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JAMMU & KASHMIR ELECTIONS, 2002

**Jammu and Kashmir Elections:
Ballot Prevails over Bullet**

D.N. Dhar

International Response to the Kashmir Elections 2002

Tanya Mohan

Empowering the People: Kashmir Elections 2002

Syed Nazir Gilani

Jammu and Kashmir Elections: An Eyewitness Report

Paul Beersmans

Pakistan Elections, 2002:

“Roadmap to Democracy” Completed?

Savita Pande

HIMALAYAN AND CENTRAL ASIAN STUDIES

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Editor's Page

The elections to the State Assembly in Jammu and Kashmir which were held in late 2002, have been universally acclaimed as being free and fair. The international community, which generally shied away from publicly endorsing the previous elections in Kashmir as the democratic means to secure the civil and political rights of Kashmiris, this time was forthcoming in its description of J&K Assembly elections not only as free and fair but also as a step towards the resolution of Kashmir issue. At the domestic level, the people of Jammu and Kashmir, particularly in the militancy affected valley and other areas, were pleasantly surprised to see that the elections were conducted in a transparent and credible manner in public gaze of local, national and international media, NGOs and diplomats from western countries, without any rigging. The electronic voting machines, which were used for the first time in the State, and the conduct of the Election Commission of India came in for general applause by the people.

The elections were held successfully with the people who demonstrated their enthusiasm and courage braving the open threats by terrorist groups like *Lashkar-e-Toiba*, *Lashkar-e-Jabbar*, *Al Badr*, *Tehrik-ul-Mujahideen*, *Hizbul Mujahideen* and *Jamiat-ul-Mujahideen* to the Kashmiri Muslims with death penalty in case of any defiance of their call for boycotting the polls. That the killing of political leaders like Abdul Gani Lone, Mushtaq Ahmed Lone and over 800 political activists mainly belonging to the mainstream political parties-National Conference and the Congress, by the terrorists did not deter Kashmiris from exercising their right to vote. The people of the State have been longing for an end to the thirteen years of

violence and terror and they showed their earnestness to elect the government of their choice. The fervent appeals by the Hurriyat Conference for boycotting the polls and Pakistani campaign of disinformation, did not have any significant impact on the people. In fact, Kashmiris mocked at the Pakistani media for spreading lies. For instance, in the case of Lolab constituency where elections had been countermanded due to the murder of a candidate, Mushtaq Ahmed Lone, the Pakistani media alleged that the people were forced out of their homes to cast votes in Lolab thus exposing themselves.

These elections witnessed an average turnout of 44 per cent, which compares favourably to any other State in India in normal circumstances. Interestingly, constituencies with concentration of specific ethnic-religious groups such as Gurez in Baramulla (inhabited by Dard Muslims) with 76.7%; Uri (86.6%), Karnah (70.2%), Poonch (60.5%) and Mendhar-Haveli (60.3%) – all having Gujar majority; and Kargil (having Shia Muslim majority) with 75.89%, witnessed a higher turnout. Sopore, the stronghold of *Jamaat-e-Islami* witnessed the lowest turnout of 7.83%. Similar was the situation in some pockets of Srinagar city, due to the influence of Hurriyat. This only demonstrates the resolve of the people inhabiting the border areas of Jammu and Kashmir, despite being subjected to shelling from across the LoC and atrocities by the terrorists, to fight the bullet through the ballot and to usher in normalcy through a popularly elected government.

The people of Jammu and Kashmir gave their verdict for change. The ruling party-National Conference was unseated, BJP-the ruling party at the centre was heavily defeated getting only one seat (down from 8 in the last elections). Even Omar Abdullah, the Chief Ministerial candidate of the National Conference, lost elections, so did 5 Ministers and a Deputy

Speaker. Though the mandate of the people has been a fractured one, all the leading political parties exhibited maturity respecting the choice and aspirations of the people as expressed through their ballot. Similarly national leadership of both the BJP (an ally of National Conference) and the Congress Party led by Mrs. Sonia Gandhi did not allow their party interests to tamper with the verdict of the people. Thus the PDP led coalition (with Congress, CPI-M and others) headed by Mufti Mohammad Syeed assumed power in the State with a mutually agreed Minimum Programme of action.

The election verdict is an unambiguous reiteration by the people of the State's accession to India and affirmation of their faith in Indian democracy. These elections not only ensured political empowerment of the people in the State, but also witnessed considerable erosion in the influence of the Muslim separatists in the valley, excepting in Sopore and small pockets of Srinagar city. Mufti Syeed has now a set of tasks to be accomplished: (i) to cleanse the State from the menace of terrorism and Kalashnikov culture, (ii) to revitalise the State administration and make it responsive to people's needs, (iii) to restore the financial health of State's economy, (iv) to rid the State from the dark forces of religious extremism and ideological subversion by *Jamaat-e-Islami* and its front organisations, (v) to restore traditional cultural ethos and initiate adequate administrative, institutional and constitutional measures to ensure safety and equitable distribution of economic and political benefits to the marginalized ethnic-religious minorities, (vi) to restore, rebuild and reorganise what has been destroyed during the past thirteen years of terrorism, and (vii) to usher in a process of sustainable economic and equitable development in the State.

K. Warikoo

JAMMU AND KASHMIR ELECTIONS: BALLOT PREVAILS OVER BULLET

D.N. Dhar

The recent elections in Jammu and Kashmir State have been the focus of conspicuous international attention. Like other states of India the elections in this State were due under constitutional obligations. The only difference with the other States of India is that such elections take place only after five years, while these are held after every six years in this State. The founding fathers of the Indian Constitution, among whom one was the unchallengeable leader of Kashmir, Sheikh Mohammad Abdullah himself, had after detailed deliberations, granted a special status to Kashmir within Indian federal structure under article 370. The State had been given the right to elect a Constituent Assembly to draw the constitution of the State, which would, among other things, define their working relationship with the central government. It was also to confirm the accession of Kashmir to India which had earlier been made after signing the Instrument of Accession by Maharaja Hari Singh on one part and the Governor General of India on the other, as was required under the Indian Independence Act 1947 of the British Parliament. It is the State Constitution which provides six years term for the Legislative Assembly.

What made these elections very important was the assurance given by the Prime Minister of India that the elections would be free and fair. A wrong perception, that elections in Kashmir were always rigged in the past had created an impression that the people of Kashmir are deprived of the democratic choice for seeking a dispensation of their liking. The fact is that all the elections in Kashmir in the past were not rigged. The political parties which used to take part in elections supported Kashmir's accession to India. There were no dissenting political parties notwithstanding the fact that there existed the remnants of Muslim Conference which was led by religious leaders and whose

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influence was confined to a small area of the city of Srinagar. Even they tried to send one or two representatives to the Assembly by proxy. There did not exist any strong motivation for the manipulation of election results by rigging for which India was defamed by its adversaries. Of course the Plebiscite Front, which was later dissolved, used to call for a boycott of the elections. The people still took part in elections in a big way. Kashmir did not have the practice of capturing booths at the point of a gun nor did they employ criminal gangs for the job, as is the case in some other States of India. There, no doubt, used to be complaints of impersonation or minor irregularities which are common to all elections, but these were looked into by the Election Commission of India. What gave bad name to India was one election which was held in 1987 when the Muslim United Front (MUF), an amalgam of some obscurantist political groups, contested the elections. They would, as was apparent, win some seats from Kashmir valley and deprive National Conference, the party in power, of absolute majority from Kashmir valley itself although such a majority was assured to it in the State as a whole which included Jammu and Ladakh divisions also. To achieve this narrow objective, the leader of the party Farooq Abdullah is alleged to have resorted to rigging in a number of constituencies. That led to a revolt among the young contestants belonging to the MUF. The Election Commission of India did try to remedy the damage caused, but it did not convince the youngmen. What was interesting to note that these young men were fighting elections under an oath to the Indian Constitution. It was against this background that the Prime Minister of India assured free and fair elections.

Elections in all the States of India are held under the jurisdiction of Election Commission of India which is an independent statutory body well known all over the world for its integrity and fairness. So it finalised the dates for elections in the State. Jammu and Kashmir State is a vast area spreading from the Karakoram ranges of mountains in the north and river Ravi in the south, Pakistan and Pak-occupied Kashmir from the west and the Tibet and Chinese-occupied Kashmir

D.N. Dhar

from the east and north-east. Part of the State has tropical climate and some part having extreme cold climate. Elections in such a vast area with diverse topography could not be possible in one go. It was conducted districtwise in four phases:

Phase	Date	Name of the districts	No. of Constituencies
I	16 September 2002	Kupwara, Baramulla, Poonch, Rajouri and Kargil	26
II	24 September 2002	Srinagar, Badgam and Jammu	28
III	1 October 2002	Pulwama, Anantnag, Kathua and Anantnag	27
IV	8 October 2002	Doda	6
		Total	87

Holding free and fair elections in an abnormal situation as the one prevailing in Kashmir, was a daunting job for the Election Commission of India. It mustered the courage and caught the bull by horns. After the die was cast, the voters were to be assured that elections would be fair and free. For the absolute fairness of elections following steps were taken:

1. Introducing 8000 electronic voting machines for the first time, thus eliminating any chance of rigging or bogus voting;
2. arranging 50% of polling staff from other States of India and inducting them into the polling booths so that there could be no cause for apprehension of any fiddling with the electoral process by the public servants belonging to the Government held by the party fighting elections. Such a step would also make it difficult for the other set of employees (locals) to act in a way which could be prejudicial to the fair conduct of elections. In spite of so much of caution, exercised by the Election Commission, there were dare-devils who wanted to force their way, but they were removed on mere suspicion. Some of the polling staff in Kupwara district was changed on the orders of Election Commission for complaints against them. Even big officers who were not confined to polling booths, were removed. Two Deputy Commissioners in the capacities of Deputy Returning

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Officers were changed on complaints. Even the Superintendent of Police of Kupwara was shifted for acting in a manner favouring the ruling party. Many other police officers were shifted from the places of their postings for similar behaviour. SOG and STF were removed from Anantnag and Pulwama districts during the period of polling. Subsequently such an action was taken in all the districts;

3. for imparting credibility and transparency to the promised four phased election process, the Commission allowed foreign diplomats and journalists to visit Jammu and Kashmir State and judge things for themselves. They could visit any constituency, and election booth and enquire things directly from the voters. Twenty eight passes were issued to diplomatic missions. On September 16, 2002, 13 diplomats and journalists, went by helicopter from Srinagar airport to Gurez located in a remote mountainous valley near the Line of Control, a town of Bandipore on the bank of famous Wular Lake and highly terrorist infested town of Kupwara. In Kupwara, they went to places of their choice to see how elections were conducted. The other team landed at Uri- the town upto which the Indian Army had chased the Pakistani invaders in 1947 and beyond which Kashmir territory continues to be under the illegal occupation of Pakistan. Here they watched people exercising their democratic choice with full gusto. The team included diplomats from US, UK, France, Germany, Switzerland, Denmark and Canada. Rest of the diplomats were to visit other places to observe the other phases of elections. While the foreign diplomats were given free hand, the US Secretary of State, Colin Powell, tried to make suggestions, for permitting independent observers and releasing the political prisoners thereby intruding into the jurisdiction of the Election Commission of India. Chief Election Commissioner, Lyngdoh reacted sharply, "the day of the whiteman observing what the native does, is long past. He cannot determine what the coloured man does and whether he is doing it right or wrong." No body could have made suggestions to him. Not even the Prime Minister of India;

4. show of guns in electioneering or demonstrating violence or force could be the very antithesis of fair elections. Therefore, it was ordered that no person except the security forces on duty would be allowed to carry gun along with him. Even the Ikhwanis (anti-insurgency force formed from amongst the surrendered militants) were not allowed to carry guns during election period. There were complaints made by people and political parties against this force. Election Commission suggested to put them into barracks. This way they were emasculated;
5. deputing men of great honesty and integrity for observing elections and reporting to the Election Commission about any misconduct or non-compliance of the orders, instructions, guidelines or the violation of election rules. Also, they were to communicate their observations in cases of disputes over the fair conduct of elections among the political parties;
6. following strictly the rules and regulations which already exist for the conduct of elections.

After taking steps for ensuring free and fair elections, the Election Commission of India sought to provide conditions in which a voter could be allowed to vote freely in an atmosphere of peace and in which his life could not be a target of the gun of a terrorist outfit. To meet this important objective, he made elaborate arrangements including requisitioning of additional security forces from other parts of the country.

Already various terrorist outfits based in Pakistan had warned people against participating in the elections. General Musharraf gave the signal on August 14, 2002 by an open denunciation of poll process in Jammu and Kashmir State.¹ His Government described the elections unlawful.² Former Chief of the Inter-Service Intelligence (ISI), Hamid Gul organised a meeting of all the separatist groups on August 21, 2002 in Islamabad, for a joint policy on Kashmir³ with the intent of making poll process in J&K State a complete failure. By the end of August 2002 it became crystal clear on the basis of the interception of messages by the Indian Army, that the ISI had directed the terrorist

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outfits particularly *Jaish-e-Mohammad* (JeM) and *Lashkar-e-Toiba* (LeT) to disrupt elections in Jammu and Kashmir State.⁴ Not only this, Pak ISI even formed a unified militant command namely Kashmir Liberation Army, comprising of militants of banned outfits, LeT and JeM headed by Mushtaq Ahmed Zargar (*Latram*). *Latram* is the man who was released from the Kotbalwal jail, Jammu in exchange of passengers in the Indian Airlines plane that was hijacked to Kandahar. Zargar was directed to organise disruption of elections at all costs and manage to keep *Hurriyat* out of elections.⁵ In any case Pakistan did not want elections to take place during this period for that would affect Musharraf-brand of elections in Pakistan. However, international community wanted the separatists to participate in elections.⁶

Accordingly the Pakistan supported terrorist organisations operating in the Kashmir valley issued various fiats and injunctions to Muslim community asking them to desist from participating in elections. A leading Urdu daily from Kashmir valley reported on August 23, 2002 that, “*Jamiat-ul-Mujahideen* issued a *Fatwa* that those who were consolidating Indian rule in Kashmir had no right to ask for people’s vote. As per *Sharia* the Muslims are the custodians of votes in Kashmir and they should not misuse it.”⁷ Earlier *Nida-e-Mashriq* on August 21, 2002 had reported that the Chief of the *Dukhtaran-i-Milat* (a women’s wing of *Jamaat-i-Islami* of Kashmir), Ayesha Andrabi had issued an injunction that militants were justified in targetting National Conference workers as the latter were against the *Jihad*.⁸ And on August 31, 2002 this self-styled leader of Kashmir women, went all out to threaten all the secular minded politicians to ally with *Jihad* and save their lives hereafter.⁹ In the last week of August 2002 LeT Divisional Commander for central Kashmir, Billah, warned, “Democracy is a *kufur* and LeT (*Lashkar-e-Toiba*) declares war against the champions of democracy. A Muslim holds that Allah’s rule should prevail upon the entire universe.”¹⁰ In mid-September 2002, Chief of the *Hizbul Mujahideen*, Salah-ud-Din (Yusuf Shah) announced a reward of Rs. 1,00,000 for eliminating a candidate in each of the constituencies.”¹¹

All J&K *Hurriyat Conference*, which boasted of its representative character, feeling frustrated, started a campaign for public contacts at the end of August 2002. It addressed religious gatherings in various mosques asking people to boycott elections.¹² In fact right from September 11, 2002 various terrorist outfits had put up posters threatening the electorate with the words:¹³

*“Jo vote dalega,
Woh goli khayega.”*

(one who would cast a vote, would receive a bullet).

All these fiats and diktats led to an orgy of killings and violence. In the month of August 2002 only 320 people were killed.¹⁴ An independent candidate, Shaikh Abdul Rahman and then the Deputy Minister Mushtaq Ahmed Lone were gunned down. Three attempts were made to kill Sakina Ittoo, Tourism Minister, who was the candidate for the second time. “Lone was addressing an election meeting at Tekipora on September 11 when a militant opened fire from among the group of women sitting 20 feet from the podium.”¹⁵ Two terrorist groups *Al Badr* and *Al Arfeen* claimed responsibility for his killing. Later in the day, terrorists fired indiscriminately at a crowded election meeting at Suran Kot in Poonch killing 12 innocent persons.¹⁶

First phase of elections was to take place on September 16 and the situation was dangerously fluid. It was to be held in 26 constituencies of the districts of Kupwara, Baramulla, Poonch, Rajouri and Kargil. Day in and day out came the reports of death and destruction all around. People were caught between the deep sea and the devil. ‘To be or not to be, that is the question’ haunted the people. The choice was limited, ballot or bullet? They had been expressly warned that if they went to the polling booth, they were sure to receive a bullet. And if they did not, they would miss the golden opportunity - an opportunity of restoring the normal life and planning the future of their choice. So they decided to come out of the dilemma and cast the vote, whatever the cost.

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So wrote the most popular english daily of J&K State, “The five districts that went to polls in the first phase covered almost the whole of the Line of Control in the State from Nowshera to Kargil. As if to prove this fact, and their of obsession with bullets, the Pak Army kept up the cross-border barrage of shelling, while the ballot minded people of the State went to reject their bullets with calm punching of the buttons on the Electronic Voter Machines. Particularly noteworthy is the fact that the voting in the areas that are the closest to the Line of Control witnessed heavy polling. The 75% poll in Kargil is followed by 76% turnout in Gurez, 67% in Karnah in Kashmir and an average 50% voting in Rajouri and Poonch districts of Jammu region.”¹⁷

The turn out of the first phase of polling was surprisingly 47.25%. Indeed, people had decided to exercise their choice for a peaceful life and rejected the concept of stifling the voice with the barrel of a gun. Terrorism had been rejected lock, stock and barrel. The turn out could have been still on the higher side but for some pockets of *Hurriyat Conference* influence in towns, especially Sopore, where the turn out was only 7.8%, Baramulla 24.6% and Bandipore 31.2%. Barring these pockets, the *Hurriyat* was ripped naked by the people of Kashmir. “The desperation of *Hurriyat* became stark when the United States of America described the polls (first phase) credible and fair.”¹⁸

The political parties contesting the elections were All Jammu and Kashmir National Conference, Indian National Congress, People’s Democratic Party, Bhartiya Janata Party, CPI(M), Panthers Party and Bahujan Samaj Party. Many independent candidates had also joined the fray. Total number of candidates was 709 and the number of seats was only 87. Election to one constituency was countermanded in the first phase due to the death of one candidate, Mushtaq Ahmed Lone.

National Conference was the party in power. It had a very important role during the freedom struggle – spearheading a double edged battle both against the monarchy in Kashmir and British colonial rule in India of which Kashmir was one of the States. The architect of this organisation was Sheikh Mohammad Abdullah who was given the

title of Lion of Kashmir by the people of the State. He was instrumental in demolishing the age old feudal order and the monarchy presiding over this order. Indian National Congress is an all India party which had fought for the independence of India under the able leadership of Gandhi, Nehru and other towering leaders. Congress had held power in Kashmir for 22 years under different names. Bhartiya Janata Party is the party holding power in India in coalition with about 22 political parties and groups. CPI(M) is the Communist Party of India (Marxist) which has a unit in J&K State. People's Democratic Party is a new political party having emerged during the period of terrorism in Kashmir.

All the parties were encouraged to see the response of the people, though fighting under difficult conditions. As the most popular Urdu Daily of Kashmir *Aftab* put it, "Perhaps it was due to Election Commission's efforts in ensuring fairness of elections that more people of the rural areas came out to vote."¹⁹

To scare away people from taking part in the second phase of elections on September 24, various terrorist outfits stepped up their activities. They, "targetted the houses of two candidates, a designated polling station and security patrols and convoys, killing two security men and wounding 25 of BSF personnel."²⁰ They did not spare even the editor of *Srinagar Times*, Ghulam Mohammad Sofi who was shot at and injured at Buchwara because he did not follow their diktat.²¹

Inspite of what was being perpetrated "... one was witness to great enthusiasm among the electorate in the rural areas as there were long queues outside polling booths and at many places, first-time voters were struggling to get inside to exercise their franchise... people defied the militants and the boycott call of All Party Hurriyat Conference to come and vote for change in government."²²

Though Pakistan did its best by way of sending huge finances, mercenaries, religious appeals and fiats, media propaganda, political and diplomatic moves and directions to various terrorist outfits for derailing the electoral process, it could not prevent the people from voting in the second phase. There was 42% turn out in the three districts

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of Srinagar, Badgam and Jammu. Badgam district registered a turn out of 51%. In Charar-i-Sharif it was 59%, Kangan witnessed 50% and Ganderbal 40% turnout.²³ The lowest turn out was in the city of Srinagar. Eight urban segments of Srinagar polled between zero and two percent votes, Srinagar city has a large section of educated people who are not ready to take risks and it is in the city of Srinagar that Awami Action Committee which is the part of All Party Hurriyat Conference, has strong pockets of influence who responded to the boycott call. But, undoubtedly, all the rural areas of Srinagar district rejected the call for boycott. There was 42.60% turn out. The electoral exercise was so much convincing that even the U.S. Ambassador to India, Robert Blackwill praised the Election Commission. He told the press, “we respect the role of the Election Commission of India.”²⁴

When the election to 54 constituencies out of a total of 87 had been completed with good turn out, *Daily Excelsior* wrote it editorially. “...local leaders and parties expressed unqualified satisfaction with the election process and declared them to be free and fair... *Hurriyat* then had let the elections proceed, with a mere boycott call... people rejected that call and its rationale and came out to vote in heavy numbers.”²⁵ Commenting on the terrorist attacks, a local newspaper *Daily Uqab* commented: “Despite unprecedented security arrangements, militants attacked various polling booths and other places in order to sabotage elections. The reign of terror was established in south Kashmir. Though huge number of voters came out of their own.”²⁶

Interestingly the fourth phase of elections in the Doda district having six constituencies recorded 50% turn out which was the highest when compared to the previous three phases. Doda is the district with very difficult terrain, all hilly and infested with terrorist brigands and is near the Line of Control. This district was supposed to be a fertile ground for terrorist activities because of its topography and composition of population in which Muslims are in majority. Perpetrators of Islamists’ *Jehad* across the border received a slap with such a large turn out in this belt. Pakistan had, therefore, no choice except to launch a

campaign of disinformation about the elections in Kashmir so that Musharraf's own brand of elections could not get affected adversely. They spoke such lies over their electronic media which disillusioned even their sympathisers in Kashmir. The *Kashmir Opinion* summed up the reaction of Kashmir in these words:

“Pakistan has become so much nervous that it has started speaking such lies as have made people of Kashmir to make it an object of ridicule. Pakistan's drum beating about forcing people out of their houses to cast vote in the Lolab Constituency, has disillusioned the people. The brute fact was that in the Lolab valley there were no elections because of the cold blooded murder of Law Minister, Mushtaq Aahmed Lone which led to the countermanding of elections in that constituency. But Pakistan's military junta has been made that way. They cannot help. Pakistan's Army after assuming power, by dismissing democratically elected Government, usurped the power of judiciary, legislature and the executive and proposed to enact the drama of conducting elections in Pakistan. Interestingly Musharraf has already amended the constitution of Pakistan to empower him to disband the Parliament at his sweet will.”²⁷

European Union Parliamentary delegation endorsed the ongoing elections in Jammu and Kashmir State describing them as, “fair and proper” ... “we have got information from all sides – Government, independent Indian institutions and our own diplomats. We know this (polling) is going on under proper conditions.”²⁸ The leader of the delegation, Crespo remarked about the poll body, “we do not doubt the fair and proper way of holding elections in India.” The *Daily Excelsior* commenting editorially wrote, “... that while the joint team of British and United States High Commissions expressed its satisfaction in the conduct of elections in Jammu and Kashmir State and especially in the border belt of R.S. Pora and Suchetgarh of Jammu district, the voters at the polling stations closer to the Indo-Pak border showed some extraordinary courage and enthusiasm as they participated in large numbers to exercise their franchise even at the hyper sensitive polling stations, ignoring the fear of Pak firing in the second phase of Assembly elections.”²⁹ At many polling booths falling

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within the range of Pakistani firing, voters went under cover when the enemy guns zoomed and appeared once again to cast their votes when the firing stopped. People had a strong will to exercise their option by casting their ballots. The ballot prevailed over the bullet. That was the story told by an eye witness.

The results of elections confirmed the fact that these were free and fair. Following was the final party position:

Sl. No.	Name of the Party	No. of Seats Won
1.	National Conference	28
2.	Indian National Congress	20
3.	People's Democratic Front	16
4.	CPI (M)	2
5.	Panthers Party	4
6.	Bhartiya Janata Party	1
7.	Bahujan Samaj Party	1
8.	Independents	15
Total		87

The results show that the party that had played a historic role in Kashmir (National Conference) and which was in power was badly mauled, so much so that it could not even attempt to form the government. Nor did it receive the support from any other political party or group to do so. Even the independents did not support National Conference. So much had the anti-incumbency feelings gripped the people. Terrorist violence had badly bruised them. Normal life had become impossible. Schools and hospitals had been torched, vital bridges damaged and destroyed. Total infrastructure was battered. The terrorist brigands from across the border had reduced Kashmir to a graveyard. The gullible who had been made to believe that *Azadi* was round the corner were completely disillusioned. They wanted an escape route which was provided by the free and fair elections. People wanted to get rid of what they believed, a scourge of God on the land of *Reshis* (a *Reshwar*). They wanted a government which could restore their normal life, as they rejected the path of terrorism as a means of solving

their problems. Violence was alien to them. They wanted a government which could give them healing touch and extricate them from the grip of terrorism fast held by unwanted cross-border terrorists financed and armed by Pakistan. Having tasted it for last so many years, they wanted an effortless riddance. Elections provided the golden opportunity and they made best of it.

There were political parties which were ready to give an alternative to the people. These parties were the Indian National Congress, the People's Democratic Party, CPI (M) and Panthers Party. They had already committed on certain vital questions in their respective election manifestoes which did inspire some hope among the people. A big chunk of independents also thought on similar lines. So when the day of reckoning arrived, people were determined to defeat the path of destruction which the anti-people forces had laid down in the form of boycott to the elections. They mustered the courage to face the threatened terrorist shoot-outs at the polling booths and voted for the dawn of new life which would lead them to peaceful life, economic prosperity and cultural advancement. But none of the political parties had an absolute majority to form a government. Yet the compulsions of the situation and near similarity in their views brought the two major parties, Indian National Congress and People's Democratic Party, together to work under a common Minimum Programme and form the government. All other political parties and independents supported the new formation and its common Minimum Programme and became the part of the new dispensation in Kashmir. So called *Hurriyat Conference* stood isolated and rejected by the verdict of the people.

The main features of the common Minimum Programme are:³⁰

1. To heal the physical, psychological and emotional wounds inflicted by fourteen years of militancy, to restore rule of law, to revive political process by requesting Government of India to initiate wide ranging consultations and dialogue, without conditions, with the members of the legislature and other segments of public opinion in all the three regions of the State.

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2. To ensure safety of lives and properties and restoring dignity and honour of all persons in the State. Encourage those young men from the State who have resorted to militancy, to return to their families and the mainstream and ensuring them security and justice under law. To ensure Government of India, the cooperation of the State Government in combating cross-border terrorism originating from Pakistan.

To achieve these objectives the government declared that it shall:

3. review all cases of detainees held without trial for long periods; release detainees held on non-specific charges for which the period of due punishment has already exceeded while in jails,
4. review the operation of all such laws as deprive people of their basic rights of life and liberty for a long period of time without due legal process. Some special powers may need to be retained but operated carefully and sparingly,
5. investigate all custodial killings and violation of human rights,
6. strengthen Human Rights Commission,
7. formulate a comprehensive relief and rehabilitation package for those families affected by militant violence,
8. implement special schemes to rehabilitate former militants who have forsworn violence and rejoined mainstream,
9. reach out to the children, widows and the parents of the deceased militants,
10. take all necessary steps to ensure the safety of Kashmiri Pandits and devise effective measures for their rehabilitation and employment. The government will seek the cooperation of all elements in the society to create an atmosphere conducive to their safe return. The return of Kashmiri Pandits to their motherland is an essential ingredient of *Kashmiriat*,
11. construct permanent shelters in vulnerable areas for persons living close to Line of Control to prevent loss of life,
12. rid the State administration of corruption and nepotism,
13. establish *Ehtisal* for inquiring into complaints received against the Chief Minister, State Ministers and Legislators,

14. revoke/not implement POTA, enough laws being in existence for dealing with militancy,
15. press for inclusion of Dogri in the 8th schedule of the Indian Constitution,
16. grant full powers to Autonomous Hill Development Council of Leh and persuade Kargil to accept such a Council,
17. prepare employment oriented development plans, for agriculture, horticulture, handicrafts, tourism, information technology, food processing and environment friendly industrial activity,
18. give due consideration to Wazir Commission,
19. constitute Delimitation Commission,
20. develop power resources of the State and request the central government to ensure availability of power to maximum extent,
21. give special emphasis to safe drinking water, sanitation, rural roads, primary health care and elementary education,
22. plan for environment friendly tourism,
23. give adequate functional autonomy and financial support to Panchayati Raj institutions,
24. design special welfare programmes for women,
25. promote welfare programmes for backward classes including Gujars, Bakarwals and Schedule Castes and tribes,
26. constitute Minority Commission to look after the interests of minority communities,

To what extent will the new government be able to achieve its objectives, is yet to be seen. But one thing is glaringly clear that Pakistan wanted to sabotage elections as they apprehended the verdict of the people to go against them which would vindicate the Indian stand on Kashmir. All along they have been trying to grab Kashmir by force. They attacked Kashmir first in October 1947 when it had not as yet formally acceded to India. That way, they trampled the aspirations of the people of Kashmir under their jackboots. The recent assembly elections in Kashmir have vindicated Indian position on Kashmir, and

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demonstrated the faith of people of Jammu and Kashmir in the democratic process and democratic institutions like the Election Commission of India. India has once again redeemed its pledge and in full measure.

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INTERNATIONAL RESPONSE TO THE KASHMIR ELECTIONS, 2002

Tanya Mohan

The Jammu and Kashmir (J&K) Assembly elections held in September-October 2002 in many ways could be described as a watershed in the internal as well as international political context. The Indian Prime Minister, Atal Bihari Vajpayee, triumphed in conducting the polls “free and fair” to a large extent. Though the elections were marred by violent incidents (the highest number of casualties were in September 2002 and the second highest in October),¹ yet the voter turnout was more than 40%, which is considered significant given the political turbulence in the State. The year 2002 also witnessed two of the worst massacres in the valley and the assassination of prominent political leaders. The Qasim Nagar (July 13, 2002) and the Kaluchak (May 14, 2002) massacres, where innocent women and children were killed was seen as Pakistan’s desperate efforts to prevent ‘free and fair’ elections in Kashmir. The assassination of Abdul Ghani Lone (May 21, 2002), perceived by many as a moderate political leader of the All Party Hurriyat Conference (APHC)², by Pakistan-sponsored militants was Pakistan’s yet another effort to silence any voice opposed to its political goals in Kashmir. Given this background, the elections in Kashmir assumed exceptional importance. In this context, the reactions of the international community, approaches of various countries and their perceptions is significant since it underlines the changing dimensions of international public opinion on the issue.

The first Assembly elections in J&K were held in 1951 and the last in 1996. But it was the Assembly elections of the year 2002 in Kashmir that altered the views, and attracted ample attention, of the international community. Even though this attention did not satisfy India in its long-term objectives, i.e. (getting Pakistan labelled as a culpable terrorism sponsoring state), it did endorse India’s stand and evoked a positive response from the international community. Moreover, what is

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imperative is that the past polls have been described as ‘rigged’, while the recent polls have been described as ‘free and fair’.

Kashmir, described by majority of the Western states as a “nuclear flashpoint” of South Asia, has [fortunately] not quite lived up to their ill-conceived assumptions. India has, in the past, received enough flak from the international community on the Kashmir issue because of Pakistan linking nuclearisation to the Kashmir issue, human rights violations, non-involvement and alienation of Kashmiris in governance and talks, which eventually led to India being branded as not serious enough to address the genuine grievances of the State.

The post-September 11 global war led by USA against terrorism, too did not acknowledge or satisfy India’s initial fervor to eradicate Pak-sponsored terrorist groups operating in Kashmir. US war on global terrorism was construed initially by India to be the part of America’s larger plan of eliminating Osama bin Laden, Al-Qaeda and their network. Though cosmetic measures of banning a few terrorist groups were applied, they too soon lost their relevance since the same groups resurfaced under different names. General Pervez Musharraf, the Pakistani President was ‘told’ by the Americans to apply pressure on the terrorist groups and curtail infiltration across the Line of Control (LoC). Nevertheless infiltration still continues to take place, and the Pakistan sponsored terrorists are going strong in inducing violent attacks in Kashmir.

Kashmir, as a victim of circumstances and consequences does resemble an arena, in which the spectators have started paying more attention to the never-ending game of rope tugging between the two conflicting neighbors. With a new government, brought in through a ‘free and fair’ election, (acknowledged so by the international community) under the former Home Minister Mufti Mohammad Sayeed’s People’s Democratic Party (PDP), Kashmir is expected to tread on a smoother path than in the past. What is to be seen is the role of the parties, especially the international community, who can make this path either smoother or rougher.

India had also allowed international observation of the elections and facilitated the visit of observers from western countries to the valley. Earlier India had stated that observers from democratic countries could visit the valley and observe the elections. Since these elections have attracted ample attention from the international community, it is pertinent to look into the perspectives and dimensions of the international response and its future implications for Kashmir at the national as well as international level.

THE UNITED STATES VIEW

The relations between India and the United States (US) [over Kashmir] somewhat resemble the unfolding of chapters in a book, which seem to have been placed in the wrong order. Events and opportunities have been wrongly interpreted and understood between the two causing gratuitous discrepancies and inconsistencies eventually. Beyond some public pronouncements addressing the popular aspirations of the Kashmiris, US policy has demonstrated little understanding of the multi-layered and complex nature of the Kashmir conflict. Primarily because India and Pakistan both possess nuclear weapons, the US wished to have a stake in resolving the Kashmir problem even before the 1998 nuclear tests. However, it has never been prepared to take the risk or spend the political capital necessary to do so, and no blue prints of a solution have emerged from successive US administrations.³

The United States welcomed the successful conclusion of elections in Jammu and Kashmir, and lauded Prime Minister Vajpayee's personal commitment in making them transparent and open, which was a critical factor that helped to take the process forward. The following statement from a spokesman of the US Department of State elucidated the view point of Washington: "We hope that this will be the first step in a broader process that will bring peace to the region and we applaud the efforts of the Indian Election Commission and commend the courage of candidates and voters who chose to participate despite violence and intimidation and that the Kashmiri people have shown they want to pursue the path of peace."⁴ This clearly puts India and its stand on

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Kashmir on a much more assenting and confirmatory level with the international community.

The statement continues asserting that, “Following the completion of credible elections in Jammu and Kashmir, we call on both India and Pakistan to make strenuous effort towards an early resumption of diplomatic dialogue on all outstanding issues, including Kashmir. A lasting settlement, which also reflects the needs of the Kashmiri people, can only be achieved through dialogue. We welcome the Indian government’s commitment to begin a dialogue with the people of Jammu and Kashmir and we hope this dialogue will address improvements in governance and human rights. The United States and the international community will continue to make every effort to help India and Pakistan resolve their differences.”⁵

Therefore, the Americans after welcoming the elections are reiterating that there is and will be no change in Washington’s present Kashmir policy which lucidly declares that India and Pakistan need to resolve this peacefully.... and the way to do that is through dialogue. The Secretary of State, Colin Powell also stated that he has not been advocating creation of an independent state out of Kashmir when he talked about taking into account “aspirations” of the people to resolve the problem.⁶ Powell said that he told the Indian Foreign Minister that the United States “would continue to press the Pakistani government to do everything possible to stop the cross-border infiltration and remind them of the commitment they have made.” Yashwant Sinha, the Indian Foreign Minister reacted stating that Powell’s comments amounted to a tacit endorsement of India’s complaints. “Musharraf said he was putting an end to infiltrations,” Sinha said. “That is not a view we share and it is not shared by the United States. Colin Powell would not be saying he was putting pressure on Pakistan over this issue if the case were otherwise.” Musharraf accused India of running a global smear campaign against his government, and called upon the United States to intervene in the long-running Kashmir dispute.⁷

The American President, George Bush jr. and his administration have pursued the traditional American position that the entire

geographical area of the formerly princely State of Jammu and Kashmir is disputed territory, and the only and best way to resolve the issue is through bilateral negotiations (as suggested by the 1972 Simla Accord, which followed the 1971 war, and the 1999 Lahore process). It also maintains that it will not mediate a dialogue between the two neighbours unless invited by the two countries to do so.⁸ In addition, the Americans are pressing the two countries to resolve the matter taking into account the wishes of the Kashmiri people. Thus, currently, the policy options for the United States to deal with the Kashmir conflict seem to be to reduce tensions between India and Pakistan, to encourage sustained dialogue process and confidence building measures between the two countries, and to work to deal with the issue of terrorism in the region and worldwide.⁹

However, the present American regime has blissfully overlooked the fact that Pakistan has been sponsoring terrorism in Kashmir, and that these terrorist groups have strong links with Al-Qaeda. Since the Americans are using Pakistan as a pawn in their war against terrorism, they cannot afford to openly condemn General Musharraf and his government for supporting and sponsoring terrorism in Kashmir. This creates a rather obscure position for the Americans to be in. On one hand they cannot hold Pakistan culpable for sponsoring terrorism, and on the other they do not want the conditions to worsen in Kashmir.

Many analysts argue that though the US is not openly admitting its 'active' role in the Kashmir context, it is making clear that US is working out a solution for Kashmir, which would be acceptable to both India as well as Pakistan, and is also in accordance with the wishes of the Kashmiri people. This solution entails closed-door talks with both the Indian and the Pakistani governments, while at the same time applying pressure on the two neighbours to settle the disputes mutually in a peaceful manner.

The US interest in the previous elections in Kashmir has been minimal as compared to the one in 2002. The last election in 1996 was neither supported nor rejected by the Americans, and the Indian Prime

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Minister, Deve Gowda rejected their request for American and British official election observers to participate in the elections. Thus, the US stand on the 1996 elections was that India and Pakistan should resolve the issue bilaterally taking into account the views of the Kashmiri people, though not supporting the conduct of elections openly at the same time.

However, the US has stood by India at times like the Kargil war, when former US President Bill Clinton had firmly told Pakistan President Nawaz Sharif to immediately withdraw his forces from the LoC. Clinton had informed Vajpayee after intensive parleys with Sharif in Washington in early July 1999 that he was “holding firm on demanding the withdrawal of Pakistani troops to the Line of Control.” US Secretary of State, Madeleine Albright had called Sharif two days later followed by similar tough talk by General Tony Zinni who also spoke to the then Army Chief Pervez Musharraf. “These messages did not work. So we went public and called upon Pakistan to respect the LoC,” Riedel said adding that Clinton called both Vajpayee and Sharif in mid-June and sent letters to each pressing for Pakistani withdrawal and restraint from Indian side. Interestingly, according to Riedel’s account, Sharif briefed an angry Clinton on his frantic efforts during that period to engage Vajpayee and get a deal that would allow Pakistan to withdraw with some face saving.¹⁰

The engagement of separatist groups, especially the Hurriyat, in a dialogue (to resolve the conflict) has also been an important part of the American agenda. Many American diplomats have travelled to Kashmir for the sole purpose of exerting pressure on the Hurriyat to participate in the elections. The Hurriyat on the other hand denied that it was under any pressure from the Americans, even though its Chairman’s frequent visits to the American embassy in New Delhi, showed that the US was directly in deliberations with the conglomerate.¹¹ This clearly shows that the Americans were pursuing separatists and secessionist groups to participate in the elections. By doing so they have been adhering to their policy, i.e., the conflict should be sorted out between India, Pakistan and most importantly the Kashmiri people. On their part, the separatists

tried their best not to let the Americans persuade them in doing so. However, the APHC especially, lost out on all fronts by not participating in the elections. Their credibility plummeted at the domestic as well as the international level. The Hurriyat's dilemma is attributed to certain factors such as fear from attacks from the *jihadi* groups, gaining low percentage of votes and thereby minimizing their credibility, and eventually lack of political wisdom, subsequently inviting displeasure and disappointment from the Americans. In December 2002, the American Ambassador to India, Robert Blackwill ignored the APHC during his visit to Kashmir and refrained from any kind of formal dialogue with them. By not meeting the Hurriyat leaders, the American Ambassador showed his indifference to the conglomerate.¹²

Thus, the months following the elections witnessed the dampening of relations between the Americans and the APHC to the extent that a Hurriyat member even commented that 'USA is not god that makes it Hurriyat's duty to obey its orders.' Yet, the Americans especially under the Bush regime are trying to covertly play an increasing role in resolving the present imbroglio. Though the US had always wanted to play a dominant role, the Indians have resisted any third party role of such kind. On the other hand, the Pakistanis have always wanted the international community to play an assertive role. However, India's stand has limited active US involvement.

Many argue that the Bush government has been following a dual as well as a pro-active policy in Kashmir as compared to its predecessors, though this has been vehemently denied by the Assistant Secretary of State, Christina Rocca. In her statement she said, "We – the United States does not – is not involved in any negotiations between India and Pakistan and won't unless invited to by both sides, and that's still the position."¹³ There is some evidence of US involvement outside that of its diplomatic endeavours. The Americans have also started making it clear to the rest of the international community, as inferred from Colin Powell's reinforcement of the view, that eight developed countries (G-8) have agreed that Kashmir problem should be solved once and for all, for which not only should India and Pakistan be compelled, but

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full co-operation should be sought from the world community.¹⁴ Nevertheless, the US has reiterated that there would not be any involvement by them unless both the countries want it.

Thus, the keen US involvement in the pre as well as post-election scenario can be examined with their long time interests or goals in the region. 'There are clear indications of the United States wishing for a joint patrolling of Indian, Pakistani, British and the US forces at the India-Pakistan borders.'¹⁵ This might be for containing China, avoiding a nuclear war between India and Pakistan and various more reasons. But what is clear is that the Americans, despite being extremely satisfied with the elections in Kashmir are still not able to come out with a clear, overt and coherent policy. Violent attacks on civilians resulting in massacres are continuing in Kashmir and except for a general condolence statement from the Americans, nothing else has been really done from their side.

UNITED KINGDOM

Britain has had a historical role in this dispute and has somewhat followed a dual policy on Kashmir since the partition between India and Pakistan. The British High Commissioner Sir Rob Young welcomed the successful completion of elections in Jammu and Kashmir. He also praised the efforts of the Election Commission of India and those who chose to participate inspite of threats and intimidation. He hoped that this would be the first step in a broader process that will bring peace to the region. The people in Kashmir have shown they want to pursue the path of peace, he added.¹⁶

Britain has supported the elections and has continued its efforts to involve India as well as Pakistan in a dialogue. In the months following the elections, the British High Commissioner visited the valley to talk to the separatists. He openly expressed the need to stop cross-border terrorism, as that was the hurdle in resuming the negotiations. He exhorted Pakistan's President Musharraf, to fulfill his promise of stopping cross-border infiltration. He also praised the Assembly elections and added that those who had not participated in the process

had lost their chance to prove their relevance. He advised the militants to give up the gun, and unlike his American counterpart met the Hurriyat leaders in order to understand their stand on the Kashmir dispute.¹⁷

Indo-British relations have undergone different phases in their relationship, and this relationship has somewhat been marred by fluctuating occurrences. The 1950s witnessed strategic differences between the two, but one finds instances of cooperation as were manifest in negotiating a settlement of the Korean war (1950) and of the Indo-China issue (1954). They together advocated China's entry into Security Council as a permanent member.¹⁸

But in the case of Indo-Pak dispute, Britain rarely supported India. Whenever Kashmir issue was debated in the Security Council, Britain played an important role in co-sponsoring resolutions and taking active part in deliberations. Though the declared objective was to provide a peaceful way out of the continuing impasse, Britain's role appeared to be partisan and unfair to India. After signing the instrument of accession, India expected that Britain would support the Indian stand, as it was also a party to the understanding. However the British virtually went back on their code of conduct and abrogated their responsibilities for protecting an arrangement, which was their own creation. What was resented most in India was Britain's position to equate the status of India with that of Pakistan in J&K, i.e., putting the aggressor and the victim of aggression on the same footing.¹⁹

Referring to the Kashmir question, R.L. Gupta has said that the balance was often tilted in favour of Pakistan. He also opines that, 'on the whole, the British attitude toward the Kashmir question seemed to have been determined by considerations of strategy and politics and not by impartiality or friendly relations with independent India.'²⁰ But a recent statement from the British Foreign Secretary, Jack Straw exhibits an alteration, to some extent, from its earlier policy on Kashmir. He said, "dismantling of terrorist camps by Pakistan and creation of a climate for assembly polls in Jammu and Kashmir held the key to resolving Kashmir issue, but also asked India for more action to deal with human rights 'deficit' in the State."²¹

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Repeatedly urging a permanent end to infiltration from the Pakistani side of the Line of Control, Straw said ‘the international community was not about to walk away from the prevailing situation in South Asia.’ While India should be happy about Straw’s stress on Pakistan needing to take further steps on curbing terrorism, his formulation on the centrality of resolving the Kashmir issue may be less than pleasing to New Delhi. “We are always concerned about the situation here and we shall stay concerned – I am sure the international community as a whole will be – till there is a resolution of this long-standing conflict between India and Pakistan about Kashmir... that’s at the heart of it...” he said. “Obviously, we want to see a permanent end to infiltration across that Line of Control.”²²

CHINA

Though China has occupied portions of Jammu and Kashmir State in Aksai Chin as well as some territory that was ceded to it by Pakistan through a border agreement between the two in 1963, it has always been cautious in openly getting involved in the dispute. However, the Chinese recognized Pakistan’s de-facto control over northern Kashmir, thereby gaining additional leverage vis-à-vis India. Thus, China at this time was the only power ready to identify completely with Pakistan’s claim in the Kashmir dispute.²³ Apart from border conflicts, the Sino-Pak nexus has also troubled India in the past few decades. In December 2002, China was planning to provide a liberal aid package of around 1.5 billion dollars to Pakistan, but at the same time the Chinese government also clarified to the Indians that they do not support President Pervez Musharraf’s Kashmir agenda. It is, therefore, important to look into the paradigms that have formed the basis for Sino-Indian relations.

Though India and China have undergone a tumultuous relationship with a war and many border and diplomatic skirmishes, the recent Chinese policy over Kashmir is being inferred as a shift from its previous stance. Diplomatic sources say China has shed its earlier pro-Pakistan stance on the Kashmir issue and has taken a more balanced

view on it, stressing that the vexed issue should be resolved bilaterally.²⁴ This can be attributed to the warming of bilateral relations between China and India after former Indian Prime Minister Rajiv Gandhi's visit to Beijing 1988. In 1995, Jiang Zemin made a statement in Pakistan stressing a bilateral peaceful negotiation of the Kashmir issue. The Chinese government has not come out with an open statement regarding the Kashmir elections but has condemned terrorist attacks such as the December 13, 2001 attack on the Indian parliament and wants to develop and pursue good neighborly ties between the two countries, and get over the past. The Chinese have somewhat taken a middle position on the Kashmir elections and have not come out with an official statement. The *China Daily* covered the elections, but included repugnant and objectionable statements like 'Indian Kashmiris' and 'bloodied state election,'²⁵ without mentioning Pakistan's sponsorship of violence. China's shift in its policy on the one hand and statements like the above do not reveal a clear-cut picture of China's policy on Kashmir.

Future cooperation between China and Pakistan and the course of their bilateral relations will help in determining China's stand on Kashmir. At the same time, China is concerned about the increasing US role and is equally aware of the fact that a plebiscite option will have implications over the Chinese control of Tibet and Xinjiang.

RUSSIA

Russia has probably been India's oldest ally in the international community in the pre and post cold war era. Prior to the cold war India was seen as a keen supporter of the erstwhile Soviet Union. Strategic ties, a score of agreements, defence deals and common views on various international issues marked the relationship between India and the former Soviet Union over the years, and Russia is still following the old Soviet policy. However, it is the perilous phenomenon of terrorism that has brought the two countries closer to each other. Russia like India faces terrorist activities in Chechnya and the Chechen conflict like Kashmir is sustained by the material and political support from outside.

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Russia has supported India's stand on Kashmir and reiterated the fact that composite dialogue can be resumed between India and Pakistan only when necessary measures are taken for cessation of support to cross-border terrorism and for respect for the LoC. Foreign interference should be stopped in J&K and the Kashmir issue should be solved bilaterally and on the basis of compromise. "The key strategic partnership declaration signed by Russian President Putin and Indian Prime Minister Vajpayee clearly pointed to the turmoil in Afghanistan and the Taliban menace in the form of international *jihad* that plagued both Kashmir and Chechnya. The joint communiqué explicitly stated that Russia and India both believe that bilateral talks between India and Pakistan can resume only after the end of cross-border support to terrorism and should be based on the Simla agreement. This clearly shows that the Russians are keen to consolidate past friendship and make strategic partnership a reality."²⁶

Russia hailed the Jammu and Kashmir elections as "free and fair" and said they had opened the way for an early normalization in the region. "India's long-standing democratic traditions and smooth electoral mechanisms have determined a free and fair character to the electoral process in the State," the Russian Foreign Ministry said in a statement. Moscow sees the elections as evidence that the Central Government and the people of Jammu and Kashmir are both "committed to bringing the situation in the State back to normal". "Despite attempts by extremist elements to intimidate Kashmiris, they failed to disrupt the vote," the Foreign Ministry said, expressing the hope that "the successful elections and the formation of a coalition government would create fresh opportunities for speedy normalization in Jammu and Kashmir."²⁷

Hence, Russia is the main country to which India can look for support. It has never let India down. In the post-election scenario India and Russia should join hands to fight terrorism and should articulate their point strongly to the UN, EU, US, UK and rest of the international community. Both the countries need to emphasize that the international community cannot be selective in its approach to deal with the issue.

EUROPEAN UNION

The European Union also welcomed the elections and the formal declaration by the presidency on behalf of the EU on assembly elections in J&K stated that “the European Union welcomes the completion of Assembly elections in Jammu and Kashmir. We call on all parties to respect the results of the elections. No formal EU Election Observer was present, but a number of EU diplomatic staff followed the process with the assistance of the Government of India and visited the Kashmir valley before and during the three phases of elections. Taking into account their personal impressions, the EU welcomes the personal efforts of the Indian Election Commission in promoting free and fair elections. The EU hoped that the elections would be a starting point for a forward looking and inclusive dialogue with Kashmiri stakeholders. The European Union stands ready to work with India and Pakistan and with others in the international community in order to diffuse the continuing crisis between India and Pakistan and to encourage efforts to settle their differences through bilateral dialogue.”²⁸

Since the Kashmir elections of 2002 were more in international focus than any of the past elections, the visits of European and American diplomats also gained more attention and significance. In the words of Michael Stenberg, leader of the five member team of European diplomats, the visits are of much more importance in view of the international focus on Kashmir and the coming election. He made these comments before meeting Shabir Shah, Chief of the Jammu and Kashmir Democratic Freedom Party (DFP).²⁹

The elections have proved that the international community wants to have more stakes in the valley and is covertly as well as overtly asserting to do so. The EU has also supported India and “were fully agreed that the fight against terrorism must be global”, while at the same time ‘recognizing the validity of the requirement that infiltration and cross-border terrorism must be permanently ended.’³⁰ The EU is still active in visiting the valley in the post-election period. Though the EU has endeavored to become increasingly independent of US policy, its

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future stands and policies can only show to what extent can it break away from the American influence and take its own stand. European Union leaders have called on Pakistan to do more to curb the infiltration of militants into Indian Kashmir. It added that Pakistan “should take further concrete actions” by closing down militant training camps and preventing such groups operating from Pakistani-controlled Kashmir. The European Parliament, in a resolution, supported India’s stance on cross-border terrorism and called upon the Pakistan President, Pervez Musharraf, to “eradicate terrorist activities carried out from Pakistan, especially infiltration of terrorists”.³¹ The EU also calls on both countries to establish an effective monitoring system to stop infiltration.³²

GERMANY

Although the Indo-German dialogue has been going on since 1987, the dialogue between new Germany and India picked up momentum only in the last couple of years, under the changed circumstances of the global, political, economic, and security situation. Germany too has asked Pakistan to curb cross-border terrorism in order to normalize relations with India. In June 2002, Germany had offered to host a conference of Indo-Pakistan officials to ease tension between the two countries, on the lines of recent meeting of various Afghan factions in Bonn, provided New Delhi and Islamabad agreed to it. But New Delhi made it clear that it would not accept any international mediation and it would not permit any international observers to oversee the elections proposed to be held in Jammu and Kashmir.³³

India and Germany today recognize that the situation in Jammu and Kashmir could not be left out in the international fight against terrorism and stress the need for vigorous global action to root out the menace. The Interior Minister of Germany, Otto Schilly who visited India in October 2001 and had a 90-minute meeting with the Union Home Minister, L. K. Advani, said that his country was ready to extend cooperation in the battle against terrorism and to fight it out in all its dimensions.³⁴

FRANCE

France has welcomed the elections in Kashmir, and officially stated that: “it welcomes the completion of the elections in Jammu and Kashmir, which took place, despite a difficult climate, thanks to the determination of the Indian government and the measures it took. France deplores and condemns the acts of violence in the past few weeks and offers its sincerest condolences and complete solidarity of the French people to the families of the victims. This democratic election is an important event. We hope that it encourages dialogue with all the actors concerned by the situation in Kashmir and thereby contributes to a peaceful solution to this crisis.”³⁵

France has also been meeting the Hurriyat members in the post-election period also. The delegation comprising former Hurriyat Chairman, Mirwaiz Umar Farooq and Jammu and Kashmir Liberation Front (JKLF) Chairman Yaseen Malik met the diplomatic officials from France and apprised them of the recent developments and the role of the amalgam.³⁶

France has also acknowledged that there are clear links between terrorist activities in Jammu and Kashmir and some elements in the Pakistan Army. In an admission that is rare for Western governments, senior French foreign ministry officials said, “We are conscious of the fact that there are clear links between elements in Pakistan and the Kashmir militants. However, we do not know enough to say clearly whether these are rogue elements within the Pakistan Army or whether there is something more to it.” “Our objective is that instead of trying to pinpoint the blame on who is actually responsible for the situation, we would like to see a coherent overall dialogue between India and Pakistan on the issue,” the official said. The French insist that despite this lack of clarity of who is actually responsible within Pakistan for supporting terrorism, they have been taking up the issue very seriously with the Pakistani government.³⁷

India had never expected France to make such a statement, but by doing so France has validated Pakistan’s support of terrorists and

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has also brought this in the international limelight after many years of India's perseverance. India could now continue to press France to maintain its stand and probe into the matter for further details.

JAPAN

Japan had imposed sanctions on India as well as Pakistan after the two conducted their nuclear tests in 1998. Nevertheless, its positive response to the elections has brought back stability to the relationship between India and Japan. In its official statement a press release for the Japanese Ministry of Foreign Affairs, stated that:

- a. The Government of Japan values that, despite a number of terrorist disturbances, the local Assembly elections in Kashmir were conducted as scheduled with efforts made by the Election Commission, and many voters cast their ballots.
- b. The Government of Japan hopes that all parties concerned will make their efforts to promote peace and welfare of the people of Kashmir.
- c. The Government of Japan hopes that a dialogue between India and Pakistan will be resumed soon following the completion of the local assembly elections in Kashmir and the general election in Pakistan³⁸

Japan's interaction with these two countries has been guided in recent years by its stated desire to avert a nuclear flare-up in South Asia. Although it is nearly a year since Japan lifted its economic sanctions imposed on India and Pakistan in the context of their nuclear tests in 1998, the nuclear and missile issues have often dominated Tokyo's diplomatic discourse on South Asia.³⁹ Japan has also told Pakistan to prevent infiltration across the Line of Control and carrying out terrorist activities in Jammu and Kashmir. This was conveyed to Pakistan when Japanese Foreign Minister, Yoriko Kawaguchi spoke to her Pakistani counterpart Abdul Sattar. Kawaguchi, expressed concern over the rising tensions between India and Pakistan, and said Tokyo would continue to call on India to seek diplomatic solution to the situation and to resume dialogue with Pakistan.⁴⁰

UNITED NATIONS

On October 27, 1947 the Indian Governor General accepted the instrument of accession and subsequently the whole of the State of Jammu and Kashmir legally became a part of India. On January 1, 1948, Prime Minister Nehru approached the United Nations (UN) Security Council to put an end to Pakistan's aggression in Kashmir. The UN has since been involved in this conflict, which has spanned more than half a century now. In January 1948, the Security Council adopted resolution 39 (1948), establishing the United Nations Commission for India and Pakistan (UNCIP) to investigate and mediate in the dispute. In April 1948, through the resolution 47 (1948), the Council decided to enlarge the membership of UNCIP and to recommend various measures including the use of observers to stop the fighting. On March 30, 1951, following the termination of UNCIP, the Security Council by its resolution 91(1951) continued to supervise the ceasefire line in Kashmir. UNMOGIP's functions were to observe and report, investigate complaints of ceasefire violations and submit its findings to each party and to the Secretary General.⁴¹

After the 1971 war, and the signing of the agreement delineating the LoC, India took the position that the mandate of UNMOGIP had lapsed. Pakistan, however, did not accept the position. Though it was established for the purpose of supervising a ceasefire in Kashmir, the UNMOGIP could not offer more than just providing information to the UN on the developments in the region. "The UNMOGIP has been largely unable to deal with the military escalation in the region, and is relatively powerless to prevent the ongoing violence."⁴² It has neither been effective in reporting infiltration across the LoC by Pakistan sponsored terrorists, nor has it played an effective role in the Kargil conflict where border incursion was carried out by the Pakistani army.

Even though the presence of UNMOGIP has not been of much help in peacekeeping, the chief aim of the United Nation's policy has always been to establish and perpetuate peace between India and Pakistan, especially over the dispute on Kashmir. Yet the long-standing

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presence of the UN in Kashmir and all the measures [taken by it] has not been able to provide any solutions at all.

In the recent past the Secretary General Kofi Annan, in his visit to Pakistan, stated that Kashmir is a bilateral issue and needs to be resolved between the two countries without any outside involvement, thereby illustrating a shift in its concern towards the nuclear threat, and has subjected itself to making statements like urging Pakistan to curb terrorism, cracking down on terrorist groups, and reiterate that the two countries need to hold talks for a peaceful solution to defuse the crisis. The United Nations dealt a severe blow to Pakistan on Kashmir that could change the dynamics and complexion of the contentious issue. In a statement issued on the South Asia situation that international experts agreed was a landmark, Secretary General Kofi Annan suggested the bilateral route to resolve the “differences” over Kashmir. He also implicitly pointed to Pakistan as the originator of terrorism in the region by asking it to stop such acts across the Line of Control.⁴³

However, in September 2002, the UN Secretary General’s speech invited a lot of flak from the Indian government, when he branded Indo-Pak tensions as one of the four threats to world peace. ‘He said that the situation between India and Pakistan might have calmed down but it remains perilous and if a crisis were to erupt, the international community might have a role to play.’⁴⁴ But in the longer run, the UN has taken a stand, which makes it clear that Pakistan can no longer propagate and expound on its stuck record of a plebiscite and international mediation of the conflict.

CONCLUSION

The Kashmir elections symbolized the sovereignty, secularism and the homogeneity that India as a country represents. It provided an opportunity to India to demonstrate its fair dealings in Kashmir at the domestic as well as the international level. It is for the first time that the conduct, supervision and the turnout of an election held in Kashmir has been appreciated and welcomed to such a great extent. It can also be assumed from the above analysis that the international community is

keen to get involved for a peaceful settlement of the dispute, but are reiterating that their involvement will only be there if allowed by the two countries.

Thus, countries such as the US are likely to play an important part in the forthcoming months, a role, which can have a positive, or a negative effect depending on Indian diplomatic endeavors. The US has already been covertly assertive in its attempts by talking to separatists, other countries, and India and Pakistan for a joint resolution of the problem. Converting the Line of Control (LoC) into a permanent border is also an option that it wants both India and Pakistan to consider. This option has also been debated in the Pakistani media after a few Pakistani newspapers revealed that Gen. Musharraf is considering a proposal to convert the LoC into an international border. After keeping silent for a day on the issue, the Pakistan foreign office subsequently dismissed the report to be fictional.

The shift in the views of the international community in the pre and [especially] the post-election period, on the Kashmir issue can be attributed to the impact that September 11 has had on international relations and global politics. Though the US war against terrorism has been selective in pursuing their objectives, it does seem to dawn on them that terrorism has to be combated globally and not selectively. This could be a reason for a shift in US policy over Kashmir, as seen in statements made by Secretary of State Colin Powell over the curbing of infiltration by the Pakistanis on the LoC. Even UK, Japan, Germany and Russia have followed suit, and this inevitably gives India a chance to use the situation to its own advantage. The statements given by these countries extol India's efforts in building steps towards a peaceful resolution and should be used to build up pressure on Pakistan for ending infiltration and terrorist activities across the border. India has to play its cards right and in order to do so, it must use all its diplomatic moves in the right way and the right manner to get a stronger foothold at the international level.

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EMPOWERING THE PEOPLE: KASHMIR ELECTIONS, 2002

Syed Nazir Gilani

DIALOGUES AND CONTESTATIONS

Politics, in its broadest sense, is the activity through which people make, preserve and amend the general rules under which they live. It is inextricably linked to the phenomenon of conflict and cooperation. Dialogue and contestations of a society with the state are necessary to animate a people's well being. And the site at which these encounters take place is always a civil society.

Political schools have to construct alternative modes of politics and give a convincing message that the state dictated political discourse is not the final word on political arrangements. For the reanimation of civil society it is important that the men and women are able to take part in a freely expressed political choice. The endeavour to animate the civil society has to be gilded on the confidence that a self-conscious civil society necessarily involves democratisation. Civil society is accessed invariably through political activism, which ensures state accountability and responsiveness. Civil society can, however, carry out this programme only when it itself is democratic. Logically civil society can hardly ask for a democratic state if it is itself undemocratic. A democratic state in effect requires a democratic civil society.

The civil society in Jammu and Kashmir over the last 12 to 13 years passed through the worst ruptural moments of its political biography. A fear psychosis in this period and a new brand of privatised politics has restricted the public sphere of expressed politics in Kashmir. People have been oppressed and marginalized and excluded from 'democratic' deliberations.

Even historically there has been an absence of internal democratisation in the civil society of Kashmir and over the years it has

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largely neutralised its potential for democratising the state. This is the reason that much could not be done to find the ways in which civil society and the state can be re-appropriated in the interests of democracy.

THE PUBLIC INTEREST

Governments serve the enlarged interests of the people in an organised manner and politicians forming such governments act in the interests of the people. Every shade of political opinion claims that it works for the 'common good' or in the 'public interest'. It is the notion of public interest, which gives a politician's views or actions a cloak of moral respectability. In a 'government for the people' a collective public interest takes precedence over the private interests of each citizen.

Broadly speaking the 'revealed interests' of Kashmir politics during the last 12/13 years do not add up to a fair face of 'collective public interest'. It should not surprise us at all because the representation is intimately tied up with elections, at first within a political party and thereafter with the competitive elections at the State level.

It is on this basis that in his famous speech to the electors of Bristol in 1774 Edmund Burke (1729-97 a Dublin born British Statesman and political theorist), informed his would be constituents that 'your representative owes you, not his industry only, but his judgement; and he betrays, instead of serving you, if he sacrifices it to your opinion'. In essence according to Burke the representation was to serve one's constituents by the exercise of 'mature judgement' and 'enlightened conscience'.

ELECTIONS IN KASHMIR

Kashmiris are a slow moving society and take ages to graduate. It was 31 years after their sale in 1846 that they voiced their first formal grievance in 1877. They made a formal complaint against mal-administration and misgovernment. Again it took them another 55 years in 1932 and the people of Jammu and Kashmir demanded a 'responsible government'.

The people of Kashmir, through their politicians, have submitted themselves to elections in 1951, 1957, 1962, 1972, 1983, 1987 and in 1996. The question of the 'transfer of the free will' of the people and that 'the will of the people' has not been the 'basis of the authority of government' in the past continues to be raised in Indian civil society itself. Democracies make mistakes and at the same time have institutional arrangement to listen and act to rectify. It is evident that the Indian civil society today is much more involved in the tragedy of the people of Kashmir than it was in 1951 or 1987. This change in the civil society of India and the political schools of India is reflected in the statement of the Prime Minister of India on 15 August 2001 when he acknowledged the 'pain and agony' of the people of Jammu and Kashmir and promised that when the elections to the new State Assembly took place, "we shall ensure free and fair elections".

While a political school or schools set out to challenge the legitimacy of state power and belief that a state dictated political discourse is not the final word on political arrangements, it has to construct alternative modes of politics. It has to understand that politics is about the dialogues and contestations. Therefore a society needs to be animated and the site at which these encounters take place is civil society.

One sees that over the last 12/13 Kashmiri leadership could not construct any alternative modes and the only alternative constructed is a 'memorial of mistakes' and a huge graveyard standing on its own as a 'memorial of the loved ones lost'.

The rabid opposition to the 9th/10th election seen on its own is an anti-people act and a violation of human rights. APHC (and other political organisations outside the fold) staying put to 'make peaceful struggle to ensure for the people of the State of Jammu and Kashmir the exercise of the right of self-determination in accordance with the UN Charter and the resolution adopted by the UN Security Council...' {Chapter II article 2 (i) of the APHC constitution}, do not bother to account for the use of violence against the common man and woman in

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the sphere of their freely expressed political opinions. It is equally reprehensible that political schools in Jammu and Kashmir (more so in the valley) have failed to act according to a 'mature judgement' and an 'enlightened conscience' on the jurisprudence of 'self-determination' and the 'elections'.

JURISPRUDENCE OF ELECTIONS

Participation

Elections on their own are a separate human right. Participation in the conduct of public affairs is a basic human right. It is prized by people throughout the world and it involves individuals in community decisions. Today, taking part in government is recognised as a basic human right in every region of the world.

Since the politicians on either side of Jammu and Kashmir, the militants and the Government of Pakistan base their case on UN Charter and UN Resolutions, it is correspondingly important to understand the jurisprudence of (a) General Assembly resolution 46/137 of 17 December 1991 on the importance of elections and (b) how elections in view of the United Nations impact the effective enjoyment of a wide range of other human rights and fundamental freedoms in any part of the world.

It would be self-serving and at the same time repugnant to UN Charter wisdom, if the politicians, seriously genuine and self-important do not concede that the right to take part in government is proclaimed and guaranteed by Universal Declaration of human Rights and the International Covenant on Civil and Political Rights and is recognised in many other treaties and declarations. An intensified world-wide struggle of the people for free and fair elections – often at great risk – demonstrates the importance of this right to individuals around the world.

The General Assembly of the United Nations in Para 3 of its resolution 46/137 of 17 December 1991 states that "periodic and genuine elections are necessary and indispensable element of sustained

efforts to protect the rights and interests of the governed and that, as a matter of practical experience, the right of everyone to take part in the government of his or her country is a crucial factor in the effective enjoyment by all of a wider range of other human rights and fundamental freedoms, embracing political, economic, social and cultural rights”.

Non-participation

The people of Kashmir not on account of threat to life and violence against person but out of a free and informed choice have a right – not to participate in elections for a variety of reasons supported by the United Nations jurisprudence on elections. In this regard election setting, effective administration of justice during an election, question of a balance between electoral security and maintenance of order on the one hand and on the other the importance of non-interference with the rights and the existence of an environment free of intimidation.

There is the question of ‘Duty to Fairness’. The UN Code of Conduct imposes a duty of service to the community upon all officers of law. It enshrines that all citizens benefit from elections that are administratively sound and free of any disruptive forces, which seek to undermine, the free expression of popular will.

EMPOWERING THE PEOPLE

The use of violence to prevent a man or a woman from the choice of an expressed politics has no place in a civil society. It constitutes a criminal offence and correspondingly lowers the numerical ceiling of your strength at the time of referendum.

Politicians have to construct credible alternative modes by argument and by contestation and keep up the endless efforts to promote the common welfare of the people. There is no cogent reason available to advocate non-participation in the elections and no reason that one should give up a basic human right for the sake of an engineered privatised politics. Since there is no alternative to elections that could empower the people, people should be allowed to make an informed choice. They should be allowed to understand the

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jurisprudence of ‘elections’ and the jurisprudence of ‘self-determination’. They should be allowed to live, ‘a today’, ‘a tomorrow’ and prepare for ‘the day-after’.

More over a simple application of common sense would reveal that bidding a person to keep off from the singular moment of casting a vote which enables him or her to instruct/mandate his representative in regard to a programme of action, would have no other result except perpetuating further a much dreaded and bemoaned status quo. It means facilitating the continuation of the present government without putting it through a free and fair assessment of the people.

It is not only the common man and woman in the civil society of Kashmir that need a responsible government but the Kashmiri leadership stands out more in its need of a government. The legal documents required for a car, the need for a passport to travel, admission in a hospital, need and level of a personal security cover, a judicial relief, the question of prisoners, of disappeared, violation of human rights and the provision of daily household stuff are the items of life that are firmly connected with the existence and acceptance of a government.

Ironically our Kashmiri leadership is destitute in its understanding of the jurisprudence of the Kashmir case. It may not have even remotely occurred to it that National Conference and Muslim Conference are the two parties fully referenced in the UN Resolutions and are deemed to have passed the test of Principality. APHC and other parties outside this fold, may prima facie appear to have the potential to pass the test of Principality but these parties have yet to sit for this qualification.

ELECTIONS, 2002

The four phase elections – September 16, September 24, October 1 and October 8 are now over. US ambassador to India, Robert Blackwill certified these elections as “positive, credible, successful”. German ambassador in India on behalf of European Union also certified these elections as free and fair.

These elections may have a question mark on being 'freer' but there is little doubt on their being 'fair'. The common Kashmiri was not free in the expressed choice of his politics. The voter was under the shadow of a gun and dared all threats in his walk to the Electronic Voting Machine at the polling station. One can say that these elections were freer than anytime in the past.

Kashmir was under the international gaze, there was a massive presence of national and international media, Delhi based foreign diplomats and a large number of NGOs were round the corner to see the voting in process.

The killing in May 2002 of Abdul Ghani Lone, senior Kashmiri leader and a short, sharp and swift spell of murderous violence, killing NC leader Mushtaq Ahmad Lone and nearly 800 others during the elections could not match the nascent ability of the common man and woman to assert their singular opportunity to effect a change.

HOW DID IT ALL HAPPEN

The institutional strength, independence and determination of the Election Commission of India remains at the core of animating the interest and trust of the people of Jammu and Kashmir.

The lead role of the Chief Election Commissioner, J.M. Lyngdoh radiated a high sense of 'Duty to Community', 'Duty to Fairness' and his superman-like tradition of impartiality and sensitivity had an engulfing say in the success of the process.

The Chief Election Commissioner had the guidance of the rule of law and the guidance of a great statesman of Indian politics of the day – the Prime Minister of India. The concept of an approach based on *insaniyat* and the promise made during his Red Fort speech, where Prime Minister had admitted that 'mistakes have been made' morally emboldened the Chief Election Commissioner to start with a clean slate in Jammu and Kashmir. The civil society and its various shadows of opinion, civil and governmental, in India that remain associated with the gregarious approach on Kashmir have an equal cause to celebrate a move forward.

BOYCOTT CALL AND ITS PITCH

APHC boycott, its hue and cry, merchants of private interests, Pakistan's refusal to accept the possibility of a free and fair elections and more so the General Musharraf calling it a farce, did not find an impartial audience.

The international community, by and large has endorsed the Indian claim that despite violence and threats by militants there was a turnout of 41 per cent. Incidentally the turnout in the national elections of Pakistan was also around 41 per cent.

FRIENDSHIP OF BLIND AND THE LAME

APHC and the Government of Pakistan seem to have ended up in a friendship of blind and the lame. 12 January and 27 May 2002 determination of General Musharraf to stop all cross-border terrorism and the related suspicion expressed by the US ambassador in India stating that – “Our view is that these things should go in parallel. We and the others will continue to work very hard in Islamabad to promote the objective of no more terrorism emanating from Pakistan and Pakistan-occupied territory. But at the same time, India and Pakistan should resume a serious discussion about their differences”. (*The Indian Express*, 19.10.2002). Ambassador Blackwill also seconded New Delhi's 8-point offer of composite dialogue, of which Kashmir is one part, indicating that Washington did not agree with Islamabad's repetitive insistence on it being the “core issue”.

In equation to General Musharraf's promises of 12th January and 27th May 2002, APHC after 12/13 years of a prized and privatised politics, on 7th September 2002 in New Delhi signed a proud joint statement with Kashmir Committee of India. According to this joint statement “...APHC has agreed that all concerned parties must rise above their traditional positions, abandon extreme stands and show the necessary flexibility and realism to reach an acceptable, honourable and durable solution”.

Kashmir Committee prima facie is composed of well-learned and well-meaning members of the civil society. There is no reason to doubt their sincerity in regard to the welfare of the peoples of Jammu and Kashmir, India and Pakistan. However, for a constructive move on the road to cessation of violence and restoration of peace accompanied with all rights to the people of Jammu and Kashmir, there is a lot more than to look at the silver spoon in the mouth of APHC.

APHC has followed a constitutional discipline since 31st July 1993. Although some of its activities have remained extraneous to the constitution yet it has not off loaded this discipline as an excess baggage on its way to Islamabad.

The new statement constitutes either an amendment to the constitution or a privileged departure at the cost of a generation of beautiful young men and women in the heavenly abode, where even the angel of death objected to kill on the question of 'conscience'.

Out of a 'national prejudice' one would like this assembly of Kashmir politics to fare well and win the gold. Unfortunately, it has failed to position itself on the basis of priorities, vis a vis, the 'question of the people of Jammu and Kashmir', the India-Pakistan claims and the respective list of grievances against India and Pakistan.

HIGH PRIESTS OF SELF-DETERMINATION AND PAKISTAN

The High Priests of self-determination – sitting up in APHC are not clear in regard to their priorities and representation. The rights of the people of Jammu and Kashmir should have come first and a consideration of an accession to Pakistan should have remained a secondary consideration. Unfortunately these High Priests of self-determination seem to have remained in touch with Pakistan through its High Commission in Delhi and through other direct and indirect means more than the people of Jammu and Kashmir.

I do not want to propose any prejudice to their choice to join Pakistan but in view of the jurisprudence of the issues involved and article 257 of the constitution of Pakistan, it is all premature and self-

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defeating. Politicians on either side of the cease fire line are using India-Pakistan enemy image to advance their 'private interests'.

APHC has no position on Jammu, Ladakh, Azad Kashmir and Gilgit and Baltistan. It has no position on the areas distributed under the control of China. It has no understanding of the jurisprudence of UNCIP, the two constitutions of Jammu and Kashmir distributed under Indian and Pakistani control, the accords of the two governments of India and Pakistan with the respective people of Jammu and Kashmir, the legitimacy of some of these accords manipulated behind the backs of the people, the jurisprudence of the bilateral accords between India and Pakistan, over 2 million Kashmiri refugees in "Azad Kashmir" and Pakistan, the question of peoples aspirations under these administrative controls and the ongoing rights movements in "Azad Kashmir" and Northern areas and so on.

National 'pride and prejudice' causes me to wish the APHC strength and vision to marshal an animating programme of action and beat India and Pakistan in the finals for gold. However, the political biography of last 12/13 years points to a height that this amalgam was taken to but could not keep for long. The other part of the wise script is carried in a despatch by Seema Mustafa a senior journalist of India in her article titled "A Garden of Eden" (*Asian Age*, 12 October 2002) and she writes:

Several separatist leaders have won the polls and will carry more credibility than those in the Hurriyat who have little or no support even in their own mohallas. All in all the pre-election authority and the Hurriyat had acquired, has been eroded and now it will depend on the new government and the position it takes for this to be curtailed further.

It does not however, mean that the constituents of APHC have no role in Kashmir politics. They continue to remain the Class I State Subjects and if they succeed to re-appropriate a collective wisdom in reference to the people of Jammu and Kashmir, there is always, a surge for a 'national pride and prejudice'.

They need to have courage and recount the lost opportunities and refrain from the frivolous moves, like ‘cease-fire’ and ‘election commission’, which exposed their wisdom to the bottom of the marrow. They even failed to exploit the gains of a ‘cease-fire’ and the rewards of an ‘election commission’, which knocked at their door. A wise political amalgam, although reduced in all spheres, of size and substance, has time to match the strengths of their ‘cease-fire’ with the ‘cease-fire’ announced by the Prime Minister of India and the strengths of their ‘election commission’ with the ‘election commission of India’.

APHC in extreme travesty of wisdom plunged for Justice Khurshed Kiani based in Muzaffarabad and Justice Sajjad Ali Shah based in Karachi in the same way as our elders during the days gone by conspired against their own local ruler and travelled to Kabul to get for themselves a ruler – and were lumbered with one notoriously known as ‘Charag-Beig’. The amalgam suffers from mistrust of each other and doubts even its own shadow. The death of Abdul Ghani Lone, Mushtaq Ahmad Lone and 800 others does not make it any richer.

Pakistan on her part has not “been keen/eager to see genuine dialogue between the Kashmiris and the government of Delhi, fearing that Pakistan could be marginalized in the process (a view by Ambassador Teresita C Schaffer Director Centre for Strategic and International Studies Washington).

A NEW MANDATE

The people of Jammu and Kashmir made a valiant effort to vote and mandate their representatives. Although uncertain and unsure all along, the ones who decided to make it to the polling station have decisively voted to disturb the status quo. The common man and woman is now convinced that if there is a free and fair vote, they have an ability to validate a representative or in-validate if he has remained on the wrong side of the people.

The present mandate is classed as ‘fractured’. But it would be inappropriate to class a distribution of political choice as ‘fractured’.

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The people of Jammu and Kashmir have unseated the National Conference but have decided to keep it as a political choice. At the same time the voter has for the first time created a space for a competitive politics.

New Jammu and Kashmir Assembly was constituted by the Election Commission on Sunday 13 October 2002 formally notifying the names of all members elected to the 87 member Assembly. These elections were held in pursuance of notifications issued by the Governor under the various sections of Representation of People Act, 1957.

NC (28) has emerged as the large single political party. It has suffered a set back in elected numbers but has gained in votes. The use of a negative vote has been an advantage to other political opinions but NC has equally benefited from the APHC's local boycott in and around Srinagar. If one goes by the proverb – "all is well that ends well", then APHC boycott in Srinagar has been well for NC.

The return of Congress (20) as the second large party, PDP (16) as the third, Independents (13), JKNPP (4), BJP (1) CPI (M) – (1), BSP (1) and LAHDC – Ladakh Autonomous Hill Development Council (2) does augur well for a 'corporate' political culture in Jammu and Kashmir.

On the one hand the voters have economically distributed their expressed choice and on the other have set a new challenge for the political parties to co-exist and cohabit on a basic minimum programme.

It may be argued that Congress and PDP could not keep the warmth of their first hug (Azad-Baig) and wasted no time to come to blows, yet one can see that the stalemate too has its advantages.

Although the State has come under Governor's rule but there is no doubt that people's pressure, Indian establishment, civil society in India and international community (including well wishers of the people of Kashmir in Pakistan and Kashmiris working on the issue in various parts of the world) would be impacting to see that Kashmir returns to the initial benefits of a 'popular government'.

VERDICT FOR A CHANGE

The delay in cobbling together a coalition government – a first of its kind in Kashmir and the public pronouncements of anger on the haggling for scales of power further confirm that people have participated if not ‘freely’ (due to presence of threat and violence) but fairly in the elections.

It is a verdict for breaking from the past and moving forward in the right direction of a service to the people and the resolve the basic political problems. Though the numerical superiority favoured Congress as a choice for the office of Chief Minister, a psychological environment remained poised in favour of PDP’s insistence. PDP has the experience of Mufti Mhammad Sayeed and inspirational strengths of Muzaffar Hussain Baig and Mehbooba Mufti. PDP should, however, not forget that it is also a 3-year-old rag-tag group, which has benefited from a negative vote and the Congress’s accommodating generosity.

Congress leaders Mrs. Sonia Gandhi and Ghulam Nabi Azad withdrew 6 candidates in South Kashmir and bolstered the PDP’s chances. Azad is no more a ‘rootless wonder’ but a well-rooted ambassador of the rich traditions of the University of Kashmir. Baig (from Baramulla) and Azad (from Doda) are two distinguished semblances of the talent and character of Jammu and Kashmir.

People’s verdict at least given the general disarray has paved the way for a coalition government and also a strong opposition. However, these elections do not as an exclusive settle the question of who can speak for the Kashmiris in negotiating their future with India and Pakistan. While celebrating a mandate the new formation has to bear in mind and live up to a gap left over by a ‘low-poll’ and ‘no poll’ segment scenario. These elected people in Srinagar and the elected people in Muzaffarabad shall have to create a basic minimum as a ‘first priority’ in the interests of the people of Jammu and Kashmir, as reasonably as their respective restraints allow them.

A GOLDEN OPPORTUNITY

The poet Prime Minister and the leading statesman of his time in Indian politics today lived up to his promise of a 'free and fair elections'. This is the second free and fair election after Morarji Desai in 1977 when he avoided the temptation to rig the poll as was suggested to him by many. Sonia Gandhi has successfully revived the position of the Congress in the State. She reaffirmed the tradition of the emotional and political involvement of the Congress, especially Nehruvian leadership, in Jammu and Kashmir.

The elections have introduced a distribution of mandate and the alliance partners in the Government are a new change from 'sher-bakra' politics to a corporate leadership and a strong opposition.

The alliance leaders Muzaffar Hussain Baig, Bhim Singh and Mohammad Yusuf Tarigami have a long history of a nationalist politics. They may differ in the substance of the slogan 'Kashmir for Kashmiris' and the notion of a pluralistic civil society but they have an equal share in a sound political character.

JAMMU AND KASHMIR LEGISLATIVE ASSEMBLY ELECTIONS, 2002: AN EYEWITNESS REPORT

Paul Beersmans

The Belgian Association for Solidarity with Jammu and Kashmir sent its President, Paul Beersmans, as neutral observer in order to witness the Legislative Assembly Elections held in Jammu and Kashmir State in four phases (16 and 24 September 2002 and 01 and 08 October 2002) as to what extent they were free, fair and transparent. I could monitor the 3rd phase (01 October 2002: District Pulwama, Anantnag, Udhampur and Kathua) and, the 4th phase (08 October 2002: District Doda). At the same time I travelled extensively through Jammu and Kashmir State in order to interact with the population of the districts where the elections had already taken place.

I not only met the common people in the street, but also had meetings with officials, separatist leaders, intellectuals, press, politicians etc. These were mainly focussed on different aspects of the ongoing election process. The meetings partly took place before the 3rd and the 4th phase of elections and all of them took place before the results were known.

MINI-OPINION POLL

I tried to meet and interact with as many people as possible in the streets, in the markets, in the bazaars in order to learn more about their feelings and to see the general situation. As I was able to monitor only the 3rd and the 4th phase I thought it necessary and important to meet as many people as possible from the districts where the 1st and 2nd phase of elections had already taken place. I travelled extensively through Jammu and Kashmir State in order to cover as much districts as possible. In doing so I was:

- able to monitor the elections in 2 districts - Doda and Pulwama;
- able to visit and interact with Kashmiris in 8 districts- Anantnag, Baramulla, Budgam, Jammu, Kathua, Rajouri, Srinagar and Udhampur;

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- able to interact with people from 2 districts- Leh and Poonch;
- not able to monitor, to visit or to interact in the 2 remaining districts- Kargil and Kupwara.

In order to have a sort of systematic approach, we prepared a list of eight questions. This list was prepared, discussed and agreed upon in our Association before starting the mission:

- 1st question: 'Did you participate in the Legislative Assembly Elections in 1996?'. We found it important to know why people participated or not in these elections as they were the first elections since beginning of militancy. It was the end of 6 years of Governor's rule and the re-starting of the democratic process.
- 2nd question: 'Did you participate in the Indian Parliament Elections in 1998/1999?'. We found it important to know the attitude of the people towards the centre in Delhi after some two years of restoration of democracy.
- 3rd question: 'Were/are you happy with the Farooq Abdullah Government?'. A question related to the impression regarding the State Government between 1996 and these Legislative Assembly elections. This is the barometer indicating the satisfaction/ dissatisfaction of the people.
- 4th question: 'Did you have an Identity Card issued by the Election Commission of India?'. We wanted to know as to what extent the distribution of these cards had been realised.
- 5th question: 'Did you have the intention to participate in the ongoing elections?'. One can have the intention to participate and or not. The reason why one or the other happened is certainly worthwhile knowing.
- 6th question: 'Did you really participate in the ongoing elections?'. Of course it is very important to know why people participated or not in the ongoing elections.
- 7th question: 'Did you vote for the same party/candidate as before?'. We wanted to know if there was stability among the voters or if they wanted to change their previous choice.
- 8th question: 'Did you feel that the elections were free, fair and transparent?'. It is said that previous elections, except those of 1977, were rigged. These elections were promised by the

Government of India and the Election Commission of India promised to be free, fair and transparent. It was important to know the general perception concerning this aspect.

More than 300 people from 12 districts, young and old, men and women, answered these questions. Not only with 'yes' or 'no', they were also asked the reason for their answer, to give some explanation 'why'? Below you will find for each question, the answers that were given in descending order of importance. Some answers were a variation of an already received answer. These are grouped together. I donot claim that this is a scientific opinion poll. Nevertheless, the answers give a good view of the feelings and the motivation of the population of Jammu and Kashmir State during the Legislative Assembly Elections, 2002.

Question (1): 'Did you participate in the Legislative Assembly Elections in 1996?'

Yes, because:

- I wanted an elected government to bring peace and good governance;
- I thought the problems would be solved and the elected government would take care of us;
- Elections are the only way by which I can reject authoritarianism imposed by terrorists;
- I believe in democracy and wanted an elected government;
- I had hopes and expected that it would bring a better future. Variation: for the betterment of Jammu and Kashmir;
- I wanted to bring the local candidate in power;
- I have the right to vote and I exercised this right. Variations: 1. It is our duty, our birthright. 2. It is very necessary to vote, and
- My father was a political leader.

No, because:

- I didn't have faith in any candidate;
- Elections don't solve the Kashmir issue;
- At that time I was too young;

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- My name was missing on the electoral role;
- I was on duty, and
- I was in jail.

Question (2): ‘Did you participate in the Indian Parliament Elections in 1998/99?’

Yes, because:

- I wanted to form a good and united Central Government;
- I voted for the Prime Minister because he is good for India;
- I believe in democracy and wanted an elected government.
Variation: I have the right to vote and I exercised this right;
- At that time I was still hoping National Conference would do something for the people;
- My non-participation is taken as a support of terrorism and I didn't want this to happen, and
- I wanted my candidate to be elected.

No, because:

- Threat of the militants;
- The Central Government is far away;
- They don't solve the Kashmir issue;
- Democracy in Jammu and Kashmir State looked to me as bogus. I was disgusted the way, it functioned in Jammu and Kashmir State;
- I was too busy at that time. Variations: (a) On duty. (b) I was out of station;
- I was still too young, and
- I was still in jail.

Question (3): ‘Were/are you happy with the Farooq Abdullah Government?’

Yes, because:

- He showed to the world that there is a government chosen by the people that can function, and

- I have to be, I must respect the choice of the people.

Yes and No, because:

- He did good job (health care, education, road construction) but also bad job (didn't look after the aspirations of the people, there were Human Rights violations, Special Operations Groups and Special Tasks Forces remained active). Overall a negative result;
- At the beginning he did good things, but in general it was disappointing, and
- There was an elected government but it didn't fulfill the promises.

No, because:

- He is not looking after us and just enjoying himself (playing golf, with filmstars, travelling abroad,...);
- He and his government and the bureaucracy are corrupt. Variation: Master of corruption;
- His policy is not good, not keeping promises. Variation: He is not helping the poor people and not creating jobs for us;
- He betrayed the trust reposed in him. He came to power because people trusted his promise of throwing the terrorists out. But he failed;
- He is giving more importance to the Valley and neglecting the other regions. Also non-Valley or non-Muslim politicians should be allowed to become Chief Minister;
- How can we be happy with him? We live already 12 years in exile camps;
- He came to power by rigging the elections. He is not the representative of the people, and
- He is a dictator, not a democrat.

Question (4): 'Do you have an Identity Card issued by the Election Commission?'

Yes, because:

- It was distributed by the administration, and

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- It was distributed by the Panchayat.

No, because:

- I applied for but I still didn't receive it. The distribution process started too late;
- We don't really need it, so I didn't apply for it;
- I was not on the electoral list, and;

Question (5): 'Did you have the intention to participate in the ongoing elections?'

Yes, because:

- I wanted a change of the government;
- I want to give a sign we want peace. Variations: (a) I wanted to give a sign I am against militancy and fundamentalism. (b) We have seen so much trouble and we want peace, and
- I believe that democracy is the best form of governance. There is no other alternative.

No, because:

- I don't want to vote for politicians only looking after their own interests and even if another coalition comes into power this will not change;
- I only will participate when there are politicians who will be able to settle once and for ever the Kashmir issue between India and Pakistan;
- My political party doesn't participate. That is the reason why I don't participate;
- I just was not interested.

Question (6): 'Did you really participate in the ongoing elections?'

Yes, because:

- I wanted a change of government. Variations: (a) I wanted to vote for a very good party/candidate who will be of some help for the people. (b) I wanted to end the Abdullah dynastic rule. (c) I voted for a change, against Prevention of Terrorism Act and against Special Tasks Forces. (d) To form a good government and to express my dissatisfaction with the Farooq

- Abdullah Government. (e) For the development of our country;
- I wanted to give a sign we want peace. Variations: (a) I wanted to give a sign I am against militancy and fundamentalism. (b) We have seen so much trouble and we want peace. (c) I wanted to register my rejection of terrorism and its Pakistani agenda;
 - I wanted to exercise my democratic right.

No, because:

- Out of fear for reprisal and violence of the militants.
- Despite voting several times in the past, nothing has changed for me and my children who are educated but unemployed;
- I didn't know whom to vote for;
- My political party doesn't participate. That is the reason why I didn't participate;
- They don't bring a solution, nothing changes;
- I was too busy with harvesting;
- Out of conviction;
- I was not on the electoral list, and
- I arrived too late at the polling station.

Question (7): 'Did you vote for the same party/candidate as before?'

Yes, because:

- It is a good party/candidate. Variation: I know my candidate well and I am satisfied with him, and
- It is the lesser of the evils.

Yes and No, because:

- I don't remember, and
- I didn't vote in 1996.

No, because:

- I wanted to vote for a better party/candidate. Variations: (a) The party/candidate I voted for last time did not look after us. Only a few days before these elections he came here with a lot

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of promises. (b) I was not satisfied with my party/candidate. (c) I wanted to give chance to a new candidate;

- There should be some change. Variation: I don't want a National Conference government,

Question (8): 'Do you have the feeling the elections were free, fair and transparent?'

Yes, because:

- Everything was handled in a correct and professional manner. Variation: First class;
- Generally yes, but at some places it is said there were some irregularities;
- Yes regarding the polling procedure, but I hope there will not be rigging while counting the votes.

No, because:

- They can't be under the present circumstances;
- I heard people were paid to cast their vote and other stories of manipulation;
- The ruling National Conference party tried to rig the elections in some areas;
- People were forced to go to the polling stations, and
- The Government of India will interfere and do anything to keep National Conference in power.

VOTING WITH THE ELECTRONIC VOTING MACHINE (EVM)

It is not my intention to give a complete and detailed overview of the election rules and procedures but I think it is useful to describe the procedure of voting with the Electronic Voting Machine (EVM), as this was introduced for the first time for elections in Jammu and Kashmir State. The Electronic Voting Machine functions on batteries and is not dependent on main power supply. It comprises two interlinked units- the balloting unit and the registration unit interlinked with a flat black cable of some five meters length.

- the balloting unit has 16 buttons. Each button is linked with the name of the candidate and the symbol of his party (or his own symbol if he is an independent candidate). Not all the buttons are necessarily in use as this depends on the number of candidates. This number is different in each constituency (for example in Constituency 32 at Pampore there were 11 candidates, in Constituency 55-Ramban there were 6 candidates). The order of the candidates is decided by draw (it is not that National Conference was automatically the first button, Congress the second, etc.);
- the registration unit is sealed several times on all sides by the officials of the Election Commission of India. I didn't see any irregularity regarding the sealing of the registration units. The registration unit is activated by the Presiding Officer or by a Polling Officer before a voter casts his vote. When the voter casts his vote on the balloting unit, the registration unit gives a loud beeptone indicating that the vote has been cast. A counter in the registration unit gives the total number of the candidates and the total number of votes cast (not a break up of the votes per candidate). According to the Presiding Officer and the Polling Officers rigging is excluded during this polling process as the registration unit is sealed. In addition, representatives of different political parties and the independent candidates are present watching the whole polling process. They would not accept any manipulation.

Some comments on the use of Electronic Voting Machines:

- Although an effort was made to give previously the necessary instructions in the use of the Electronic Voting Machine to the voters (explanation in the newspapers, on television, demonstration on 'dummy Electronic Voting Machine', etc.), some of them, especially older people, had problems to cast their vote. In this case, the Presiding Officer and the Polling Officers gave additional information without influencing the choice of the voter. In general, the younger people didn't have any problem in casting their vote.

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- The balloting unit is not lighted and was sometimes placed in a relatively dark room or corner. People coming from outside (bright sunshine) or having eye problems sometimes had problems to read the name of the candidate, or to find the symbol, of their choice;
- There are only as many buttons in use as there are candidates. One can't press a button 'invalid' to express dissatisfaction. As elections in India are free, one presumes that someone who is not happy with the candidates will not participate in the elections. One is not expected to show dissatisfaction in an active way by casting an 'invalid' vote.

MONITORING THE 3RD PHASE, OCTOBER 1, 2002

(a) The 3rd phase of the elections was held on October 1, 2002 in the following districts: Anantnag, Kathua, Pulwama and Udhampur. I monitored the elections in Pulwama District. The table below shows the results of the polling booths I visited:

DISTRICT PULWAMA

Constituency No. 32 Pampore (11 Candidates)

Polling booth	Locality	Total voters	Votes cast	Up to
22	Pampore	855	3	10.30 Hr
23	Pampore	1,089	3	10.00 Hr
26	Pampore	1,221	4	11.30 Hr
27	Pampore	1,349	372	11.00 Hr
28	Pampore	1,646	223	11.30 Hr
38	Patlbagh	947	113	12.00 Hr
39	Sampora A	1,096	39	12.25 Hr
40	Sampora B	926	21	12.20 Hr
41	Baghi Bagh	174	4	12.15 Hr
54	Kakkapora A	1,306	237	13.00 Hr
55	Kakkapora B	917	419	12.45 Hr

(b) for the children, this day was an extra day off as the polling stations/booths mainly were located in schools and official buildings;

(c) I was travelling all alone with a local taxi driver, without any special protection from the security forces. I could move around freely without any special official permission or requirements. On showing my normal Belgian passport, with a valid tourist visa, I was allowed to enter all the polling stations/booths and to interview the polling staff. I could speak freely and openly with the voters and the representatives of the political parties/candidates outside and inside the polling stations/booths. All were eager to answer my questions as detailed as possible. I was allowed to take photos and video in all polling stations/booths but one. There I was told it was forbidden because it would interfere with the Electronic Voting Machine.

(d) some polling stations/booths had bad accommodation or had very limited facilities- dark, ill-illuminated room, lack of furniture, etc.;

(e) the polling staff consisted of a Presiding Officer, four Polling Officers and one Attendant. (they didn't have any link with the local politicians or population. They did not belong to the constituency where they were operating: half of them came from another Indian State and the other half from another constituency in Jammu and Kashmir State). Representatives of the political parties or independent candidates were present inside and outside the polling stations/booths and could watch the election process. Inside the polling stations/booths a woman was assisting the polling staff in order to assist women having questions or problems;

(f) outside the polling stations/booths security forces (Jammu and Kashmir State Police and Border Security Force) were taking the necessary security measures. Female police officers were present to check the women participating in the elections. Security checks were made in a professional and polite manner. The security forces didn't interfere in the election process;

(g) shops were closed and there was no public transportation in the areas of Pulwama District, I visited. In Srinagar it was almost the

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same picture although some shops were open there and the vegetable and fruit vendors were there along the streets and in the markets;

(h) the polling booths opened at 07.00 Hr in the morning and closed at 16.00 Hrs. When the outer entrance gates of the polling stations were closed. Nevertheless the voters present inside the polling station compound were allowed to cast their vote even after 16.00 Hrs.

MONITORING THE 4TH PHASE, OCTOBER 8, 2002

(a) The 4th, and last, phase of the elections was held on October 8, 2002 in Doda District. I monitored the elections in this district. Paragraphs b, c, e, f and h of Monitoring the 3rd phase are also applicable here. The table below shows the results of the polling booths, I visited:

**DISTRICT DODA
Constituency No. 55 Ramban (6 Candidates)**

Polling booth	Locality	Total voters	Votes cast	Up to
3	Batote A	952	50 (37 male, 13 female)	08.40 Hrs
3A	Batote	822	446 (272 male, 174 female)	15.15 Hrs
4A	Batote B	644	61 (52 male, 9 female)	08.50 Hrs
11	Chanderkote	1,337	376 (239 male, 137 female)	10.45 Hrs
12	Matra A	827	305 (163 male, 142 female)	11.30 Hrs
13	Matra B	1,228	471 (270 male, 201 female)	12.10 Hrs
25	Seri	868	418 (240 male, 178 female)	13.45 Hrs
28	Ramban	1,681	564	13.20 Hrs
74	Champa	542	113 (79 male, 34 female)	09.30 Hrs

(b) when I reached Doda District, coming early in the morning from Jammu, I noticed many people, men and women, young and old, on the road on their way to a polling station/booth and it was not difficult to find them as a lot of people assembled nearby;

(c) in general, the accommodation of the polling stations/booths was better than my previous experience;

(d) food shops and restaurants were open and public transportation was operating;

(e) when I reached polling booth 12 in Matra, representatives of the political parties came to me and informed me there were problems with the electoral roll: people having an Identity Card from the Election Commission were not on the roll. I went inside and informed the Presiding Officer about what I heard outside. He confirmed there were some problems with the electoral roll and he had already informed the Returning Officer (the Additional District Magistrate supervising the election procedures). As it was 11.30 Hr there was still time enough before closing time (indeed 4 ½ hours) to examine the problem and to take necessary steps to rectify what went wrong. I met Farooq Khan, the Returning Officer, and he confirmed he was aware of the problem and busy in solving it. I told him I would proceed to Seri and contact him again on my way back. So it happened and when I reached polling booth 12 in Matra again I saw the same representatives of the political parties, this time smiling. They confirmed, that the Returning Officer had solved the problem and given the following explanation: Matra was split up in 2 polling booths – 12 and 13. Some voters came to polling booth 12 and were not on the electoral roll, but in fact they were on the roll in polling booth 13 and vice versa. They just had to go to the other polling booth to cast their vote;

(f) except for the problem explained above, there was not a single complaint of irregularity or coercion or force or violence used by the security forces. They confirmed that they came out of conviction and they wanted to cast their vote. In all the polling booths the situation was peaceful and there was a joyful mood: people were laughing, joking, chatting.

On the basis of the opinion poll, interviews with various personalities and man on the street one can summarise the mood in the State during the election process as follows:

- There is hope for a better future. The Kashmiris hope for a change of the government bringing a less corrupt government, a government looking after them, a government giving a future to their children;
- It seems it was the season of marriages; in every corner of the cities, in every village, I saw colourful tents, I heard women chanting for

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the bride and the bridegroom and I saw the smoke of the kitchens in open air preparing the delicious Kashmiri *wazwan* for many guests wishing the young couple a long and happy life;

- Construction activities continued in private houses, official buildings, bridges, new roads, road repairing and improvement;
- In the cities life was normal, with busy bazaars, children going to school and a lot of traffic;
- In the villages people were busy on the fields, harvesting the rice crop;
- The Kashmiris are fed up with the gun; they are against the interference of Pakistan; they are against militancy and the interference by the foreign terrorists; they want a negotiated solution between India and Pakistan; they don't want fundamentalism or communalism; they are against cross-border terrorism and infiltration; they hope that peace will return soon;
- Due to the high pressure from across the border it was expected violence would increase during the elections. Too many innocent people and political workers died through violence created by those who wanted to disrupt the election process. Terrorists increased 'Improvised Explosive Device (IED)' blasts, grenade explosions and firing to coerce interested voters not to vote;
- In Jammu region people who voted were proud to show me the ink on their nail, indicating they had cast their vote. In the Valley, people who voted did everything to remove the ink as quickly as possible out of fear for reprisals by the militants.
- Kashmiris appreciated the effort made by the State Government, supported by the Central Government, to follow the democratic procedures and the normal schedule for the elections. They hope that the elections would be free, fair and transparent and the results would be respected. Only this can bring a change for the betterment. The elections are a decisive step as they will give a realistic picture;
- In the cities and the villages there was a vigorous election campaign and many election rallies;

Paul Beersmans

- Kashmiris were happy with the fact that so many neutral observers (press, diplomats, representatives of Non Governmental Organisations etc.) were monitoring different phases of the elections;

RESULTS OF THE ELECTIONS

Name of the Party	Number of candidates	Seats in 2002	Seats in 1996	Difference
Bahujan Samaj Party (BSP)	58	1	4	-3
Bharatiya Janata Party (BJP)	33	1	8	-7
Indian National Congress (INC)	78	20	7	+13
Jammu and Kashmir National Conference (JKNC)	85	28	57	-29
Nationalist Congress Party (NCP)	11	0	1	-1
Communist Party of India (CPI)	5	0	0	
Communist Party of India – Marxist (CPI-M)	7	2	1	+1
People’s Democratic Party (PDP)	59	16	0	+16
Janata Dal – Secular (JD-S)	10	0	5	-5
Janata Dal – United (JD-U)	19	0	0	
Rashtriya Janata Dal (RJD)	12	0	0	
Samata Party (SAP)	6	0	0	
Shiv Sena (SHS)	13	0	0	
Bharatiya Republican Paksha (BRPP)	4	0	0	
Democratic Movement (DM)	1	0	0	
Jammu and Kashmir Awami League (JKAL)	9	0	0	
Jammu and Kashmir National Panther’s Party (JKNPP)	36	4	1	+3
Lok Jan Shakti Party (LJNSP)	14	0	0	
Sanyukt Dastkar Party (SDKP)	1	0	0	
Samajwadi Janata Party – Rashtriya (SJP-R)	4	0	0	
Independent candidates (IND)	244	15	3	+12
TOTAL	709	87	87	

CONCLUSIONS

(a) There can be no doubt that the Legislative Assembly Elections were by and large free, fair and transparent. This is generally accepted by the population of Jammu and Kashmir State, in the three regions, and by the neutral observers, local, national and international as well, monitoring the elections. Certainly, there were places where irregularities were committed. Where this happened the Election Commission took the necessary measures to remove and to replace those who were at the origin of these irregularities and to order repolling. In this regard it is worth mentioning the change in the attitude of Mufti Mohammed Sayeed, Chairman of Jammu and Kashmir People's Democratic Party: just after the 2nd phase of the elections were held, he stated the polls were not free and fair and he even threatened to withdraw participation of his party in the 3rd and 4th phase. Then, he probably started to sense the mood among the Kashmiris, realising that there was a chance National Conference would not have a majority and became more and more convinced that his own party was getting a lot of votes. The result was that, just before the 3rd phase was going to be held, Mufti Mohammad Sayeed proclaimed 'Until now elections were free and fair as never happened so far in the State, where almost all elections were rigged';

(b) There are allegations the elections were, in certain cases, not free according to the Indian standards. I was told in a specific case during the 3rd phase, that at some places people were pressurised by the security forces to go to the polling stations and to cast their vote. Where this happened, the elections were not free. But even in Belgium, my fatherland, the elections are not free, they are compulsory and if one doesn't participate one has to bear the consequences. Nevertheless, this doesn't mean that they are unfair: one can cast a vote according to one's own opinion and nobody can oblige someone to vote for a well defined party or candidate. Although, in the case of Belgium the option 'invalid' is available and one is not obliged to vote for a party or a candidate. This option was not available on the balloting unit of the Electronic Voting Machine;

(c) I could move freely throughout Jammu and Kashmir State and interact without any restriction with the voters, the representatives of the political parties and independent candidates ('the witnesses' as we call them) and the Polling Officials. Also other neutral observers were monitoring different phases of the elections: press, diplomats, representatives of Non Governmental Organisations,

(d) The introduction of the Electronic Voting Machine proved to be a good decision. It prevented to a large extent the possibility of rigging and it facilitated the counting of the votes;

(e) Participation was higher than expected and would have been even higher if there wouldn't have been the threats from the militants. It is a good average not only according to Indian standards but also according to the participation in other countries where elections are not compulsory;

(f) Women also wanted to take part in the process and showed up in large numbers;

(g) Those who participated wanted to show, they wanted peace and a political change. They also wanted to express their unhappiness with the Farooq Abdullah Government;

(h) There were certainly shortcomings in the distribution of the Identity Cards issued by the Election Commission. The whole distribution process started too late. Nevertheless, this didn't hamper the election process or prevent people from voting. Other identity documents (drivers licence, ration card, etc.) were accepted and the polling staff was flexible in this regard;

(i) In the pre-election period and throughout the election process, violence by the militants increased taking many innocent lives. This couldn't prevent people from casting their vote.

(j) Already since 1997 our consecutive reports indicated the disappointment of the Kashmiris, in the three regions, with Farooq Abdullah's Government. Taking this into account, the results regarding National Conference are not really surprising;

(k) Although the elections don't solve the Kashmir issue, they are a clear sign, a confirmation that Kashmiris want peace and an end to

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militancy. Now there is a government chosen in a democratic manner in free, fair and transparent elections. This provides an occasion to settle the Kashmir issue through dialogue.

(l) Those who are pro-independence or for accession to Pakistan don't have the monopoly to decide the future of Jammu and Kashmir. They should respect the will of the population of Jammu and Kashmir and they should use only peaceful and democratic means to further their aspirations, whatever they may be. Violence certainly will not bring a solution. Violence only brings sufferings and hardship for innocent people, for the common Kashmiris. The sooner this is realised, the better.

(m) In Jammu and Kashmir we find a conglomerate of minorities having their own culture, language, traditions and religion (Dogras, Pandits, Gujjars, Bakarwals, Punjabis, Ladakhis, Paharis, Kashmiris, Dards, Pathans,). If they want to stay together they have to compromise.

(n) Taking into account the religious aspect, Muslims are indeed the majority in Jammu and Kashmir but there also we find different sections: Sunnis, Sufis, Shias; Ismailis, In addition, being the majority doesn't give the right to oppress the minorities. One can not claim the unity of Jammu and Kashmir within the borders of 1947 and at the same time conduct a cleansing on religious basis by forcing out the Pandits (a purely indigenous Kashmiri community with its roots in the Valley) out of the Valley;

(o) One has to respect the democratic will of the people and it is not only the Valley that counts and that can dominate the rest of Jammu and Kashmir. Fundamentalism and extremism should be banned. Unity, compromise, reconciliation, tolerance and mutual respect should be the slogans.

PAKISTAN ELECTIONS, 2002: “ROADMAP TO DEMOCRACY” COMPLETED?

Savita Pande

Two elections that dominated the world politics in 2002 were the ones held in the Indian State of Jammu and Kashmir and Pakistan. This made the job of the Pakistani military establishment doubly difficult as the two elections served to highlight the contrasting nature of practicing democracies. It is, therefore, interesting as well as important to notice how the General repeatedly made statements pooh-poohing the elections in Jammu and Kashmir, when the nature, the purpose and manner of his holding the elections served to demonstrate the reason behind his holding them in his country.

Addressing a select gathering on the 55th independence day of Pakistan, General Musharraf said: “On this solemn occasion, let me give the whole nation a personal guarantee... I will take all possible measures to ensure a free, fair and a transparent election” with a view to restoring democracy adding that the announcement by India to hold elections in Kashmir was “yet another attempt to give a mask of legitimacy to its illegal occupation of Jammu and Kashmir.”¹ Speaking at the United Nations on September 12, 2002, Musharaff warned that India’s planned elections in Kashmir would once again be rigged. “Such elections, under Indian occupation, will not help peace; they may set it back.”² In July 2002, *Jamiat-ul-Mujahideen*, one of the two groups India banned in April 2002 warned that “Any person, who as a candidate, or as a voter or supporter or as a transporter, takes part or assists in the elections willingly, will be deemed a traitor and shall meet an exemplary fate.”³

The Chairman of Pakistan’s Kashmir Committee, Sardar Muhammad Abdul Qayyum Khan, dismissed the notion that the elections could be the “first step” towards resolution of the Kashmir tangle. “The U.S. and the U.K. version and desire to accept these

elections as a first step is self-contradictory. These powers, as of today, are under a spell of fear and fail to distinguish between right and wrong. The Indian Government exploits this position and tries to fish in troubled waters... It is all unilateral, which if accepted would seal the fate of 12 million Kashmiris and that way it will not be a first step but the last step.”⁴

After the first phase of Kashmir elections, General Musharraf told reporters that the “low” voter turnout reflected Kashmiris’ rejection of the “sham” elections and described Indian claims of a higher turnout as “rubbish”.⁵ He repeated it on October 12, 2002 in Istanbul in a speech at a Turkish military event in Istanbul where he was attending a regional economic summit. He claimed that the turnout had been lower than 10 per cent (as against 45 % claimed by Indian authorities).⁶

Keeping in view these lamentations by Pakistani leadership and the threats issued by the Pak based Islamist extremist and militant organizations, this paper seeks to make an analysis of the elections that were held in Pakistan.

THE TAKEOVER AND AFTER

The October 1999 military takeover of Pakistan was different in the sense that no Martial Law was proclaimed, the Constitution was not scrapped but was held in abeyance.⁷ The Army Chief also assumed a new title of Chief Executive as a euphemism for Prime Minister, virtually controlling the system; with Rafiq Tarrar acting as rubber stamp President. Besides, the judiciary was not touched from the beginning. The military takeover was challenged in the Supreme Court. The judges had been asked to take oath under the Provisional Constitution Order and those who had refused to take oath including the Chief Justice and five others were dispensed with. Those who toed or fell in line were accommodated and promoted.

ROADMAP TO DEMOCRACY: FOUR STAGES

The holding of local elections, the first step in the so-called phased roadmap to democracy, was an exercise in creating the cadres, mainly

to ensure that under the garb of civilian rule, the military would continue to hold power after the general elections. Disclosing the four-phased process, the General announced closure of first phase of roadmap of democracy in mid-August 2001 when he said, "The process of elections for Provincial and National Assemblies, and Senate will be completed between October 1 and 11, 2002" in the third phase.⁸ In the second phase the proposed constitutional amendments to introduce a mechanism of checks and balances were to be finalised and the package was to be announced on June 30, 2002. The government's plans to put in place a "super structure" to take decisions on matters of "national importance and ensure continuity of democratic process and reforms being undertaken besides avoiding military intervention in future" were also revealed. The final or the fourth phase was to be held in the months of October and November with the oath-taking of the MPAs, MNAs and Senators, followed by the election of Speakers, Deputy Speakers, Senate Chairman and Deputy Chairman. The provincial and federal governments were announced to be formed in November next and the democratic rule" will be in place with the address of President to joint session of Parliament."⁹

REFERENDUM

The General thus very cleverly avoided talking about his fraudulent referendum, held on April 30, 2002, to keep him in power (for five-year elected term). Actually this was the first step in his concept of "democratic process", meant essentially to legitimize not only his but also the military rule. Thus writes Massoud Ansari, "Although General Musharraf's victory was a foregone conclusion, the entire exercise had been designed to ensure that the turnout would be large enough to put the desperately *sought seal of legitimacy to his office* (emphasis added). To this end, the government resorted to every possible gimmick in the book: from hobnobbing with the corrupt and criminal political elements in the country and holding public meetings at the state expense to placing the entire state machinery at the disposal of a few individuals in order to guarantee him a thumping majority".¹⁰ Voting age was lowered and all registered voters with minimum age of eighteen years

were entitled to cast their vote in any polling station of their choice. Eligibility through national identity cards and electoral lists were waived and *nazims* and councillors were threatened with withdrawal of government support if they failed to muster support for the referendum. The government was reported to have spent Rs. 100 million for the public rallies held by General Musharraf.¹¹ According to official results, General Musharraf polled 97.5 per cent of the votes cast in the referendum. The fact that Musharraf did not include the uncontested referendum in his “phases” of restoring democracy shows the value of the referendum by which he assumed presidency for five years.

THE LEGAL FRAMEWORK ORDER

What came about in the name of balancing relations between the Prime Minister and the President were two constitutional packages which “extend far beyond the limited need for checks and balances”¹². While the first package revived the 58-2B clause, giving the President the power to dismiss the Prime Minister and also to dissolve the National Assembly, the second package gave more sweeping powers to the President. The National Reconstruction Bureau issued the reform packages in June and July 2002 to restructure Pakistan’s political system. The General through his Legal Framework Order of August 21, 2002, validated all acts and decrees, proceedings, notifications and actions of the Government by virtue of 29 amendments. Not only was his Presidential referendum held on April 30, 2002, given constitutional cover, his own term as President and Chief of Army staff was extended for 5 years.

The President was granted discretionary power to dissolve the National Assembly and announce new elections if he came to the conclusion that the federal government could not be run in accordance with the provisions of the Constitution. Amendments in Article 130 of the 1973 Constitution give power to the President to advise the provincial Governors on the appointment of Chief Ministers as well as their dismissal. Moreover, revival of Article 112(2)(b) also authorised the provincial Governors to dissolve provincial Assemblies on the

advice of President. The President also assumed the power of appointing the Chairman of JCSC, Services Chiefs, the CEC, Auditor General, provincial Governors, Chairmen FPSC, NAB, Supreme Judicial Council, further restricted the constitutional duties of the elected representatives. The Prime Minister was thus deprived of virtually all his duties, having no useful function to perform “except as a totem to satisfy a constitutional requirement”.¹³

Loaded heavily in favour of the President, the parliamentary character of the 1973 Constitution thus stands drastically altered, as the Prime Minister is placed at the mercy of an all-powerful President acting in tandem with the National Security Council. While the NSC has been empowered, through advice given to the President, who as its head could get the National Assembly dissolved, the highest law making body in the country cannot dismiss the NSC which “has no check whatsoever” on its powers. What is more, except for the Leader of the House and of the Opposition, all other members of the NSC are the appointees of President.¹⁴ These included Prime Minister, Chairman of the Senate, Speaker of the National Assembly, the Leader of the Opposition in the National Assembly, Provincial Chief Ministers (4 in number), the Chairman, Joint Chiefs of Staff Committee, and the Chief of Staff of the Army, the Navy and the Air Force. The setting up of the NSC was announced on January 18, 2003, and a former bureaucrat and a senior member of the President’s staff, Tariq Aziz, was appointed as its Secretary.

However, the amendment in article 58(1), the main instrument of causing political instability between 1988-1996, particularly when Musharraf made it clear that he would not be a “rubber stamp” President,¹⁵ became a subject of criticism in various fora. Other changes included increase in seats of two houses of the Parliament and four Provincial Assemblies; passing of money bills with or without the suggestion of Senate, intra-party elections were made a must, reservation of seats for women and religious minorities, reduction in voting age from 21 to 18. Besides, persons convicted by a court, loan defaulters, individuals whose loans were written off, defaulters of utility

bills, and those declared as absconders by a court for non-appearance before the said court, were barred from contesting.

The changes in the Constitution altered the basic and fundamental framework of the 1973 Constitution. While the Supreme Court, in validating Pervez Musharraf military take-over, had enabled him to amend the Constitution, it was not “a carte blanche but a power circumscribed by events and necessity.”¹⁶ In the future elections to be conducted by caretaker government both at the federal and provincial levels, the caretaker Prime Minister or Chief Minister would not be eligible to contest the immediately following election of such Assembly.

GRADUATION CONDITION

The first step to bar a majority from contesting in the elections was the insertion of the graduation clause – Article 8 A in the Election Order, 2002, – requiring the members of the National Assembly, Senate and provincial assemblies to possess the minimum of Bachelor of Arts or its equivalent degree. The plea by political parties challenging it, was dismissed by the Supreme Court. The appellants had contended that; “graduates constituted only 1.32 per cent of the total population and a majority of these graduates were concentrated in urban areas.”¹⁷ According to media reports as many as 101 former legislators “faced disqualification” in the defunct parliament as “79 MNAs and 22 senators, including leader of the opposition Benazir Bhutto, did not possess a Bachelor’s degree”.¹⁸ According to Najmun Mushtaq this graduation condition meant that “over 98% of Pakistanis have no right to stand in the elections and also that ‘graduates’ in religious studies from *madrassas* (seminaries) are eligible even if they never went to a school”.¹⁹

INCREASING THE NUMBER OF SEATS

As many as 133 seats were added to the National Assembly without attributing reasons. And this when the Assembly had fewer than the required working days, that they had to call a special session on a Friday afternoon and immediately adjourn the same for next Monday

thus adding two holidays, Saturday and Sunday, as working days. Nor could have population been the criteria because then Islamabad with over one million people ought to have more than one MNA and the number of FATA and Balochistan MNAs would be reduced by more than half. Thus while Punjab's strength outweighed the combined strength of the rest of Pakistan by 25 MNAs, which did not appear overwhelming. The new dispensation gives 195 seats to Punjab in a house of 350. Accordingly, Punjab would outnumber the rest of Pakistan by 155 MNAs, quite a high leap whichever way one looks at it. Thus says Jamiul Rehman, "This steep increase would achieve neither quality nor efficiency but add to the already overburdened national exchequer.... The smaller provinces would not take this readjustment lightly."²⁰ The framers of the 1973 Constitution had deliberately given lesser number of seats to Punjab than due precisely to balance the anomaly presented by its overwhelming position. In the new dispensation, Punjab gets 195 seats in the House of 350, outnumbering others by 155.

Similarly, across the board increase of 50 percent in the seats of provincial legislatures means that Punjab would have 390 lawmakers to federation's 350, the provincial assembly thus outnumbering the federal assembly! Besides the large number of reserved seats for "technocrats" in the federal and provincial legislatures makes mockery of the principles of representative government, leaving the room open for backdoor entry for those close to establishment.²¹

In July, the Election Commission (EC) announced that any political party failing to provide a certificate of its intra-party election and audit reports - showing expenses and sources of its income - would not be allotted the symbol in the forthcoming general election.²² The EC stated that under Article 4 of the recently promulgated Political Parties Order (PPO), 2002, political parties were required to provide a copy of their constitution to the Election Commission, which should include inter alia, "aims and objectives of the party, its organizational structure at the federal, provincial and local levels; criteria for the party membership, membership fee to be paid by the members; qualifications and tenure

of the party leader and other office-bearers, criteria for receipt and collection of funds for the party; election of the party leader and office-bearers at federal, provincial and local levels; selection or nomination of candidates for election to public offices/legislative bodies; resolution of disputes between members and party, including issues relating to suspension and expulsion of members; and method and manner of amendments to the constitution of the party.”²³ The leader of each political party had to submit a certificate under his signatures to the EC, within seven days from completion of the intra-party elections, and the political party was required to submit to the Election Commission on the prescribed form, within sixty days from the close of each financial year, a consolidated statement of accounts of the party audited by a chartered accountant containing annual income and expenses, sources of its funds and assets and liabilities with a certificate that no funds from any source prohibited under the PPO were received by the party and that the statement contained an accurate financial position of the party.²⁴

KEEPING OUT BENAZIR, NAWAZ SHARIF

Before any case had been proved against them, General Musharraf had announced that Ms Bhutto and Mian Nawaz Sharif would not be allowed to return to power. The Chief Executive’s Order barring two-term Prime Ministers from holding the office a third time, was seen as a move to hound them out of politics. It came at a time when an Accountability Court sentenced Benazir Bhutto to three years in jail, ordered confiscation of her immovable property and issued perpetual arrest warrants in the ARY Reference for failure to appear before the court.²⁵ In Sindh, five or six prominent politicians opposed to the PPP were inducted into the Sindh cabinet, despite the fact that some of them did not qualify according to the regime’s own standards. The idea was to cash in on their ability to orchestrate an anti-PPP front in Sindh.²⁶

OTHER ADMINISTRATIVE MEASURES TO MANAGE ELECTIONS WERE THE TRANSFERS

Soon after the Sindh Chief Secretary, Rind was appointed (out of turn superseding Additional Chief Secretary, Shazada Shaikh.), scores of officials including 5 DCOs in the “sensitive” districts of Hyderabad, Larkana, Khairpur, Dadu and Badin were transferred. A number of Town Municipal Officers, DPOs and Town Police officers were also shifted. In Punjab two DIGs of Police (at Lahore and Rawalpindi) were moved, followed by transfer of 12 more senior officers in Punjab including a number of DCOs and senior police officials.²⁷ And this when the CEC’s office had issued a notification to the effect that all orders of transfer issued prior to July 23 (when transfers were banned) but “implemented after this date” shall not be given effect to. So much for the role of Chief Election Commissioner.²⁸

At least 30 activists of various component political parties of the Alliance for the Restoration of Democracy (ARD) were arrested as the government thwarted their bid to hold a public election meeting.²⁹ Media reports appearing on the eve of elections alleged rigging.³⁰ To quote one: “Pakistan’s most respected human rights body claimed that government officials were “blatantly” coercing voters into supporting pro-Musharraf candidates. “All this interference is going to undermine the credibility of the elections,” said Afrasiab Khattack, the Chairman of Pakistan’s Human Rights Commission. “It is abundantly clear that they will not usher in a new period of democratic rule, as has been claimed by the regime.”³¹

Media reports on the day of the elections gave the following figures: More than 72 million people aged 18 or above, were enrolled as voters. Except for one provincial constituency in Faisalabad, the polls were held in the entire country, FATA and the federal capital, which has two National Assembly seats. A record number of 7,208 candidates were vying for 849 seats - 272 National Assembly and 577 Provincial Assemblies’ seats. There were 28 candidates contesting for two NA seats in Islamabad, 946 for 148 NA seats in the Punjab, 634

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for 61 NA seats in Sindh, 241 for 35 NA seats in the NWFP, 128 for 14 NA seats in Balochistan and 121 for 12 NA seats reserved for FATA. There were 2,386 candidates contesting for 297 Punjab Assembly seats, 1,561 for 130 Sindh Assembly seats, 642 for 99 NWFP Assembly seats and 521 for 51 Balochistan Assembly seats.³² There was an unprecedented increase in the seats reserved for women: compared to 20 in 1985 and 1988, it was 60 in 2002; seats were also reserved for religious minorities. These reserved seats were assigned to political parties in proportion to the general seats won by them in each legislative body in the general elections.

The reports also said that there were 2,788 independent candidates and 73 political parties, both major and smaller, contesting the elections, and collectively they fielded 4,386 candidates who all were graduates. The Pakistan People's Party Parliamentarian (PPPP) fielded 710 candidates both for the National and Provincial Assemblies, Pakistan Muslim League – Qaid-i-Azam (PML-QA) 646, Muttahida Majlis-e-Amal (MMA) 569, Pakistan Muslim League (Nawaz) (PML-N) 546, Tehrik-e-Insaaf 295, MQM 182, National Alliance 272, and Pakistan Awami Tehrik 218.³³

For such a gigantic national exercise to bring back democracy and establish democratic rule, the Election Commission set up 64,475 polling stations, having 164,718 polling booths.³⁴ The election campaign and the general ethos was lackluster or colourless and lacked any substantial political issues.³⁵ Election campaigning was controlled with steps like banning rallies or processions and the focus seemed to be mainly on local and constituency related affairs. Issues like poverty, under-development, unemployment, and civic amenities, foreign policy issues and the dynamics of the economy took a back seat although in NWFP and Balochistan, the MMA - a coalition of six Islamic parties, adopted an anti-US posture during the campaign which helped in gaining votes in the Pashtun-dominated areas.

The voters' turn-out in the elections was 41.8% – far less than the findings of all the opinion polls that were conducted before elections³⁶. According to observers, as high as 80% voters wanted to

vote, but political parties failed to translate voter's wish into reality. The voter was not only aware of his/her future needs but also knew very well that he/she would not waste his/her vote for a party that might not deliver on its election promises. Almost all parties miserably failed to come up to the expectations of voters. They failed to present their manifestoes timely and effectively and people's issues were missing from their election campaigns. Voters got disappointed, and as a result did not go to polling stations on October 10.³⁷ Secondly, there was no institution or mechanism available to political parties to educate, mobilise and learn from masses about their policies.³⁸ This, in elections of 2002 significantly increased "dependence of political parties on wealthy individuals and large landlords."³⁹

As for fairness of the exercise, a report released by the European Union Observers was severely critical of the credibility of Pakistan's general elections. It stated that the entire electoral process was marred with "serious flaws" and criticised state interference in the voting process. "Pakistan authorities were engaged in a course of action which resulted in serious flaws in the electoral process," the head of the EU observers team John Cushnahan said while releasing a five-page interim report assessing the elections.⁴⁰

According to Haqqani, the names of several hundred thousand eligible voters were not included in the voters' lists. "Ten million eligible voters have not been issued a national identity card, which is mandatory for registered voters wanting to exercise their franchise,"⁴¹ he alleged.

No political party obtained a clear majority in the National Assembly. More political parties got representation in the National Assembly than was the case ever before. In 1988, 15 political parties were represented in the National Assembly; in 1990 and 1997, 9 were represented; in 1993, 14 parties were represented and in the current National Assembly there are seventeen 17 parties.⁴² Furthermore, thirty 30 members were elected as independent. The pro-military PML-Q won the largest number of seats and most independent members also joined this party. The PPPP was the second largest party, followed by the MMA, PML-N, and the MQM.

ELECTION RESULTS

**Party Position in the National Assembly after
January-2003 Bye-Elections**

Name of the Party	Seats			Total
	General	Women	Minorities	
PML-Q	92	22	4	118
PPPP	63	15	2	80
MMA	47	12	2	61
PML-N	15	3	1	19
MQM	13	3	1	17
NA	13	3	0	16
PML-F	4	1	0	5
PML-J	2	1	0	3
PPP-Sherpao	2	0	0	2
FATA	12	0	0	12

* The following parties got one general seat each: BNP, JWP, PAT, PML-Z, PTI, MQM-Haqiqi, PKMAP, and PSPP. One maintained Independent position.

**Major Political Parties in Provincial Assemblies after
January-2003 Bye-Elections**

Assembly	Parties Represented	Seats Held
<i>Punjab Provincial Assembly</i>		
	PML-Q	216
	PPPP	65
	PML-N	43
	National Alliance (NA)	16
	MMA	11
	PPPP-Patriots	8
	PML-J	5
<i>Sindh Provincial Assembly</i>		
	PPPP	62
	MQM	41
	PML-Q	18
	NA	16
	PML-F	13
	MMA	8

<i>NWFP Provincial Assembly</i>		
	MMA	66
	PML-Q	10
	PPP-Sherparo	13
	PPPP	10
	ANP	10
	PML-N	5
	Independent	7
<i>Balochistan Provincial Assembly</i>		
	PML-Q	21
	MMA	18
*	Other parties represented include the NA, BNP, JWP, and PKMAP.	
*	Seats of the smaller parties are not included in the <i>table</i>	

Source: <http://www.pildat.org/PILDAT%20Events/Feb24-03/12Tables.htm> *State of Democracy Report - 1st 100 days of Democracy in Pakistan* (Table 5 and Table 6, resp)

As for women, in addition to 60 women elected on reserved seats, 12 women won on the general seats, raising the number of women members to 72. This is the highest number of women ever entering the National Assembly in Pakistan.⁴³

At the provincial level, the PML-Q and the MMA got majorities in the Punjab and the NWFP Provincial Assemblies respectively. In the Sindh Provincial Assembly, the PPPP won the largest number of seats. The MQM was second, followed by the NA and the PML-Q. The situation in the Balochistan Provincial Assembly was not much different. No political party obtained a majority. The PML-Q emerged as the leading party with the MMA close behind.⁴⁴

According to Imtiaz Alam, “Four factors” led to upsetting of “the military establishment’s otherwise successful strategy of bringing a hung Parliament”.⁴⁵ These were: firstly, the King’s party, PML-QA, did not do as well as planned – it did not reach the simple majority mark of 137, even if all the King’s men, parties and independents were clubbed together; secondly, the PPP did not do so badly and with its Alliance for Restoration of Democracy’s (ARD) ally, PML-N, had the numbers equal to PML-QA; thirdly, from the standpoint of the supremacy of the

Parliament and principled opposition to the Legal Framework Order and holding of two offices by General Musharraf, the components of ARD and MMA got a majority of seats; and fourthly, “most upsetting to present geo-strategic arrangement” was the emergence of the MMA as a formidable force in the whole Pashtun-belt and at the center, “even if it was facilitated by some extraordinary factors or even to show a ‘red rag to the West’ as alleged by Ms. Benazir Bhutto”.⁴⁶

It has been argued that had the establishment not bulldozed and split the PPP, PML-N and ANP and allowed both Ms. Bhutto and Nawaz Sharif to campaign for their parties, the MMA would not have “swept the polls in NWFP”, as it did even with the help of Sherpao faction of PPP, PML-N and negative-voting, “despite capitalising on the anti-US, Islamic and Pakhtun sentiments”.⁴⁷ According to Selig Harrison, the military rule in Pakistan would continue indefinitely, “I think the Pakistan elections were just a window dressing for the continuation of military rule. ... (Musharraf) actually helped the coalition of religious parties to come to power and deliberately kept the secular parties divided, a situation in which it was not possible for the secular parties to form a strong government on their own.”⁴⁸ Faisal Rehman says, “the MMA owes less to any internal political strength than to a wave of anti-US sentiments in the aftermath of the 9/11 incidents.”⁴⁹ The gains in the Punjab were attributed to PML-N’s magnanimity, its partial success in Karachi to “the greater concentration of religious schools in the city and capacity to face up to and benefit from the disenchantment with an over-extended ethnic and strong-arms politics of the MQM”.⁵⁰

A newspaper editorial rightly commented that “The split mandate”, has created a conundrum that even a computer will not be able to crack.”⁵¹ According to M.S. Jilani, “A vast majority of newly elected members are either the old politicians or their incarnations ... one of the laudable and lasting reforms introduced by the Musharraf regime was the increase in women’s representatives in the parliament, but every other elected lady is scion of a family belonging to the power elite, known to be more apt at maintaining a stranglehold on their areas than striving for their constituents’ well being.”⁵²

The hung parliament which thus ensued, in turn ushered in uncertainties. A total confusion appeared on the national political scene best described by Mir Jamil Ur Rehman as, “It is becoming more difficult by the hour to unravel the mystery of the current negotiations taking place between the various contenders for power. Who is talking with whom and to what end? One day it appears that the PML-Q and PPP-P are near an agreement on the formation of the coalition. Next day it is the PPP-P and MMA (*Muttahida Majlis Amal*), which appear reaching an agreement. The third day brings the news that it is the PML-Q and MMA that are inching towards a coalition. The fourth day the PML-Q disappears from the negotiating table and its place is taken by the Grand National Alliance of which the PML-Q is the major component. During the negotiations it also transpired that PML-Q and GNA are not free agents. They were just acting as postmen, ferrying various demands and proposals from one side to the other. The other side of the triangle is the Government.”⁵³

And “the search for a government”, according to a newspaper editorial, “would not have become a virtual quest for the Holy Grail if the political parties were allowed to settle the issue along themselves without let or hindrance. The overt and covert moves to improve the chances of the king’s party, like the proposal to lift the ban on the floor crossing and requiring the independents to join the political parties exacerbated the political confusion, creating doubt and uncertainty. This growing distrust is at its worst when the coalescing parties start dividing the plums of office among themselves.”⁵⁴

A viable governing coalition at the federal level required collaboration between two out of three major political parties (PML-Q, PPPP, and the MMA) and support from some smaller groups. The formation of such a coalition proved an uphill task and the inaugural session of the National Assembly was held on November 16, 2002, after one postponement - five weeks after the general elections. Dialogue and discussion ensued between the three to form a government, but met with little success largely because the PPPP and the MMA insisted on getting Legal Framework Order (LFO) to be brought before the Parliament for

approval and demanded that Presidential powers should be reduced and that President Musharraf should not continue as the Army Chief – conditions totally unacceptable to the military regime and, therefore, also to their protégé, PML-Q. Attempts to put together a coalition of the PPPP, the MMA and some smaller groups also did not succeed.

The PML-Q then managed defections from the PPPP, facilitated by President Musharraf's decision not to revive the constitutional provision on defections disallowing parliamentarians to change parties (called later PPP patriots), cultivated MQM by conceding some demands, getting the support of Farooq Leghari's National Alliance and some independents.⁵⁵

It is, therefore, not surprising that it took the President 36 days to convene the Assembly when on November 16, 2002 as many as 324 out of 334 newly-elected parliamentarians were administered oath by the former speaker National Assembly, Illahi Bux Soomro under the 1973 Constitution as was demanded by MMA's Hafiz Hussain Ahmed, PPPP's Dr. Sher Afghan and Naveed Qamar and PML-N's Javed Hashmi,⁵⁶ (thus raising doubts on the legitimacy of the LFO from the beginning)

General Pervez Musharraf took oath and restored the Constitution of Pakistan, but for a few provisions pertaining to the provincial government, and Senate of Pakistan, from November 16.⁵⁷ The LFO was to become integral part of the Constitution as soon as the President took oath. However, the LFO was also amended by the Chief Executive, as President Musharraf was to continue to hold the office of the Chief Executive till the election to the Prime Minister.

The vote on November 21 came after six weeks of murky deal-making between political leaders whereby, Jamali gathered 172 out of 329 votes cast, while Rehman mustered only 86. Mrs Bhutto's nominee, Shah Mahmood Quereshi, got 70. Ten members of Mrs. Bhutto's party broke ranks to vote for Jamali.⁵⁸ Under the Pakistani law, Jamali still had to win a vote of confidence in the 342-member National Assembly within a period of 60 days, which he did. Commenting on the modus

operandi Khalid Jawed Khan says, “Prime Minister Zafarullah Jamali has obtained a vote of confidence from the National Assembly. His ‘stage managers’ even improved their own performance by securing the support of 16 additional political converts to their cause. Ministries, bribery, intimidation, blackmail, etc. - the armoury used to achieve the objective is inexhaustible.”⁵⁹

The Punjab and NWFP Provincial Assemblies held their first session on November 25, 2002 when its members were sworn in. The PML-Q had a comfortable majority and its leader was elected as Chief Minister on November 29, 2002 who took the oath of office on the same day. But the state cabinet was installed on January 3, 2003.⁶⁰ The MMA had a majority in the NWFP Provincial Assembly and it formed its government without facing any problems. The Chief Minister and the Cabinet were installed on November 30, 2002. In the case of Balochistan, as no party had a clear majority, the PML-Q and the MMA joined together to form a government and the state Assembly held its inaugural session on November 28, 2002, with the Chief Minister from PML-Q. The classic case was Sindh where the Presidency, the Prime Minister and top leaders of the PML-Q engineered defections to the extent that despite the fact that the largest party was PPPP, the Government that took oath on December 12, 2002 was formed from the coalition comprising the PML-Q, MQM, PML-F, and the NA⁶¹. Prime Minister Zafarullah Jamali came to Karachi to attend the oath-taking ceremony of Ali Mohammad Maher. Jamali said that with the formation of Sindh government, the roadmap given by President Musharraf was “completed”⁶² As a part of the deal with the MQM, one of its leaders, Dr. Ishratul Ibad, living in exile since 1992, assumed the office of Governor of Sindh on December 27, 2002.

Bye-elections to 10 National Assembly and 17 Provincial Assembly seats were held on January 15, 2003. One bye-election to the Punjab Provincial Assembly was held on January 26, 2003. The results of the bye-elections did not cause any major change in the party position in the National and Provincial Assemblies, although the PML-Q gained in Punjab, as did the MMA in Punjab and the NWFP.⁶³

Analyst Naseem Zehra wrote on January 30, 2003, “Four months after the October elections, widespread criticism of the establishment’s political engineering continues unabated. Politicians, inside and outside the parliament, complain of pre-poll rigging and of establishment playing favourites, actively promoting horse-trading and facilitating rigging of by-elections, etc. No one, not even the man approving this political engineering denies that much of this happened. This is a general’s democracy at work.... Unprincipled power play was deliberately introduced by the establishment to manufacture desired elections results. This system would not last as it is undemocratic, immoral and military-controlled”⁶⁴

Hamid Alvi feels, “Three factors hamper Jamali’s road to success. One, the inherent incompatibility of the parliamentary form of government with the multiparty system; two, hopelessly low credibility of Muslim League (Q), Jamali’s principal support base, and finally the likely conflict between the exponents of parliamentary supremacy and those willing to accept the circumscribed version of the supremacy principle.”⁶⁵ While the first contention may be debatable, the other two are very valid arguments.

Zehra analyses two kinds of threats to the system – personal and political threats⁶⁶. The former entails those emanating from the President and the Prime Minister, from the tensions that would be generated from the exercise of power where grey areas regarding the President and the Prime Minister’s turf exist (some of those already set in include extension of the tenure for six judges of accountability courts, NAB’s mandate and the functioning of the district governments). As for the political threat to the system, three factors rule out any immediate threat from the domestic context. One, the opposition parties have been unable to present a collective, sustainable and threatening challenge to the government on any national issue ranging from the LFO to the government’s US or Iraq policies. Secondly, the incumbency factor both for the government as well as for the parliamentarians has already set in. The parliamentarians have already received the concrete benefit of ten million rupees each as development funds. Thirdly, the survival itself – even parties like the MMA who are extremely critical of Musharraf would like to retain the power they have got in elections.⁶⁷

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KASHMIRIS REJECT WAR IN FAVOUR OF DEMOCRATIC MEANS

(MORI Survey Report dated 31 May 2002)

The vast majority of Kashmiris oppose India and Pakistan going to war to find a permanent solution to the situation in Kashmir and believe the correct way to bring peace to the region is through democratic elections by ending violence and economic development. They also believe the unique cultural identity of the region should be preserved in any long-term solution, and there is virtually no support for the state of Jammu and Kashmir being divided on the basis of religion or ethnic group.

These are the main findings to emerge from a poll conducted by the independent market research company, MORI International at the end of April (20-28 April 2002), just before the start of the recent escalation of conflict in the region. Interviews were conducted in Jammu and the surrounding rural areas, Srinagar and its surrounding rural areas and in Leh. Interviewers were set quotas for sex and religion (assessed by the interviewer) to match the population of each region. Although the vast majority in Jammu and Leh believe the correct way to bring about peace is through democratic elections, opinions are more evenly divided in and around Srinagar, with a bare majority (52%) agreeing with this view.

Nevertheless, the vast majority – 76% of those in Srinagar region believe India and Pakistan should not go to war to bring about a permanent solution. There is a general consensus across the regions that it is not possible to hold democratic elections while violence continues – 65% agree while 34% disagree. A very clear majority of the population (65%) believes the presence of foreign militants in Jammu and Kashmir is damaging to the Kashmir cause, and most of the rest take the view that it is neither damaging nor helpful. Overall, two thirds

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of people in Jammu and Kashmir take the view that Pakistan's involvement in the region for the last ten years has been bad. Only 15% believe it has been good, while 18% say it has made no real difference.

On the issue of citizenship, overall, 61% said they felt they would be better off politically and economically as an Indian citizen and only 6% as a Pakistani citizen, but 33% said they did not know. A suggestion that most people do not feel that the current political parties have the solution to the problems in Kashmir is reflected in the fact that around half, or more, of the population in each region agree with the view that 'a new political party is needed to bring about a permanent solution in Kashmir'.

People in all regions are in general agreement that 'the unique cultural identity of Jammu and Kashmir – Kashmiryat – should be preserved in any long-term solution'. Overall, 81% agree, including 76% in Srinagar and 81% in Jammu. There is also widespread consensus on the types of proposals which will help to bring about peace in Jammu and Kashmir. More than 85% of the population, including at least 75% in each region, think the following will help to bring about peace:

- Economic development of the region to provide more job opportunities and reduction of poverty – 93%
- The holding of free and fair elections to elect the people's representatives – 86%
- Direct consultation between the Indian government and the people of Kashmir – 87%
- An end to militant violence in the region – 86%
- Stopping infiltration of militants across Line of Control – 88%

The critical role people see for economic development in helping to solve the problems is further underlined by 74% who think that 'people from outside Kashmir being encouraged to invest in the area to help rebuild Kashmir's economy and tourist industry will help bring peace to the state. There is also widespread view that allowing displaced Kashmiri Pandits to return to their homes in safety will help bring about peace.

MORI SURVEY REPORT, MAY 2002

Views are mixed on the likely impact of 'People of Jammu and Kashmir having the freedom to travel in both directions across the Line of Control'. Those in and around Srinagar and Leh generally feel this would help bring peace while those in Jammu take the opposite view. An overwhelming 92% opposed the state of Kashmir being divided on the basis of religion or ethnicity. There was also overwhelming support – 91% - for a forum in which Kashmiris from both sides of the Line of Control can discuss common interests.

A clear majority – 70% - also supported the borders between Pakistan-controlled Kashmir and Indian Kashmir being opened for much more trade and cultural exchange. However, while the views in Srinagar and Leh were very decisive – over 90% support – those in Jammu were much more balanced – 47% support, 53% oppose. Views were also split on the issue of granting more autonomy to Kashmir. Overall 55% supported India and Pakistan granting as much autonomy as they can to both sides of Kashmir to govern their own affairs. However, while the majority in Srinagar and Leh supported this, the majority in Jammu opposed this policy.

There were also mixed views about the role and impact of the security forces. In Srinagar and Leh, at least nine out of ten believed that security forces scaling down their operations in Jammu and Kashmir would help bring peace, whereas in Jammu opinions were reversed. There are clearly different perceptions of the behaviour of the security forces. Nobody who was interviewed in Leh or Jammu believed, human rights violations by Indian security forces in Jammu and Kashmir are widespread, whereas in Srinagar 64% of the population believe they are widespread.

Perceptions are different with respect to human rights violations by militant groups in Jammu and Kashmir. 96% of those in Jammu believe such violations are widespread whereas only 2% of those in Srinagar believe they are widespread (although 33% believe they are 'occasional').

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Methodology

Fieldwork was carried out by *FACTS Worldwide*, MORI's affiliate company in India, between 20-28 April 2002. In total, 850 interviews were completed, face-to-face, with adults aged 16+ across 55 localities within Jammu and Kashmir. This comprised of 22 localities in Jammu City, 20 in Srinagar City and 6 in Leh (urban areas), as well as 3 villages around Jammu and 4 villages around Srinagar (rural areas).

Quotas were set by gender, religion (assessed by observation) and locality, according to the known population profile of the region. A random selection procedure was used to select individual respondents.

Sample Profile

The following table details the profile of respondents by locality and religion:

Locality	Total interviews	Breakdown by religion (observed)				
		Muslim	Hindu	Sikh	Buddhist	Christian
Srinagar	300	292 (97%)	8 (3%)	-	-	-
Villages in Srinagar	60	58 (97%)	2 (3%)	-	-	-
Jammu	344	103 (30%)	229 (67%)	7 (2%)	1	4 (1%)
Villages in Jammu	71	21 (30%)	50 (70%)	-	-	-
Leh	75	35 (47%)	4 (5%)	-	36 (48%)	-
Total	850	509 (60%)	293 (34%)	7 (1%)	37 (4%)	4 -

MORI SURVEY REPORT, MAY 2002

Quotas were based on 1981 Census data (population in 1,000s):

	Total pop.	Muslim	Hindu	Sikh	Buddhist	Christian
Kashmir Valley (Srinagar & Surrounding areas)	3,102	2,977 96%	125 4%	-	0.2	-
Jammu region	2,717	805 30%	1,803 66%	100 4%	1	8
Ladakh (incl. Leh)	134	62 (46%)	4 (3%)	-	68 (51%)	-
Total		65%	32%	2%	1%	-

Statistical Reliability

The sampling tolerances that apply to the percentage results in this report are given below. This table shows the possible variation that might be anticipated because a sample, rather than the entire population, was interviewed. As indicated, sampling tolerances vary with the size of the sample and the size of percentage results. The confidence intervals take no account of design effects and, of course, there were certain areas in each region we did not conduct interviews.

Approximate Sampling Tolerances Applicable to Percentages at or near these Levels (at the 95% Confidence Level)

Base:	10% or 90%	30% or 70%	50%
850 (Total)	2	3	3
415 (Jammu region)	3	4	5
360 (Srinagar region)	3	5	5
75 (Leh)	7	10	11

Source: *MORI*

For example, for a question where 50% of the people in a sample of 850 respond with a particular answer, the chances are 95 in 100 that this result would not vary more than 3 percentage points, plus or minus, from the result that would have been obtained from a census of the entire population using the same procedures. Tolerances are also involved in the comparison of results between different elements of the

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sample. A difference, in other words, must be of at least a certain size to be statistically significant. The following table is a guide to the sampling tolerances applicable to comparisons.

Differences Required for Significance at the 95% Confidence Level at or near these percentages

Base:	10% or 90%	30% or 70%	50%
432 (Men) and 418 (Women)	4	6	7
415 (Jammu region) and 360 (Srinagar region)	4	7	7
415 (Jammu region) and 75 (Leh)	7	11	12
360 (Srinagar region) and 75 (Leh)	8	12	13

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