nations. The Sub-Commission then heard

several Experts on the idea of acknowledgement or reparations for crimes committed under colonialism and the slave trade. While speaking on several issues involving the violations of human rights, Sub-Commission Expert El-Hadji Guisse, said that it was clear now that human rights violations were more frequent, massive and serious. He said that although it had been hoped that following World War II, the world would have become a better place and today it was even recognised in some parts of the world that people had a right to have their ill treatment recognised, it was not the case with Africa which had been plunged into complete poverty and misery, and into a situation where it had to deal with famine.

Sub-Commission Expert Halima Embarek Warzazi said a proposal put forward last year had resulted in a report by the Secretary General which discussed reparations for those affected by slavery, colonisation and wars of conquest. She said that one idea that had been forwarded was to provide reparations through the forgiveness of debt. Several Experts voiced their support for these suggestions. Sub-Commission Expert Francoise Jane Hampson suggested that for direct compensation to be appropriate, either the victim or the next of kin of the victim had to be alive. Further, she said that the acts had to be unlawful at the time, otherwise there would be punishment for something that was not illegal when it was carried out, and that itself was a violation of human rights.

There were also comments on Sub-Commission Expert El-Hadji Guisse's remarks that a Preparatory Committee for the upcoming World Conference against Racism was reportedly unable to reach consensus on whether or not the summit, scheduled for early September in Durban, South Africa, should address these topics. Sub-Commission members suggested that they would table a resolution supporting at least acknowledgement by colonial powers and former slave-holding States that serious wrongs had occurred. It was also suggested that reparations or compensation might be made in various ways. Sub-Commission Expert Rajendra Kalidas Wikmala Goonesekere said that emotion and urgency were not the best way to

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deal with such matters. “It would be necessary to frame the issue fairly and decide what was just”, he said. “Slavery was to be found today in various parts of the world, yet nobody was talking about reparations for it.” He contended that slavery reparations, if made, should encompass all forms of slavery.

Considering the proposal on debt relief offered by former colonial powers as a way of linking past offences with present actions, Sub-Commission Expert Fried van Hoof said that the Sub-Commission should suggest something precise that would benefit individual people and not States. Sub-Commission Expert Leila Zerrougui contended that former colonial powers would have to recognise their responsibility and some acknowledgement had to be made to the socially and economically deprived countries that had been colonised. “There could be no fighting racism and no fighting impunity without looking at these wounds”, She added.

Sub-Commission Expert Soo Gil Park said that the United Nations had been the key actor in the advancement of human rights, and if it did not stay at the forefront of developments in that field it would fail in its most fundamental mission. While outlining the challenges, which included the persistence of ethnic and religious conflicts and the continuing prevalence of poverty, he said that women and children too often fell victims to the targets of brutal acts during conflicts. However, “of late, the human rights agenda had begun to reflect these challenges,” he added.

Meanwhile, highlighting the progress made during the tenth Bhutan-Nepal Ministerial Joint Committee Meeting held in Kathmandu in December 2000, the representative of Bhutan, Bap Kesang said that an agreement was reached on a joint verification team that would undertake a verification of the people in the refugee camps in Eastern Nepal. He reiterated that Bhutan remained committed to finding a solution to the problem, besides expressing confidence that the international community would continue to encourage both the Bhutanese as well as Nepalese governments in this bilateral process.

A member of NGOs which spoke before the Sub-Commission, contended that abuses were occurring in numerous countries around the world. Gianfranco Rossi of the International Association for Religious Freedom argued that many violations of human rights were caused by religious extremism and that there had been a notable rise in such extremism applying to all religions. He said that such an approach to religions, which in their essence advocated peace and tolerance instead resulted in the spread of hatred, violence and destruction in many regions of the world.

Highlighting serious human rights violations in Pakistan, P. Leblance of Franciscans International regretted that many NGOs, Governments and United Nations reports had documented the gravity of the situation, including those of the Special Rapporteur on torture, who reported that torture was widespread and endemic in Pakistan. He said that there were also rapes and other forms of cruel treatment, beating and abuse of those arrested; arbitrary detention in the context of extreme political or religious conflicts; and poor prison conditions. Political leadership and martial law regimes had used Islam to legitimise their rule to the disadvantage of religious minorities. He stressed that the Government should take steps to establish good governance, observe international human rights standards, and repeal discriminatory laws, besides inviting the Special Rapporteur on religious intolerance to make a second visit to Pakistan.

Keith Bennet of the Afro-Asian People's Solidarity Organisation said that militancy, a euphemism for random violence and terror, was increasingly being practiced in the name of self-determination – that noble ideal was being usurped by those who feared democracy or sought to exploit terror to grab power. Terrorists sought refuge in places where administrative powers protected them – that was why Afghanistan under the Taliban had emerged as a cradle of modern-day terrorism. But the blame also lay with those who nurtured and unleashed terrorists upon the world. "If one examined the motivations of these groups one discovered that many of them expounded variations of the same violent ideology born of the madrasas of Pakistan."

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The international community should focus its energies against States that not only usurped democratic norms and denied fundamental rights to large segments of their own societies, but allowed their territories to be used to breed cadres of armed terrorists calling for holy wars against established, functioning democratic States.

Mumtaz Khan of the International Institute for Peace said that human rights violations were manifest in numerous ways and forms. In some countries, human rights violators were committed officially through their secret agencies, police, and border forces and in some countries such abuses took place unofficially through their renegades and sponsored militant groups. In Afghanistan, women had totally been deprived of fundamental rights in the name of religion. They had been deprived of the right of employment, right of education, and right of assembly. He said that the Taliban was also eliminating non-Wahabi sects. Some fundamentalist forces were gaining ground in Pakistan, where they openly vowed to target what they declared un-Islamic, including television. The Pakistani Government that often made a hue and cry regarding the right of self-determination of Kashmiris and highlighted human rights violations in India recently held so-called elections in Pakistan occupied Kashmir. All 32 candidates of the All Parties National Alliance had their nomination papers rejected, and were barred from contesting the elections. More than 200 activists were severely beaten by the Army and the police.

Khalil Tahir of Pax Romana said that 97 per cent of the population of Pakistan was made up of Muslims, and the remaining 3 per cent were religious minorities who were subjected to all sorts of discrimination and human rights violations. Pakistan was a symbol for intolerance, Islamic fundamentalism and terrorism. Human rights violations especially continued against religious minorities. There had been attacks against places of worship and blasphemy cases brought against religious minorities. He stressed that the human rights of all citizens of Pakistan should be recognised and protected without any discrimination. "The Constitution of Pakistan, which discriminated against religious minorities had to be changed; the system of separate

electorates must be eliminated; protection of women must be increased; all complaints of human rights violations must be investigated and perpetrators brought to justice,” he added.

Firdous Syed of the European Union for Public Relations said that while there were many countries where there were violations of human rights, it was worth noting the situation of the freedom of the people of Jammu and Kashmir in India. The violations of the rights of these peoples arose from the external armed groups who clandestinely infiltrated the State and indulged in large-scale killings, kidnappings and vandalising. These armed groups were sponsored, armed and supported by a neighbouring country, and were termed by that country as freedom fighters. The people of the State of Jammu and Kashmir attained freedom back in 1947 after waging an anti-autocracy struggle for more than 30 long years. The armed gangs now prevented the people of Kashmir from enjoying the fruits of the right to self-determination, which they exercised more than half a century ago. These armed groups were not sparing even the pilgrims while they were proceeding along high mountains to a holy cave. He urged the Sub-Commission to distinguish between a true freedom movement, and a religious-oriented struggle for political ends.

Administration of Justice

Before taking up this agenda item, the Sub-Commission had before it two documents. The first document was a report of the Office of the High Commissioner for Human Rights (E/CN.4/Sub.2/2001/6) on *the question of human rights and states of emergency* containing details of countries or territories in which a state of emergency had been proclaimed before July 1999 and continued thereafter. The report also listed countries and territories that proclaimed a state of emergency between July 1999 and May 2001. Another document was a note by the Secretary General ((E/CN.4/Sub.2/2001/8, and Corr. 1) on *mass and flagrant violations of human rights which constitute crimes against humanity and which took place during the colonial period, wars of conquest and slavery* discussing means and proposals which

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could be adopted in order to provide reparation to the victims of colonization, wars of conquest and slavery, and to honour their memory. The note also provided a contemporary definition of crimes against humanity.

During debate the Sub-Commission discussed and debated the administration of justice in all parts of the world, with Experts, NGOs and national delegations describing, among other things, the application of the death penalty. Several Sub-Commission Experts spoke on alleged violations of administration of justice committed by United Nations peacekeeping forces. It was suggested that the Sub-Commission might seek to set up standards for coping with situations where peacekeeping troops had to deal with persons accused of human rights violations in locations where functioning judicial systems did not exist. A number of speakers deliberated upon the importance of an independent judiciary and prohibitions on the right to freedom of assembly.

Sub-Commission Alternate Expert Vladimir Kartashkin pointed to the dangerous trend in which a number of countries, which had done away with the death penalty, were re-introducing it. Meanwhile, Sub-Commission Expert Leila Zerrougui said that discrimination of justice generally affected the most vulnerable segments of society, and those in prison. People were discriminated against because of their race, gender, age, and their sexual preference. In prisons, the victims were often subjected to torture. Police behaviour seems to be based on discrimination. Appropriate legal protection was of utmost importance. Women were the most discriminated against – they were unrepresented in the entire administration of justice.

A series of NGOs charged violations of judicial standards in various countries and regions. Sardar Shaukat Ali Kashmiri of the European Union of Public Relations said that in Pakistan-occupied Jammu and Kashmir the rule of law was routinely subverted for the sake of political expediency and where administration of justice was fundamentally marred by the fact that millions of ordinary citizens were deprived of the most basic rights to life with dignity and honour.

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Pakistan frequently referred to Indian-occupied Kashmir, but refused to admit that it also had improperly occupied Kashmiri territory. He said that many Kashmiri parties had been barred from contesting the July assembly elections and even more than 100 people had been arbitrarily detained to limit involvement in the election. Meanwhile, the militants which Pakistan called “freedom fighters” in Kashmir, were in fact killing innocent civilians.

Mrs. K. Wadhera of the Asian Centre for Organisation Research and Development said that India was a multi-religious, multi-cultural and multi-lingual society which had the world’s longest and most comprehensive written Constitution, incorporating positive aspects of the constitutions of other democratic and liberal countries. The biggest achievement was that all adults had an equal right to choose their representative who contributed to governance at local, state and national levels. Everyone had an equal right to vote. However, she added that it was not being claimed that there were no prejudices or frictions at the social levels and of political nature.

Kashinath Pandita of Interfaith International said that the politicising of religion not only debilitated its capacity but also created tensions among religious majorities and minorities who otherwise might live together in peace and amity. In a theocratic State where the official tendency was to enforce religious law, religious minorities often bore the brunt of an exclusivist legal system. In some former colonies of South Asia, apart from a broad penal code with modern orientation dating from the colonial era, there often were religious courts which applied contrary provisions resulting in the two systems coming into embarrassing conflict. He urged the Sub-Commission to advocate the adoption of extradition treaties agreed to by all United Nations Member States, as that would reduce the frequency of crimes against humanity by making it harder for perpetrators to escape justice by fleeing to countries from which they could not be extradited.

M. Dajkia of the World Federation of Democratic Youth said that Punjabi dominated civil and military regimes in Pakistan had grossly

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violated the rights of the Mohajirs in urban Sindh for years, including through extra-judicial killings, broad-day murders, incarceration, kidnapping and forced disappearances. The *Mohajirs*, who took credit for the creation of Pakistan in 1947, were now suspected of not being loyal to Pakistan. Some 23 million *Mohajirs* in urban Sindh were denied adequate representation in all of the state organs of Pakistan; in civil administration their representation was only nominal. He highlighted that dozens of Muttahida Organising Committee (MQC) workers detained in Sindh had been subjected to severe torture. The judiciary in Pakistan was manipulated by the military regime and the scandal of partisan judgements by some Pakistani judges needed no further elucidation. He urged the Sub-Commission to ask Pakistan to protect and promote human rights for all its citizens without bias.

Prof. Riyaz Punjabi of the **Himalayan Research and Cultural Foundation** said that the lofty ideals of the universal principles of human rights could not be guaranteed without ensuring the independence of judicial authorities. The nexus between the executive and the judiciary also had drawn the attention of concerned observers. He said that executive powers had cast serious doubts about the process of selection, training and the conduct of the judiciary in many countries; and the atmosphere of uncertainty and repression created by State and non-State actors in many nations in South Asia had gravely paralysed judicial systems and raised questions about their legitimacy. There had been murders of key witnesses, lawyers and judges which obviously intimidated people administering justice. In one South Asian State it had been revealed that the executive dictated the judiciary to pronounce judgement in order to settle political scores against a former Prime Minister. Stressing that judicial independence must receive wider international emphasis, he called for an urgent need to address the de-democratisation of some societies.

A. Ziauddin of Ain O Salish Kendra in a joint statement with Transnational Radical Party said that Pakistan was organically linked to the situation in Afghanistan, and had yet to deal with its own past. Pakistan was still unsure about its identity, and had been immersed in

perpetual crisis, as the ethos of its existence in 1947 of a Muslim land for Muslims was demolished in 1971 with the emergence of Bangladesh. A full-scale genocide carried out by its army that wiped out three million souls, and raped 300,000 women, failed to keep Pakistan's integrity. Numerically, the Bangladesh genocide topped the list of genocides, right after the holocaust. In Asia, no inhumanity thus far had surpassed the events of 1971. For a long time, the people of Bangladesh have been demanding a trial of the perpetrators of the 1971 genocide. The ordinary Pakistanis were kept totally in the dark of the country's sordid past, but history recently caught up with Pakistan when the Hamoodur Rahman Commission report was leaked. The Commission, headed by Pakistan's Chief Justice, recommended some top military commanders be put on trial, not for the atrocities committed by them, but for their alleged failures in military conducts.

Hassan Sharif of the International Institute for Peace said that in Pakistan a Prime Minister had been forced out of office by generals; and democratic process had again been derailed for the fourth time in five decades. He was concerned for the millions of Pakistanis who had been slapped again in the face in trying to realise their dreams of democracy; Pakistanis today asked why they should bother to go to the polls to vote if their electoral will could be slapped aside by a general. He argued that what would happen if future Pakistani generals did not like this particular general's version of "democracy" five years down the road and whether military interventions would ever stop.

Economic, Social and Cultural Rights

Under this agenda item, the Sub-Commission had before it a report of the Secretary General (E/CN.4/Sub.2/2001/11, and Add.1) on promoting the right to development in the context of the United Nations Decade for the Elimination of Poverty. The report described the consensus that emerged over the last decade about the recognition of the importance of human rights, including the realisation of the right to development as a pre-requisite for effectively promoting development and combating poverty. There was another report of the

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High Commission for Human Rights (E/CN.4/Sub.2/2001/13) on the impact of the Agreement on Trade-Related Aspects of Intellectual Property Rights on human rights. It contained various conclusions and recommendations, including encouraging States to monitor the implementation of the Agreements on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to ensure that its minimum standards are achieving this balance between the interests of the general public and those of the authors. Yet another report was a note by the Secretariat (E/CN.4/Sub.2/2001/14) on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights which noted that a workshop on the justiciability of economic, social and cultural rights, with particular reference to the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights was convened in Geneva on February 2001.

However, it was a report concerning globalisation and its impact on the full enjoyment of human rights (E/CN.4/Sub.2/2001/10) that attracted most the Sub-Commission's concern. The report touched upon such issues as intellectual property rights and impartiality within international mechanisms that helped foster globalisation. Authored by Sub-Commission Expert Joseph Oloka-Onyango and Alternate Expert Deepika Udagama, the report called for greater respect for human rights by international financial institutions and said greater connections had to be made between international economic law and international human rights law. It also said, among other things, that IMF and World Bank debt-reduction measures and WTO dispute-settlement procedures were not sufficiently taking into account human rights difficulties in developing countries.

Responding to the report the representatives of the World Trade Organisation (WTO) and the International Monetary Fund (IMF) contended that the rules of international trade and economic regimes did not show sufficient respect for human rights standards. They said that dispute-settlement panels and Member States of organisation were required to take international human rights law into account when interpreting WTO provisions, and that in terms of access to vital

medicines, WTO members were striving to ensure that the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was part of the solution and not part of the problem in the public health crises in developing countries. Meanwhile, the IMF representative also said that in a strict sense, the Fund did not have a mandate to promote human rights and was not bound by various human rights declarations and conventions – but that was too narrow a perspective, because the Fund’s activities involved economic matters that were critical for the empowerment of civil society and amounted to preconditions for the attainment of human rights in their broad sense.

Several Sub-Commission Experts, including Fisseha Yimer, Yoza Yakota, Asbjorn Eide, and Paulo Sergio Pinheiro expressed their shock over IMF representative’s statement that the Fund was not bound by international human rights instruments and standards. Sub-Commission Expert Yoza Yokota added that while the relationship between trade and financial regimes and human rights regimes was a vital issue, those regimes should not be compared on an equal footing – human rights regimes were superior and could not be ignored even by agreement between States, or in the operations of international financial institutions. A number of Experts also questioned as to why the Commission on Human Rights did not approve a request to have Expert El-Hadji Guisse carry out a study on the right to drinking water. Sub-Commission Expert Guisse said that the problems in the developing world were dealt with very lightly and were belittled by United Nations organs. But these organisations must understand that problems affecting those in the Third World affected the entire human race. Water was essential to life, but more than 1.5 billion people lacked sufficient access to it. Other Sub-Commission Experts pointed out that conflicts in the past had been fought over access to water, and that future conflicts would also involve water.

During the debate several NGOs too spoke before the Sub-Commission and raised issues related to economic, social and cultural rights, including the need for peace to ensure sustainable development and the increasing impoverished populations within the world’s most

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developed countries. Fizza Khan of the Asian Centre for Organisation Research and Development said that she was proud to be part of the socio-cultural ethos of India. She said that never in her entire career as a filmmaker had she encountered any problem because she was a Muslim. The secret of India's unity was tolerance, love and acceptance that ensured Indians' economic, social and cultural rights. She said that such unity was more pertinent in Jammu and Kashmir than anywhere else. "While the whole of North India was reeling under partition and bloodshed in 1947, Jammu and Kashmir had remained an abode of peace and tolerance", she said. "It was this tradition that was now under attack by the decade-old militancy being sponsored in the name of fundamentalism by some foreign powers." She added that the Kashmiri people wanted to be left alone so that they could realise their economic, social and cultural rights.

While calling upon the Sub-Commission to increase awareness of the impact of globalisation on human rights, Antoine Madelin of the International Federation of Human Rights Leagues said that human rights were still seen as impediments to liberalising trade or were denounced as inefficient. The right to education, the right to health, and the right to benefit from scientific progress had to be protected. Intellectual property rights should not take precedence over such serious matters as the right to health. Multinationals held 90 per cent of world patents and thus totally dominated certain economic sectors because profit was their major concern.

Firdous Syed of the European Union of Public Relations said that enjoyment of economic, social and cultural rights presupposed an atmosphere of peace and tranquillity. In a state of turmoil, enjoyment of these rights remained elusive. Jammu and Kashmir had been witnessing turmoil and violence for the last 12 years. Armed men through clandestine border crossings had disrupted peace in the entire state. It was not possible for the people of the State to enjoy economic, social and cultural rights in a situation of conflict. "No development whatsoever was possible in Kashmir unless there was peace and normalcy, and unless Kashmir's indigenous values were re-established

and peace was given a free chance,” he said. “In order to restore peace and work for complete development, it was necessary that infiltration of armed groups from the neighbouring country into Kashmir should stop.”

Abdullah Raina of the **Himalayan Research and Cultural Foundation** said that in this age of globalisation, the economic, social and cultural rights of the people in the developing and third world countries were under greater stress. There was a direct relationship between the enjoyment of economic, social and cultural rights and the type of governance, constitutional and administrative mechanisms that were present. Kashmir had been known as a paradise on earth, and had lived up to its centuries old traditions and culture of peace, understanding and mutual love. The damage caused to the social fabric by violence during the last 12 years had hampered the exercise of economic, social and cultural rights of the people in Kashmir. Tourism, a great income-yielding industry, had been adversely affected. There had even been cases of kidnappings and subsequent killings of foreign tourists. The result was that houseboat owners, hoteliers, boatmen, craftsmen and transporters all had suffered the loss of their own business. The whole civil society had been taken hostage. The majority community felt suffocated. Kashmir was a multi-religious, multi-ethnic and multi-cultural place and its beauty lay in the diversity of its peoples, cultures and social and economic upliftment of its people. “No Kashmiri patriot would agree to any proposal of the division of Jammu and Kashmir on the basis of religion or ethnic lines,” he said. “Any forcible division would cause drastic consequences for not only the people living there now, but for future generations as well.”

Paul Beersmans of the International Movement for Fraternal Union Among Races and Peoples said that economically, violence had destroyed the once blooming tourist industry in Jammu and Kashmir and had also had a negative impact on the other economic activities. Socially, violence had resulted in the devastation of the Kashmir society, like the forced exodus of the Pandits from the Valley to safer places,

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and the killing of so many innocent people, as well as the suffering of so many Kashmiris who were disabled or who became widows and orphans. Culturally, violence had destroyed so many historic places and monuments of cultural heritage. More than 10 years of bloodshed and violence had proved that the gun culture had brought only destruction and no peace and prosperity in the region. The recent summit between the leaders of India and Pakistan did raise some hopes of resolution, though nothing was achieved at the end. All parties involved in the dispute should seize every opportunity to find a lasting solution to the long-standing political conflict.

A.M. Ali of the Afro-Asian People's Solidarity Organisation said that economic rights essentially required that each individual was able to hone and use his talents to the optimum. There had to be easy and free access to technological and scientific development, which alone could ensure the effective utilisation of the resources that nature, had made available. This had to be the imperative that determined all programmes of globalisation. Cultural and social rights demanded that people were able to not only preserve and perpetuate their individual, group and community identity, heritage and ethos, but that in their lifetime, they were permitted to observe their faith and cultural practices without fear and without hindrance. The concepts of majority and minority that human beings and societies adhered to often presented a major hurdle in the enjoyment of these rights.

Corinne Lennox of the Minority Rights Group International said that a recent agreement on International Development Goals was an important step towards realising the right to development, but these goals failed to make any reference to minorities and indigenous peoples; general strategies for achieving the goals would be ineffective without the adoption of special measures to ensure that minorities and indigenous peoples were benefiting equally, and in their own terms, in the development process.

Prevention of Discrimination and Protection of Indigenous Peoples and Minorities

Under this agenda item, the Sub-Commission on the Promotion and Protection of Human Rights focussed on such topics as racism and the bolstering of the rights of indigenous peoples and minorities. Prior to the beginning of a general debate, the Sub-Commission had before it a working paper (E/CN.4/Sub.2/2001/16) on discrimination based on work and descent submitted by Sub-Commission Expert Rajendra Kalidas Wimala Goonesekere. The paper concluded that there were 250 million persons discriminated against in this regard and that it was the responsibility of the respective States to endeavour, not merely by passing remedial laws, but by positive state action, to ensure that these violations did not go unpunished. Referring to the caste system in India, he said India had taken steps to improve the plight of the Dalits, including through affirmative action programmes that were first undertaken more than 50 years ago.

Another working paper (E/CN.4/Sub/2001/2) submitted by Sub-Commission Expert Erica-Irene Daes on discrimination against indigenous peoples concluded that the Preparatory Committee for the World Conference against Racism should ensure a mechanism for the full and active participation of representatives of indigenous peoples and organisations. The report also suggested that the Office of the High Commissioner for Human Rights hold a seminar on indigenous peoples and the administration of justice during the preparatory phases of the World Conference.

There was also a report (E/CN.4/Sub.2/2001/17) of the Working Group on indigenous populations, which concluded, among other things, that further consideration should be given to the activities of private sector energy, mining and natural resource companies as they affected indigenous lands. The report recommended that representatives of indigenous peoples be given an opportunity to address the plenary of the World Conference against Racism; and that the Office of the High Commissioner for Human Rights organise a preparatory workshop on

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implementation of the recommendations relating to indigenous peoples contained in Agenda 21 of the United Nations Conference on Environment and Development.

Presenting a working paper on indigenous peoples and their relationship to land (E/CN.4/Sub.2/200/21), Sub-Commission Expert Erica-Irene Daes said that the paper was prepared on the basis of suggestions, information and data submitted by the representative of the observer Governments, indigenous peoples, inter-governmental organisations and NGOs concerned. The greatest problem today for indigenous peoples was the failure of States to demarcate indigenous lands. Demarcation of land was the formal process of identifying the actual locations and boundaries of indigenous lands or territories and physically marking those boundaries on the ground. Purely abstract or legal recognition of indigenous lands, territories or resources could be practically meaningless unless identity of the property was determined and marked. While offering several conclusions and recommendations, the paper stated that the rule of law must be rigorously established and maintained in every country with respect to indigenous peoples and their lands, territories and resources, and all State and international actions and legal measures in regard to indigenous lands, territories and resources should meet the standard of fundamental fairness for all indigenous and non-indigenous parties, and all such actions should be characterised by justice in historical, political, legal, social and economic terms.

A report (E/CN.4/Sub.2/2001/22) of the Working Group on minorities on its seventh session offered several recommendations to governments, regional and sub-regional organisations, treaty bodies, the United Nations, the Commission on Human Rights, and NGOs. Among them was a recommendation to governments to ratify, if they had not already done so, the seven major treaties and the provisions relating to individual petitions, in particular to ratify the International Convention on the Elimination of All Forms of Racial Discrimination, and to make the declaration under Article 14 of the Convention.

There was also a note by the secretariat (E/CN.4/Sub.2/2001/18) on the prevention of discrimination and protection of indigenous peoples and minorities. It noted the recommendation from the Sub-Commission that the Coordinator of the International Decade of the World's Indigenous Peoples hold a special fund-raising meeting with the permanent missions of Geneva and the members of the Advisory Group for the Voluntary Fund for the Decade to encourage financial contributions to the United Nations Voluntary Fund for Indigenous Populations.

Commenting on the working paper submitted by Rajendra Kalidas Wimala Goonesekere, Sub-Commission Expert Fan Guoxiang said that this was not the appropriate time to study the matter of discrimination based on occupation and descent. He proposed that since this study had been done, the issue should be put aside for a while; the matter should not be raised at the World Conference, as such a step could hurt the aims of the conference and even damage pursuit of the topic of discrimination based on work or descent, as people might confuse it with something else.

Sub-Commission Expert El-Hadji Guisse said that the study of castes focussed on a problem that for some time had generated great discussion. It was a basis of international law that all men were equal before the law, but the evolution of society consisted of individual and social practices that had long included powerful forms of discrimination, and that included traditional concepts of caste in many regions of the world. "A study on this question was doubtless useful, but these were ancestral practices which prevailed over centuries, and it was not rule of law, a convention, or declaration which today could eliminate these problems", he said. "To wish to act along those lines was a mistake the results of which could be to make resistance more stubborn, or even to give to conflict." He said that such practices existed in Asia, in Europe, in Africa, and in the American hemisphere and that an attempt should be made to survey the efforts made to eradicate such practices and their various successes and failures. "Mr. Goonesekere's study referred especially to India, and India today was doing much to battle such discrimination," he added.

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Savitri Kunadi, the representative of India said that although her country had fully supported the role of the Sub-Commission, the same could not be said about the report. She said that the working paper overlooked recent constitutional amendments. It purported to focus on countries in Asia, but even a cursory reading showed that it focused mainly on India. It failed to take note of the progress that had been made with these castes, including one of the most far-reaching affirmative actions in the world. The section on India quoted some NGOs equating castes with apartheid. India was trying to end the system, while apartheid had been a State-sponsored policy. Even the report later noted that the caste system was not based on racism. India was providing figures that showed crimes against lower-caste members had been declining. “India would not support the Sub-Commission continuing with this report and that the energies and resources of the Sub-Commission could be better served investigating discrimination in other parts of the world,” she added. “India was trying to eradicate the problem with discrimination based on caste.”

Describing the debate on the issue of discrimination based on occupation or dissent as a useful learning process, Sub-Commission Expert Miguel Alfonso Martinez said that two statements had struck his attention – Mr. Goonesekere’s introduction of the working paper and the statement in response by the Government of India. He thought the paper was a valuable summary, and one impression it gave was that the matter had a regional nature; the document focused on specific countries within the Asian region, and in one instance on India. Mr. Goonesekere noted in the report that the problem was not limited to Asia, but this also seemed a limited perspective, as Africa and South America were mentioned, but Europe was not mentioned as a place where the phenomenon could exist. This problem would have to be corrected.

Sub-Commission Expert Soli Jehangir Sorabjee said that it was a fact that for centuries, scheduled castes and tribes now called Dalits had suffered extensive social and economic discrimination and had been the victims of irrational prejudices. The framers of the Indian

Constitution had as a result included articles within the Constitution to redress such discrimination. These steps had been far-reaching. One article provided for a National Commission for the scheduled castes and tribes which had the responsibility of enquiring into specific complaints of violations committed against Dalits. Over 1,000 complaints had been received in the year 2000 and in a majority of cases official penal responses had followed. Members of the scheduled castes received affirmative action even in terms of less-demanding standards for admission to college and to civil service, and they received special consideration in terms of promotion. India had done a great deal – it had made such discrimination based on caste a prison offence and this was not just a matter of “paper”; eighty special courts had been set up to try such offences and the rate of convictions was growing; in 1997, 2,017 people had been convicted. Of course there should be more convictions, but the courts had to follow standard judicial regulations for trials based on careful review of evidence and assumption of innocence. Meanwhile, India’s very free and lively press gave vast coverage to the problems of the Dalits. He hoped that the Sub-Commission would take a balanced view of the matter.

Several NGOs too presented their views on this agenda item. George Koreth of the Asian Centre for Organisation Research and Development said that India, with such a great diversity of socio-religious communities, was a good example of how the rights of minorities were tackled. Its Constitution was the best guarantor of the rights of minorities. Article 15 of the Constitution prohibited discrimination on the grounds of religion, race, caste, sex or place of birth. Other articles guaranteed many other protections from discrimination. The Constitution in many ways reflected the collective psyche of the people of India, which was based on tolerance, peace and co-existence developed over the centuries.

Tatiana Shaumian of the International Institute for Peace said that in ancient times Hindu society was divided into four sections for purposes of occupation, and the Sudras, the lowest caste, had served the higher castes; they became an oppressed class and hence poor, and

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now they were known as the Dalits or “oppressed people”. Caste was not a racial but a social evil whose remedy lay in organised social action. Caste or Dalit discrimination could not be equated in any manner with racial discrimination and should not be covered by the upcoming World Conference against Racism. She stressed that the issue needed to be addressed at the local and regional levels by dedicated and committed social activists.

Highlighting that the cause of the Dalits was not helped by the way it was being presented before the Sub-Commission nor would it be helped by slapping the label of “racism” on it, Milind Waidandey of the World Federation of Trade Unions said that the real cure lay in creation of a casteless society as called for by the Constitution of India. He said that the results of affirmative action programmes in India were evident in his presence and that of other Dalits at this meeting, because in pre-independent India that would have been impossible. Statistics had been trotted out to show how the Dalits suffered, but no attempt had been made to present statistics showing how much progress had been made. Dalits today were active in the Indian Parliament, in state assemblies, and in local councils – and that included participation by Dalit women. He stressed that statistics alone could not become the basis of programmes and, therefore, affirmative action had to be aimed at changing attitudes, and that took a long-time and great effort and persistence.

J. Oliver of the European Union of Public Relations said that the entire battle against discrimination, whatever form it took, was getting skewed by the concoction of new terminology meant to serve the limited political and economic interests of specific groups. This was becoming particularly evident in the run up to the World Conference against Racism. He argued that if all discrimination that segregated human beings on the basis of race, colour, origin, ethnicity, inherited faith, and religion, among others, was discrimination based on descent, then why to specify it as altogether another agenda. The answer lay in the limited interests of specific groups as opposed to what should be overarching objectives of the human rights community. “That was to

ensure that nation states fashioned their policies and structures to ensure that all citizens were provided equal treatment”, he added.

Presenting the view of the **Himalayan Research and Cultural Foundation**, its representative M.M.Kazmi said that the observations in the report of the Working Group were quite relevant to the situation in South Asia, where religion was sought to be used to stoke conflict in a neighbouring State. Another issue relevant to the exercise of minority rights was the process of affirmative action by States. Keeping in view the fundamental principles of equality and non-discrimination, there was a general agreement, based on the principles of international law, that affirmative action should be temporary and non-discriminatory to persons of other groups. As found in India, minorities who lived compactly together formed the majority in a particular area or region, where other ethnic, religious or linguistic groups formed the minority. He said with regard to Jammu and Kashmir, the Constitution of India guaranteed equality of law, and prohibited discrimination. However, the situation of minorities there had been adversely affected by the absence of any such institutional mechanism to ensure these rights, and more particularly by terrorism unleashed by Islamist extremists and mercenaries. The area was multi-lingual, multi-religious and multi-ethnic, but the entire Pandit community had been forced out by Islamist extremists and terrorists. He urged the Sub-Commission to take into account the activities of religious extremist and terrorist groups which had been unleashing terror upon smaller ethnic, religious and linguistic minorities in Jammu and Kashmir, trampling their minority rights and also posing a major threat to peace and security in the region.

Mohammed Ahsan of the World Federation of Democratic Youth said that in order to ensure the promotion of healthy democracy, unity in diversity of cultures, ethnicity and language was of primary importance. As the largest ethno-linguistic minority in Pakistan, the *Mohajirs* firmly believed in the principle of unity in diversity. However, the issue at stake was that of providing adequate means to *Mohajirs* by which they could reinforce their identity and personality. Today, the *Mohajirs* were being subjected to repression, discrimination and

isolation in the urban centres. The ethnic Punjabis who ruled in Pakistan were bent upon denying the *Mohajirs* their right to preserve and protect their specific identity and character. He urged the Sub-Commission to ensure that human rights of the *Mohajir* minority were fully protected and preserved by the Government of Pakistan.

Charles L. Graves of Interfaith International said that the Sub-Commission should take up the topic of “sacrilization of the State”, by which the State became a semi-sacred entity; even Western countries did this when they promoted the idea of integrating foreigners, migrants and refugees which placed the newcomers in a lower position until they adopted the prevailing values. Such a process was affecting some countries in Asia. He said that in Pakistan, Mohajirs, Sindhis and Baluchis as well as Northern Territory peoples were dominated by the central military Punjabi power. The Kashmiri people were suffering from this approach as well. If everyone wanted to protect religious and ethnic minorities, it would be helpful for some Western powers to admit that the same thing had been done since the sixteenth century. He stressed upon fighting racism in all its aspects.

Other Human Rights Issues

Under this agenda item, the Sub-Commission discussed various forms of human rights abuses by addressing such issues as traditional practices affecting the health of women and the girl child; the situation of women and girls in territories controlled by Afghan armed groups; contemporary forms of slavery; systematic rape, sexual slavery and slavery like practices; the right to seek and enjoy asylum; smuggling and trafficking in persons and the protection of their human rights; the right of return of displaced persons; reservations to human rights treaties; human rights and human responsibilities and terrorism and human rights etc.

Before a general debate started on this agenda item, the Sub-Commission considered a biennial progress report of the Secretary General (E/CN.4/Sub.2/2001/4) on the implementation of the Programme of Action for the prevention of the Sale of Children, Child

Prostitution and Child Pornography. The report featured updates on the situation in Guatemala, Japan, and the Russian Federation. A note by the Secretary General (E/CN.4/Sub.2/2001/23) on developments in fields with which the Sub-Commission has been or may be concerned addressed matters concerning the International Covenants on human rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the effective implementation of international instruments on human rights including reporting obligations of States parties to the United Nations instruments in the field of human rights, and the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families.

A memorandum submitted by the International Labour Office (E/CN.4/Sub.2/2001/24) on the prevention of discrimination and protection of indigenous peoples and minorities addressed how indigenous groups are covered by various International Labour Organisation conventions, including the ILO Declaration on Fundamental Principles and Rights at Work. The report also contained a description of how indigenous peoples enjoy economic, social and cultural rights within the realm of globalisation, the right to social security and multinational enterprises.

A note by the Secretary General (E/CN.4/Sub.2/2001/26) on smuggling and trafficking in persons and the protection of human rights revealed that today one in every 50 human beings is a migrant worker, refugee, asylum seeker or an immigrant living in another country. Migrations were increasing because of globalisation, and as they increased, the incidence and severity of abusive forms of migration, such as trafficking and migrant smuggling had increased too. The report concluded that the human rights community has a special responsibility to ensure that the trafficking and migrant smuggling issues are not simply reduced to problems of public order and organised crime.

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A report submitted by Sub-Commission Expert Halima Embarek Warzazi (E/CN.4/Sub.2/2001/27) on traditional practices affecting the health of women and the girl child concluded that it is necessary to continue dialogue and education to end the practice of honour killings. The report also stated that female genital mutilation is a real public-health problem considering its extent and its harmful consequences for the health of women and girls, and that it is not a practice prescribed by Islam.

A report of the Secretary General (E/CN.4/Sub.2/2001/28) on the situation of women and girls in the territories occupied by Afghan armed groups concluded that in order to prevent the occurrence of further atrocities, an effective international initiative is needed to expose and hold to account those responsible for war crimes, breaches of international humanitarian law and gross violations of human rights.

A report of the High Commission for Human Rights (E/CN.4/Sub.2/2001/29) on systematic rape, sexual slavery and slavery-like practices during armed conflicts concluded that conventional and extra-conventional human rights mechanisms should continue and strengthen their consideration of all gender-based violations of human rights. It also called for an end to impunity for acts of sexual violence and sexual slavery during armed conflict; the international community, Governments and non-governmental actors should exercise political will and undertake concerted actions.

A report of the Working Group on Contemporary Forms of Slavery on its twenty-sixth session (E/CN.4/Sub.2/2001/30) recommended that all States which are not parties to the Slavery Convention of 1926, or other related conventions, become parties as soon as possible. The report also expressed hope that the Working Group will receive cooperation from all States, particularly the States most concerned, with regard to the annual issue selected by the Working Group, and invite non-governmental and inter-governmental organisations to provide information and testimonies with regard to the particular issue selected for consideration at the annual session of the Working Group.

A report by Sub-Commission Alternate Expert Kalliopi K. Koufa (E/CN.4/Sub.2/2001/31) on terrorism and human rights concluded that the full realisation of human rights involves, among other things, the achievement of economic balance among States, including the right to development. Similarly, the report continued, better efforts should be made to achieve improved relations between States because it is viewed as essential to the global realisation of human rights as indicated in the Universal Declaration on Human Rights. The report also defined terrorism, and set standards about who could be considered a terrorist. The study considered not only the historical genesis of terrorism, but also current trends in terrorism, including the gradually blurring lines between terrorism and criminality. Another critical area that stood in the way of a definition of terrorism was the question of distinguishing between terrorism and armed conflict. Referring to contemporary forms of terrorism, the report addressed cyber-terrorism, and the possible exploitation of new technologies by terrorist groups. The report attempted to address many questions about the impact of terrorism, including on judicial process rights, the question of impunity and extradition.

During the debate while the comments concerning terrorism tended to be more broad and general, observations on other issues were specific, at times targeting certain countries or regions for human rights abuses. Several speakers brought up the traditional problems of female genital mutilation in various parts of the world, besides raising the issue of enslavement of people in all areas, including Sudan. Alternate Expert Kalliopi Koufa, who authored the report on terrorism and human rights, responded to several questions and comments from other Sub-Commission Experts by saying it was difficult to come up with a definition for terrorism, and one would not be found in the report. "The United Nations had been trying to define the term since it started considering the issue in 1972," she said, "it was not likely to be found in this, or subsequent reports." She added that it was perhaps best to leave out the definition, as United Nations bodies had done with the definitions of minority and indigenous peoples.

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Sub-Commission Expert Fisseha Yimer said that the structure of the study on terrorism was interesting, and clearly brought out various aspects of terrorism and its relationship to human rights. The major issue was the definition of terrorism and who was a terrorist. It was hard to define many things, like indigenous peoples. However, the work was still able to proceed. The study did not need a definitive definition. With regard to sub-State actors, why was that term used instead of individual terrorists? The use of sub-State actors implied that they were always there – as if terrorism was the norm of the State. On the manifestations of State terrorism the most important distinction was between armed conflict and terrorism.

Ramanatham Kumar of India said that the debate on terrorism had remained inconclusive partly because of genuine conceptual inadequacies and partly because of misleading propaganda by State and non-State actors who sought to conceal their self-serving violent agendas behind such lofty principles as “self-determination” and “freedom struggle”. Ironically the bogey of “State terrorism” was raised in some cases by States, which denied even elementary rights, such as representative governance, to their own people. Not a single human right was exempt from terrorism. Studies of terrorism should not get bogged down in a definition; international instruments on various aspects of terrorism gave a clear indication of what it was. He said that India considered terrorism totally at odds with democratic liberal societies-indeed, terrorism was an enemy of democracy. There was an urgent need to ensure that non-State actors were accountable for acts of terrorism; India did not agree that only State violated human rights. Terrorism promoted by certain States as an instrument of foreign policy was even greater in its scale and consequences. India had been the victim of some of the most brutal manifestations of such terrorism. He expressed hope that a comprehensive international convention on terrorism would be completed expeditiously.

Sub-Commission Expert Francoise Jane Hampson said that the report drew a distinction between armed conflicts and terrorist acts, although other speakers were correct to point out that such acts could

still take place during armed conflicts. Regardless of the situation, an act against civilian populations could never be tolerated. In future reports, it could be helpful to analyse enforcement of domestic criminal law when what the State considered a terrorist act was committed. To ensure against impunity, what was needed was improved bilateral and multilateral agreements. When other states would not agree to extradition, they should agree to carry out a trial themselves. The State had an obligation to ensure that there was a prompt and thorough investigation into human rights violations, and that the perpetrators were brought to trial.

On the issue of violence against women and children, Sub-Commission Expert Leila Zerrougui denounced such violence based on centuries-old traditions and practices as well as in situations of armed conflicts. She said that this kind of violence seemed to be going on with alarming frequency around the world. Efforts had been made, but progress had been slow and irregular, and much still had to be done. Every year a range of injustice, violence, and crimes against women was revealed in armed conflicts and in the workplace, affecting even the family and that traditional practices led to inhuman suffering by women.

It was under the sub-item entitled “The Right of Return of Displaced Persons” that Prof. K. Warikoo, Secretary General of the **Himalayan Research and Cultural Foundation** made his intervention. He said that the plight of internally displaced persons remained one of the serious humanitarian, human rights, political and security concerns confronting the international community today. “There were more than 25 million internally displaced persons in over 50 countries spanning all regions of the world, and it was a global problem,” he said. “Although there was a greater awareness of this issue, the problem continued to afflict parts of South and Central Asia, where atrocities by mercenaries, terrorists and Islamist extremists had caused forced exoduses and internal displacement of several hundred thousand helpless people.” Pointing to Afghanistan as one of the worst cases, where the situation had further deteriorated under the Taliban, he said that Afghan refugees formed the largest refugee population in

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the world, with about three million refugees scattered around the globe, and that nearly 500,000 Afghans were internally displaced within Afghanistan. Citing another case of Kashmiri Pandits he said that about 400,000 displaced Kashmiri Pandits were agonising in their twelfth year of displacement. “The forced displacement of the entire Kashmiri Pandit indigenous minority, who were terrorized, killed and hounded out of their homes by Islamist terrorists in the name of *Jihad*, presented a classic case of ethnic-religious cleansing with long-term implications for the composite socio-cultural set up and secular polity in Kashmir,” he added. “Such violent attempts to redraw territorial boundaries through ethnic cleansing and brutal eviction of people belonging to ethnic-religious minorities had become the major cause of displacement in parts of South and Central Asia.”

While highlighting that militant groups in Pakistan held annual congregations attended by senior government dignitaries of Pakistan, Ludovica Verzegnassi of the European Union of Public Relations said that these congregations were marked by calls for *Jihad* against Jews and Hindus. “A daily newspaper in Pakistan reported last April that the groups operated six private military training camps in Pakistan and Azad Kashmir where several thousand persons were given both military and religious education,” she said. “With more than 2,200 unit offices across the country and over two dozen launching camps, these groups had one of the biggest Jihadi network in Pakistan.” She brought it to the Sub-Commission’s notice that Pakistan’s magazines were replete with colour photographs of the dead and wounded. “It was imperative that the entire world community and particularly the human rights activists take note,” he added.

Gul Nawaz Khan of Interfaith International said that democracy was the only form of government which guaranteed such rights as freedom of speech, assembly, and the right to vote. However, democracy and elections had to be truly democratic. “The recently held election in the Pakistani-held part of Kashmir had excluded 32 candidates of 12 political parties because they had refused to sign a declaration acknowledging “state accession to Pakistan” of the region,

he said. "More than 200 political activists had been beaten and detained for over a month, an event severely criticized by Amnesty International." Citing the working paper on consolidating democracy submitted to the Sub-Commission, which pointed out that there could be problems if there was insufficiency of mechanisms of dialogue and participation within a State, he said that in Pakistan-held Kashmir and in Pakistan's Northern Territories there was an absence of such participatory mechanisms. "The democratic process in Pakistan might progress if such people were given their rights," he added.

Sheikh Khalid Jehangir of the World Federation of Trade Unions said that the proliferation of small arms and weapons was playing havoc with peace efforts throughout the world. Massive amounts of small weapons had been found in Jammu and Kashmir. The number still in circulation boggled the imagination, which led to destruction in Jammu and Kashmir as well as in Afghanistan. There were armed groups in Pakistan waging a *Jihad* against Muslims, Hindus and others in the region. There were killings of innocent civilians, and daily human rights abuses. The proliferation of small arms corrupted an entire generation of small children as they were learning to handle weapons. He stressed that the human rights and lives of the innocent people must be preserved. "The international community had to stop the proliferation of small arms, and Pakistan had to stop these groups who had declared holy wars on several groups, and who had been supplying arms to the Taliban", he added.

The 53rd Session of the UN Sub-Commission on Promotion and Protection of Human Rights concluded on 17 August 2001 with a general feeling that 2001 witnessed a "comeback" of the Sub-Commission as an expert body with a credible role to play in the area of economic, social and cultural rights, and as a body that increasingly focuses on problems arising from globalization and its impact on the enjoyment of human rights. Moreover, it was felt that the Sub-Commission does so without losing sight of the continuing importance of civil and political rights.

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In his concluding remarks, the Chairperson of this Sub-Commission, David Weissbrodt reiterated the need for the Sub-Commission to be creative, focused and coordinated with other United Nations bodies so as to have the maximum concrete impact on the promotion and protection of human rights. He said that many of the Sub-Commission's accomplishments in 2001, in both substantive and procedural terms, illustrated the unique and meaningful contribution it could make as a substantive research body, especially in identifying outstanding human rights issues and proposing solutions. In this connection, he also highlighted the fundamental contribution of the Sub-Commission's working groups (on communications, minorities, contemporary forms of slavery and indigenous populations) to human rights.

A total of 24 resolutions and 22 decisions were adopted, all without a vote except decision 2001/119 on "Human rights and weapons of mass destruction, or with indiscriminate effect, or of a nature to cause superfluous injury or unnecessary suffering." Besides, a total of 1,059 participants, including 726 observers from non-governmental organizations and 281 observers from States Members of the United Nations, attended the 53rd session of the Sub-Commission. Thirty-three meetings were held with a total of 740 statements made, including 390 by Sub-Commission members. In all a total of 156 documents were issued in this Session of the Sub-Commission.

BOOK REVIEW

KASHMIR: THE LAND AND ITS MANAGEMENT FROM ANCIENT TO MODERN TIMES

by **D.N. Dhar**

Kanishka Publishers, New Delhi, 2004, 270pp. Rs.595/-.

Agrarian relations have been the focus of attention for researchers both in India and abroad. The issue has been of great importance in Kashmir for the obvious reason that the revolutionary land reforms in the State transferred, overnight, the proprietorships of land from *jagirdars* and the big landed estate holders to the actual tillers of the land without any compensation. So the author has very aptly introduced this work with these lines, “when one digs deep into the annals of long and obscure history of Kashmir, it appears that the peasant-son of the soil has a long tale of woe to narrate. Not that his brethren from other parts of the sub-continent did not have a story of their own but the specific conditions of geography and history made all the difference ... He had to struggle in isolation from the world around. He dug a long furrow.”

With the help of requisite evidence, the author has shown how during ancient times the land was swayed by a class of land grabbers called Dammaras and by a spree of land grants (*Agraharas*) to various temples and Viharas, which *Agrahara* Managers managed in a very arbitrary fashion. “How was the man behind the plough placed in relation to his master,” asks the author, “is a matter of conjecture because the conditions of their tenancy are laid no where.” They were at the mercy of big landholders and *Agrahara* Managers.

The scenario during the medieval period was no different. The change was only of nomenclature. The *Agrahara* changed into *Jagirdar* and the *Jagirdar* assumed the role of a Dammar. The *Jagirdars* had become so much bold and arbitrary that one of the unscrupulous *Jagirdars* divided the whole valley among his relatives. The other *Jagirdar*, Usman, who also was the Wazir under Fateh Shah divided the kingdom into three parts; one he retained for himself and

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the other two were given to two formidable *Jagirdars*, Shankar Raina and Nusrat Raina. With the exception of Sultan Zain-ul-Abidin, who laid the foundation of a partly defined land tenure system, the land management under medieval Sultans was as vague as during the ancient times. The peasant held the land as mere cultivator and produced for others.

The greedy and ambitious *Jagirdars* were instrumental in bringing alien rule to Kashmir. However, when the Mughals arrived they crushed the *Jagirdars* of Kashmir. The Mughals brought their own civil administration into Kashmir and ruled it firmly with the help of their soldiery. They ordered revenue settlement of Kashmir three times and tried to extort maximum possible revenue for the central government. So did Pathan governors fleece the Kashmir peasantry for the government in Kabul and for their own luxurious living. They were least interested in the efficient land management of Kashmir. Sikhs financed the campaigns of Maharaja Ranjit Singh into frontier province from the revenues collected from Kashmir. The Sikhs collected numerous taxes from the peasants and the shawls weavers of Kashmir.

Though from ancient times land was supposed to belong to the king invariably, yet the Dogra Maharajas were obsessed with strong conviction that their ancestor, Maharaja Gulab Singh, had purchased it for Rs 75 lakhs from the British East India Company under the Treaty of Amritsar. They wanted to extort maximum possible revenue from it. This led Maharaja Ranbir Singh to make his land tenure system subservient to his fluctuating revenue policy. He experimented with various systems like the institution of revenue farmers, granting of various *chaks* and *Assamiwar Khewat* etc. All these measures proved futile because the officials created difficulties. So the Britishers for their colonial interests and Maharaja Ranbir Singh for his revenue interests first appointed A. Wingate and then W.R Lawrence for making a land and revenue settlement of Kashmir. A. Wingate worked for about two years and did a pioneering job. It was he who laid the foundation of the historic Land and Revenue Settlement of 1889 by W.R Lawrence. After examining in detail the work done by A. Wingate and W.R. Lawrence, the author has rightly observed: "It was for the first time in

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the history of Kashmir, that the rights of peasants in land were defined without any ambiguity. His *Miras*, even though, very much respected by the village community was given due recognition under the law of the land. His revenue settlement was founded on a criteria having a proper rationale.” Consequently agriculture was no more a futile exercise for the cultivators. After centuries they had acquired the sense of belonging to their land. The reassuring atmosphere created by this Settlement attracted all the deserters back to their lands.

D. N. Dhar, giving a detailed background of land-management systems all over the world, shows how the revolutionary land reforms in the middle of the 20th century transformed J&K State from age-old landlordism and *Jagirdari* system to peasant proprietorship. He has examined and justified non-payment of compensation to the landlords with cogent arguments having roots in history.

The study is well documented, full of evidence and references. The author has handled this difficult subject with enduring patience and skill. With the publication of this work he has completed his project of producing Subaltern History of Kashmir, his earlier works being, *Artisan of the Paradise: A Study of Art and Artisans of Kashmir from Ancient to Modern Times* and *Dynamics of Political Change in Kashmir from Ancient to Modern Times*.

K. Warikoo

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