National Human Rights Commission
A Cosmetic Entity

I

New Delhi's promulgation of an Ordinance setting up a National Human Rights Commission (NHRC)—a matter of national and international concern—merits a serious attention. It needs to be studied on two counts. That is, the way of issuing this Ordinance and the type of human rights which it seeks to establish.

II

As regards the way of its proclamation, the Ordinance deals with a subject which had been already officially introduced in Parliament on May 14, 1993. It was under examination of the Parliamentary Standing Committee on Home Affairs in the light of the views expressed before it by various persons. Under Parliamentary Conventions, no Ordinance is enacted on the theme of a Bill pending in Parliament. This shows that the Ordinance had been issued not on the basis of a legal need but due to some other dire compulsion. And as everyone knows, international criticism on human rights violations in Kashmir and Punjab has of late become increasingly sharp. Early this year, the US House of Representatives censured India for the second year in succession concerning its human rights record. Many other developed countries and the worldwide human rights organisations, like the Amnesty International, Asia Watch, etc., have also voiced their concerns on this issue to New Delhi. Further, New Delhi expects that it would be sharply criticised in this matter at the current UN session and the ensuing CHOGM meet. Thus, the hasty announcement of the Ordinance, scuttling the debate over its flawed provisions in Parliament as well as among the people, is meant to mute the world public opinion exercised over events in Kashmir, Punjab and other places in India.

III

As regards the type of its human rights, the Ordinance is only a replica of May 1993 NHRC Bill. Its terms and conditions themselves, as can be seen from the following reasons, make the Commission an inefficacious organisation.

Firstly, the Commission is merely a recommendatory body with no powers to punish the guilty. It is obliged to submit its recommendations to the concerned government, central or state. The real authority remains with the government which, by rejecting any recommendation, can end any matter, however serious, then and there.

Secondly, the Commission has not been provided with an independent investigative apparatus accountable to it, thus making it dependable on existing enquiry agencies whose role has been often dubious in matters of power abuses by their own official colleagues and high-ups.

Thirdly, the Commission, having only the powers of a civil court, has been deprived of jurisdiction over the military and the para-military personnel against whom serious allegations of human rights violations have been levelled in Kashmir, Punjab, Nagaland, etc. Under international law, the armed forces do not, even during the war, enjoy any immunity in respect of crimes like murder, rape, pillage, etc. The only things the Commission could do, is to seek a report from the central government. After receiving it, the Commission may not proceed with the complaint or make its recommendations to the government. The central government will inform the Commission of the action taken. Then the Commission will publish its report alongwith its recommendations and the action taken by the government. This privileged treatment to the military and the paramilitary forces in cases of human rights violations means that they are above law.

Fourthly, the Commission cannot entertain any matter pending before any other Commission duly appointed by a state government.

Fifthly, the Commission has to seek report on human rights violations from the concerned state government which is hardly expected to admit its own misuses of authority.

Sixthly, the Commission cannot take cognisance of these cases of human rights violations which are pending before the District and Sessions Judge Courts, declared by the state governments, with the consent of the concerned High Courts, as Human Rights Courts.

Seventhly, the Commission has no jurisdiction over cases pertaining to the Chapter IV of the Indian Constitution which deals with social and other rights of the people,

Lastly, the Commission's composition is heavily weighted in favour of the ruling party as the appointment committee will consist of the Prime Minister as Chairperson and five other members, namely, the Lok Sabha Speaker, the Home Minister, the leader of the Opposition in both Houses and the Deputy Chairperson of the Rajya Sabha. The Commission will consist of a former Chief Justice of the Supreme Court as the Chairperson and eight other members, viz., a sitting or former judge of the Supreme Court, a Chief Justice of a High Court and chairpersons of three statutory National Commissions. Two members will be appointed from among human rights experts and the Chief Executive Officer will be the Secretary General. Exclusion of the human rights organisations, Bar Association, the Press and the Chief Justice of India shows the government's non-seriousness in securing peoples participation and judicial cooperation in this process.

Obviously, the Commission, being merely a fact finding body, stands in total violation of the spirit of UN human rights Charter.

IV

The Parliament can do a lot to improve upon this ineffective legislation when, after six months, this Ordinance will be laid before it for adoption. It can remodel this enactment on the declaration of 1993 UN Human Rights Conference held at Vienna and the 1966 UN human rights Covenants.

It is time that the human rights organisations and the social action groups forcefully demand the restructuring of the NHRC law on the UN lines.

V

The criminalisation of politics, operating through the politician-police-criminal nexus, has already undermined the fragile rule of law in our country. The power brokers have become the arbiters of peoples fate at all levels.

Without their recommendation, it is next to impossible for the people to get any 'justice' or 'concession' from the administration. The judicial legitimacy too stands at low ebb. Judicial confusion (e.g., verdict on Mandal Report) and inaction (e.g., in case of perpetrators of 1984 anti-Sikh riots) on crucial

issues concerning the State or the ruling party shows that this route too is not very promising. Unless the existing centralised system is fully federalised and thoroughly decentralised and the root and branch reform is carried out in the entire police structure and judicial set up, any piecemeal democratic reform will yield limited gain, while crafty measures will only cover up the sinful and create cynicism among the victims.

VI

In sum, the NHRC Ordinance embodies a cosmetic legislation that will help white-washing the official human rights violations, lower the credibility of the limping legal system and dupe the world public opinion. It is nothing but an eyewash. Or it is just like much cry but little wool. 20-10-1993

Question Of Jammu-Kashmir's Accession To India

I

(1) Is Jammu-Kashmir's accession to India a closed chapter or still an open question? This has today become an issue of sharp debate both at home and abroad.

(2) The issue arose when the US Assistant Secretary of State for South Asian affairs, Ms. Robin Raphel, opined that the US does not accept Jammu-Kashmir Ruler's 1947 Instrument of Accession, (incorporating Jammu-Kashmir's accession to India), duly accepted by India, as a final and complete document, that it considers the State of Jammu-Kashmir as a disputed matter and that the will of the Kashmiri people would have to be given due weight in any future settlement. The statement was promptly refuted by New Delhi as well as all the mainstream parties who characterised it as an affront to India's national dignity.

(3) Though the US has so far adopted restrained posture on this issue, greater involvement seems to be on the horizon in the days to come. Recently, the US administration has started giving added attention to the seven countries, comprising of a total population of 1.3 billion in South Asia, with an eye on the region's tremendous potential as a major market. Its priorities include: prevention of war between India and Pakistan on Jammu-Kashmir, halting of arms race, settling of the issue of nuclear and missile proliferation and improving of the human rights situation.

(4) While discussing our subject-matter, it is necessary to repeat the all pervading truth that only a realistic identification of any problem and its cause can lead to its proper solution. And a realistic understanding always comes from a truthful account of developments. Misperceptions and falsehoods can serve neither an individual nor society. Thus, the human cause demands that we should always proceed from a rational approach which tries to find out facts, rejects dogmas, judges things on the basis of evidence and is always ready to think again when new facts and

new experiences conflict with old concepts or pre-conceived notions. Such an approach alone can serve our nation.

II

(5) Present day India and Pakistan emerged on the Indian peninsula in accordance with the British India Act of Independence on August 15, 1947. In case of the princely states, the sovereignty reverted to the ruler and not to the people. The decisions whether to accede or remain independent and if to accede then to which dominion became the exclusive right of the ruler.

(6) The Maharaja of Jammu-Kashmir, like the Nawab of Hydrabad, decided to become independent. He sent two identical telegrams, proposing a Standstill Agreement to both India and Pakistan on August 12, 1947. Pakistan accepted this proposal. But New Delhi kept it pending for its own reasons. Nehru was of the opinion to first establish the popular authority in the state and then set up the Constituent Assembly to decide its future (Nehru's speech in the Council of States, GOI publication, August 1952, P-7). Patel too was in favour of adopting this course. In his letter of October 21, 1947, to Meher Chand Mahajan, who had just taken over as the Prime Minister of Jammu-Kashmir, he wrote:

"I myself feel that the position which Sheikh Abdullah takes (i.e., the establishment of a popular government in the state and the inherent right of the people to decide about accession) is understandable and reasonable. In the mounting demands for the introduction of responsible government in states, such as you have recently witnessed in Travancore and Mysore, it is impossible for you to isolate yourself...Without some measure of popular backing...it would be difficult...to crush the disruptive forces which are being raised and organised..."

III

(7) Jammu-Kashmir remained independent for over 2 months. The Pakistan abetted tribal raid on Kashmir on October 20, 1947, forced the Maharaja to accede to India and sign the Instrument of Accession. The October 26, 1947 letter, accompanying the Instrument of Accession, after mentioning the tribal invasion, said:

"With the conditions obtaining at present in my State and the great emergency of the situation as it exists, I have no option but to ask for help from the Indian Dominion. Naturally, they cannot send the help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so and I attach

the Instrument of Accession for acceptance by your government."

"Further, I may also inform Your Excellency's Government that it is my intention at once to set up an interim government and to ask Sheikh Abdullah to carry the responsibilities in the emergency with my Prime Minister."

(8) Lord Mountbatten, the then Governor-General of India, while accepting the Instrument of Accession, wrote in reply to Maharaja's letter:

"...my Government have decided to accept the accession of Kashmir State to the Dominion of India. In consistence with their policy that in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that, as soon as law and order has been restored in Kashmir and its soil cleared of the invader. The question of State's accession be settled by a reference to the people." (White Papers on Jammu and Kashmir, PP 47-49).

(9) It is obvious that the above decision of the GOI renders the accession conditional or provisional. This is how the Jammu-Kashmir Maharaja interpreted the Governor-General's above letter. In his 3lst January, 1948 letter to Patel, the Maharaja wrote:

"In the situation described above, a feeling comes to my mind as to the possible steps that I may take to make, so far as I am concerned, a clean breast of the situation. Sometime I feel that I should withdraw the accession that I have made to the Indian Union. The Union only provisionally accepted the accession and if the Union cannot recover back our territory and is going eventually to agree to the decision of the Security Council which may result in handing us over to Pakistan, then there is no point in sticking to the accession of the State to the Union of India."

(10) However, Pakistan refused to accept this accession.

IV

(11) From a strictly legal standpoint, the GOI's decision to settle the issue of accession by a reference to the people was irrelevant, for the people had no right to be consulted on the issue of accession. But, from the political angle, it was necessary for the ruler to keep in view the public opinion of his subjects, though there was no legal binding on him.

(12) Who was the author of the proposition of peoples' endorsement of accession issue? It was neither Mountbatten nor

Nehru, one of whom is generally held as its propounder. The proposition emerged as a tactic to emphasise Nehru-Patel righteousness in order to cover up their inconsistency with regard to Junagarh (demographically a Hindu majority state) which was forcibly incorporated into India under Home Minister Patel's order, despite the Nawab of Junagarh's earlier announcement of that state's accession to Pakistan. Logically, the GOI had to conditionally accept the Instrument of Accession signed by the Hindu ruler of the Muslim majority state of Jammu-Kashmir. Later, it was only under the same pretext that Home Minister Patel was able to annex by his 'police action' the Hindu majority state of Hyderabad, contrary to its Muslim ruler's declaration of independence. Thus the proposition of peoples' endorsement of the issue of accession did not mean any guiding principle for the GOI. It was simply an expediency to conceal its dual behaviour.

(13) As a matter of fact, Nehru himself reluctantly conceded this point at a meeting with Liaquat Ali Khan in Lahore on December 8, 1947, in the presence of Mountbatten. The relevant portion of the minutes states:

"Mr Liaquat Ali Khan then drew a parallel between events in Junagarh and those in Kashmir. He reminded Pandit Nehru of how India had recognised the sanctity of Junagarh territory. The provisional government of Junagarh had been set up in Indian territory. It had been provided with arms by India and then invaded and captured territory belonging to Junagarh. The head of the provisional government had made a public statement saying that its success was due to the assistance which had been provided by the Deputy Prime Minister of India (Sardar Patel). Pandit Nehru, while openly admitting that India had been in some ways in the wrong about Junagarh, claimed that the parallel with Kashmir was not tenable because of the vast difference in scale between the two."

(14) Pakistani opportunism too became evident when it accepted the accession of Junagarh to Pakistan on the basis of its Muslim ruler's decision, despite the fact that it lacked territorial contiguity with Pakistan and that its population was predominantly Hindu.

(15) Foreshadowing the danger that Pakistan might go to the UN on the issue of Jammu-Kashmir, India lodged a complaint to the Security Council under Article 35 (a situation which imperils international peace) of the UN Charter against Pakistan on June

2,1948. Pakistan delivered its reply rejecting the Indian charges on January 15, 1948.

(16) On January 27, 1948, India and Pakistan submitted draft proposals to the Security Council on their respective methods of solving the dispute. It was in this proposal that India agreed to the holding of a plebiscite in Jammu-Kashmir at the ultimate determinant of Jammu-Kashmir's status. The Indian representative observed on the floor of the Security Council:

"In accepting the accession, they (i.e., India) refused to take advantage of the immediate peril in which the state found itself and informed the ruler that the accession should finally be settled by plebiscite as soon as peace had been restored." (Security Council Verbatim Reports, 227)

(17) This statement clearly rejects the finality and the legality of the accession. It makes accession a temporary and transitional affair, to be finally determined through a plebiscite. It demolishes the foundation of India's case which chiefly stands on the legal basis. It was not within the competence of the Security Council to reopen the question of the accession of Jammu-Kashmir on the basis of India's original complaint or Pakistan's reply. Only Indian representative's above undertaking introduced a new element in the dispute between India and Pakistan.

(18) Neither Nehru nor Patel or the protagonists of *Hindutva* then or thereafter repented over this lapse.

(19) When the then Sadar-i-Riyasat of Jammu-Kashmir issued a proclamation for the convening of the Constituent Assembly to frame the State Constitution on April 30, 1951, the Security Council, on Pakistan's written protest, took a strong notice of this development and criticised India for permitting this move in order to prejudice the issue before the Security Council. The Indian representative, while replying to the Pakistani complaint and the criticism voiced by certain members of the Council, pointed out (May 2, 1951) that the State of Jammu-Kashmir, being a unit of federal India, was fully entitled to frame its Constitution and thus to convene a Constituent Assembly of the State. But he assured the Security Council that the GOI stands by its commitment made on the floor of this House for holding a plebiscite in Jammu-Kashmir and that even if the State Constituent Assembly finally resolves the issue of accession, that decision would not be binding on India or prejudicial to the position of the Council.

(20) The promise of plebiscite did not survive for long. After the 1954 US military aid to Pakistan, India withdrew that offer.

VI

(21) Following the withdrawal of its plebiscite offer, India has always taken a diabolical stand on the issue of Jammu-Kashmir. On the one hand, it says that Jammu-Kashmir is an inalienable part of India, and, on the other, it time and again continues to negotiate on this question with Pakistan. If, according to its logic, Jammu-Kashmir is an integral part of India, then why should it negotiate on a component unit of the country? Secessionism is unconstitutional because there is no provision in the Constitution of India which provides for the ceding of national territory. Article 253, as applicable to Jammu-Kashmir, says:

"Provided that after the commencement of the Constitution (Applicable to Jammu and Kashmir) Order, 1954, no decision affecting the disposition of the State of Jammu and Kashmir shall be made by the Government of India without the consent of the Government of that State."

Thus, even if the GOI wants to cede the territory of Jammu-Kashmir, the Constitution of India forbids it to do so on its own.

(22) To justify its negotiations on the State of Jammu-Kashmir with Pakistan the GOI's argument is that these are necessary o get Pakistan's illegal occupation of a part of Jammu-Kashmir vacated in a peaceful way. But reliable evidence shows that during 1962-63 bilateral talks between India's then Foreign Minister, Swaran Singh and Pakistan's Foreign Minister Z.A. Bhatto, India offered to concede upto 500 square miles of territory in Jammu-Kashmir in return for Pakistani acceptance of a modified line as a permanent international boundary. But Bhutto flatly rejected the offer, telling Swaran Singh that the valley was indivisible and Pakistan must have the whole of it. (*Indian Express*, 06-06-1993, P-4)

(23) The 1972 Simla Summit between Indira Gandhi and Z A. Bhutto, despite the absence of the Jammu-Kashmir issue on the formal agenda, did have a discussion on this matter. India got Pakistan's acceptance of a new ceasefire line (now called the Line of Actual Control) in Jammu-Kashmir replacing the UN supervised ceasefire line and a commitment to bilateralism in return for mentioning the State of Jammu-Kashmir as a dispute between India and Pakistan and its resolution through bilateral talks in Article 6 of the Simla Agreement. This demolishes GOI's case that Jammu-Kashmir is not a disputed problem.

(24) Recently, the Indian Prime Minister sent a message to the newly elected Prime Minister of Pakistan, stating India's willingness

to have talks with Pakistan on all bilateral issues, including Jammu-Kashmir. But a few days later, he declared that Jammu-Kashmir is an inalienable part of India and that it is not a disputed matter and hence non-negotiable. Obviously, if it is non-negotiable, then how he is proposing a discussion on it to Pakistan and why is not suggesting an Indo-Pak dialogue on UP or Bihar. It is simplistic to say that the Prime Minister is confused on this matter. If ordinary people can feel the unreasonableness of his statement, it is hard to believe that the Prime Minister was unaware of it. There is nothing new about such a style. It is the traditional politics of manipulation whose sole concern is and has been to attain and retain power by hook or by crook. Surely, it is not possible to solve local problems through the politics of manipulation, what to say of complex social issues, like Jammu-Kashmir on the question of nation-building.

VII

(25) From whatever angle—historical, geographical, political, ethnic, legal, economic, etc.—one may look at the post-1947 Jammu-Kashmir problem, its whole history bears witness to the fact of its having been an unsettled, undecided question between India and Pakistan. One may not call it a dispute, contest, quarrel, strife, struggle, trouble or whatever else New Delhi dislikes. But the fact of its existence cannot be wished away by one's disliking or liking.

(26) Refusing to admit reality—may it be irrational or harmful (e.g., Nazism, racialism, communalism, casteism)—means to deny the being. Only a proper identification of reality can lead to its realistic handling. Life, whether human or non-human, demands upholding of truth at all times and climes. Because truth is in the interests of every process.

(27) Truth needs not Machiavellism but scientific realism or rationalism humanism which starts from the existing phenomenon and then step by step proceeds towards the anticipated scientific/rational goal, while, rejecting every unscientific formula or irrational dogma—like dutifully accepting whatever the government says, treating national defence as a sacred cow, violating human values under the pretext of national interests, undermining the rule of law by putting forth national or religious excuses, playing trickeries for achieving personal gains or harming the adversary, etc. Only by upholding this approach, can we serve and develop the individual, humanity and nature.

31-10-1993

1993 Assembly Elections

Further Boost To Primordialism And Devaluation

I

(1) How did the recent Assembly elections in six states affect our political process?

(2) The media, both official and non-official, had answered the above question under varying headings, such as 'A victory of secular forces', 'Communalism takes a sound thrashing', 'Hindutva's march halted', 'A vote in favour of positive nationalism', 'Indian voter comes off age', and so on. All these headlines point out that something positive had taken place on the Indian political scene.

(3) Does the above conclusion reflect the actual reality? To know the real position, it is necessary to look at the various constituents of the Indian political process.

II

(4) In what political manner, did the Indian voters behave in this election? Their behaviour, as usual, had been guided by narrow and sectarian considerations. Some gave weight to local or group interests. Others made the choice on the basis of caste or religion. Still others decided by keeping in view their personal gains. There were some who took into account the winnability of the party of the candidate. A section opted for negative voting, i.e., to register a protest over the non-performance or the erstwhile party or member or to defeat a more dangerous party or candidate. For example, overwhelming number of Muslim voters opted for probable winners out of the non-BJP parties to keep the BJP out of power. Hardly a few might have voted on the basis of any lofty principle. Thus, on the whole, the voters had voted neither for any national objective nor for a basic issue.

III

(5) What political slogans and electoral methods did the different traditional mainstream parties adopt? The Congress fought the elections on the basis of its traditional slogans, like secularism, country's unity and stability, economic progress, etc., while Mandalism and *Hindutva* constituted the main planks of the JD and the BJP respectively. The Left Parties made the defeat of the BJP as its central point.

(6) The main methods used by each of these traditional mainstream parties had been to secretly appeal to the voters in the name of religion and caste or try to secure votes by the use of money-cum-muscle power.

IV

(7) To what results have these elections led? They have brought forth the same old forces with their respective same old slogans. It means that the political process will remain dominated by the same old forces. However, the electoral verdict is vague. Because none of these forces had emerged as an all winning force or the most preferred one at any place.

(8) The Congress voting base had been eroded. The Muslims, Scheduled Castes, Scheduled Tribes and Backward Castes have voted it only for negative reasons which alone had served it for the time being. It had been badly mauled in UP and seems to remain marginalised in UP and Bihar, the two most populous states in India, in the foreseeable future.

(9) The BJP had lost majority in three out of four State Assemblies. But, leaving MP, its vote percentage has slightly increased in all the states. Its political plank, consisting of *Hindutva* based nationalism, Ram as national hero and the building of Ayodhya Temple at the site of the Babri Mosque, has not yielded very fruitful results. But, it still remains a formidable force.

(10) The JD had completely lost its sheen as an instrument of social transformation. The masses have fully rejected its pet agenda of Mandalism-cum-minorityism.

(11) The Left Parties, tied to the JD's bandwagon have also suffered setbacks. Seeing no future for the JD, they have again started tilting towards the Congress.

(12) The SP-BSP alliance's victory in UP is primarily due to their aggressive casteism and forceful minorityism which enabled them to shrewdly forge a UF of the upper strata of Scheduled Castes, Backward Castes and certain sections of Muslims.

V

(13) What had been the political record of the traditional mainstream parties?

(14) The Congress, the principal mainstream party which had remained in power for 40 out of a total of 45 years since 1947, has always claimed to stand for non-violence, peace, secularism, democracy, unity and stability and economic progress. Its record provides us seven outstanding facts.

(15) The first fact is the occurrence of historically unprecedented communal and casteist riots in the post-1947 India. Another fact is the alienation of the Indian minorities as reflected by the various minority based secessionist movements, like Mizo, Naga, Khalistani, Kashmiri, etc., under Congress rule. The criminalisation of politics and the undermining of the state institutions (i.e., judiciary, administration, etc.) constitute the third and the fourth facts. The fifth fact consists of the inefficient and corrupt management of the Indian economy, resulting in the perpetuation of Indian poverty and unemployment. The sixth fact includes the all round pollution of our environment through deforestation and high population growth. And the seventh fact is the emergence of a devalued ethical code which, by justifying all dirty means to attain one's ends, had infected our political process with communalism, casteism and money-cum-muscle power.

(16) The JD, which includes various types of old socialists and had wielded power for ten months in 1990, upholds Mandalism as the sheet anchor to remedy all the Indian ailments. Its record shows us that, just after its formation, it did not have the slightest compunction about forming a tacit electoral alliance with the BJP in 1989 general election—thus indirectly enabling the latter to increase its strength in the Lok Sabha from two to eighty nine members. Under its ten month rule, guided by its undeclared coalition with the BJP and the Left Parties, about 170 adolescents immolated themselves against JD Government's caste based reservation order—with communal and casteist riots increasing in breadth and depth. V.P. Singh's minorityism (pursued by the boosting of the fundamentalist leaders, like Imam Bukhari) provided negative argument to the BJP's majoritarianism—spreading the latter's influence far and wide. In the post-JD rule, the BJP emerged as the second biggest party in the 1991 Lok Sabha elections, relegating the JD to the third position. The upholding of a primal approach, based on casteism-cum-minoritysim, had resulted in persistent splits in the

party, reducing it to merely a marginal group.

(17) The SP-BSP alliance is not very much different from JD. The only difference is that the SP and BSP pursue more belligerent casteism and assertive minorityism. Both claim to usher in a social revolution in India—with the SP according the leading role to Backward Castes and the BSP to Scheduled Castes. While the SP represents the interests of the upper strata of the well-to-do castes among the Backward Castes, namely, the Yadav, Ahir, Kurmi, etc., the BSP stands for rich sections of the Scheduled Castes. Both aspire to gain power by every means. The leaders of the SP caused a split in the JD after making an underhand deal with the Congress to install Chandra Shekhar on the Prime Minister's chair. Again they parted company with the latter when he held no power and when the Congress assured them of its support against the BJP in UP. It was under Mulayam's rule that UP was marked by an orgy of communal and casteist violence, with BJP gaining wider support. After Mulayam's fall, it was the BJP that captured power in UP. The BSP has always pursued political opportunism, sometimes hobnobbing with the JD, at other times with the Congress and the next time with some other party, on the pretext of using the quarrels of the 'upper caste Hindu parties' to its own advantage.

(18) The Left Parties, pursuing the Marxian dictum of 'power at all costs', had always tried to get near the corridors of power by hook or by crook. They had lent uninterrupted support to the corrupt and inefficient Congress rule for 40 years. For the last 5 years, they have been sitting over the bandwagon of the JD. During 1967-69, 1977-1980 and 1989-90, they had formed alliances with the BJP (earlier called Jan Sangh), Akali Dal and the Muslim League. In 1992-93, they had characterised the BJP as the enemy number one of the nation.

(19) The BJP claims to organise India as a homogeneous, vibrant nation on the basis of its doctrine of *Hindutva* or cultural nationalism. But the religious or cultural nation-building theory has not worked anywhere so far. For example, a single religion and culture, characterising the Arabs in the Middle East, the Western countries in Europe and the people of Buddhist faith in the South Asian and the Far Eastern countries could not weld them into a single nation. The Pakistani nation, formed on the basis of Islamic faith, got split into two parts, i.e., Bangladesh and Pakistan. The Indian and Nepali nations, having been demographically Hindu majority regions, could not be united into

one nation. The BJP's uni-culturism or positive nationalism is only an anti-democratic proposition that pursues Hindu chauvinism, discriminates against minorities and weaker sections and adopts all sorts of dirty tricks in the electoral process to gain power.

V

(20) What conclusions can be drawn from the recent Assembly elections? One is that the various samples of nationalism, projected by the mainstream parties, are in fact varying models of primevalism which have been perpetuating primordial ideas in our country, namely, casteist, communalist, chauvinist, etc. The other is that the varying political styles, practised by our mainstream parties, are in fact different devalued behaviour patterns which have been preserving and strengthening all types of vices in our country, viz., violence, corruption, double-dealing, sycophancy, self-seeking, etc. Our mainstream parties, despite having many secular and democratic persons in them and the presence of many genuine independent nationalists in the country, are totally unmindful of the impact of their primordial nationalisms and devalued political styles on the Indian polity, that is, the polarisation of our political forces and the wastage of our human and material resources. If pursued further, they can even lead to the destabilisation of our country.

(21) There is still time for the mainstream parties to mend their ideas and styles. At the moment, a vote for them promotes primordialism and moral devaluation. It is a vote for communalism, casteism, money and muscle power.

13-12-1993

Armed Confrontation In Kashmir
No End Of Tunnel In Sight

I

(1) Should we accept reality as it is made out by New Delhi? Or should we see things in whatever form the Jammu-Kashmir administration believes them to be? How are we to look at what our rulers and their academics say is the Kashmiris' disillusionment with the militants in the valley? Logic demands that we should view matters as they are and accept reality as it exists on the ground in Kashmir. Truth alone can, and will, serve our nation. Misconceptions, as always, will only weaken our national cause.

(2) What does the ground reality in Kashmir indicate? Does the recent unprecedented 32 days long general strike during the Hazratbal crisis in the valley or the absence of the bulk of the Kashmiri employees from their duty in the Jammu-Kashmir Secretariat after the Hazratbal crisis or the Kashmir Police's revolt and their petitioning to UN in the first half of 1993 show the Kashmiris' lack of faith in the militancy? Or should we consider the total observance of over 200 *Bandhs* or general civil strikes by the Kashmiri traders, workers, peasants, employees and intellectuals in the valley on the call of the militants and the Kashmiris' dogged defiance of the official authority, despite firings, lathi-charges, curfews, detentions, etc., during the past four years or Kashmiri government employees, including top officials, 67 day general strike seeking UN intervention against human rights violations in Kashmir by Indian security forces in 1991 as an expression of Kashmiri militancy's discredibility?

(3) Can one regard the present state of Kashmiri militancy, which, as per official figures, has grown from only a few dozens into a strong force of 13,000 cadres—with 5,000 each for the JKLF and the Hizbul Mujahideen and about 3,000 divided into various smaller splinter groups—as a sign of its public discredibility? If the militants have become so isolated, then

wherefrom have they been getting motivated manpower supplies in the face of heavy casualties, estimated around 10,000, and in spite of the mass hardships, difficulties and intolerable living conditions caused by the economic dislocation during the militancy dominated past four years, why Srinagar, Sopore and Anantnag remain the militant strongholds despite the burning of the homes and hearths of the people during counter-insurgency operations and the mass inconveniences caused by the army's cordon and search campaigns and why, despite fabulous rewards, there is little inflow of intelligence outputs to the security forces?

(4) The whole historical experience of the various militancies in the world demonstrates that the militancy would come to a dead end the day the concerned people stopped supporting it. The Kashmiris may be unhappy over certain wrong acts of this or that militant or militant group but they are not disenchanted with militancy.

(5) Misperceiving the ground reality in the valley, New Delhi's Kashmir policy, costing the Indian exchequer a huge amount of Rs. 5 crore a day, continues to be a jumble of distortions as is evident from the factional working of the Home Ministry, the confused and inefficient functioning of the Jammu-Kashmir administration and the sharp division among the national parties on the Kashmir policy. Applying a mixture of the total suppression and economic pacification, which first resorts to killings and destroying all that comes in its way, without making any distinction between the Kashmiri masses and the Kashmiri militants, and then turn to pacifying those left alive by distributing high financial doles, this policy goes on disregarding its own rules and procedures and violating the human rights in the valley to the maximal limit. Consequently, it has, on the one hand, brought about a total alienation of the Kashmiris from the Indian mainstream, and, on the other, carried the human rights question in Kashmir to the top of the international agenda.

(6) The above facts prove that New Delhi's oft-repeated optimism about the Kashmir situation during the past three years has been misplaced. Its much publicised statements about the starting of a political process in the state within six months, the setting of a target of three months to contain the militancy and make possible the return of the migrants to the valley and the holding of elections to the Assembly within a span of four months have remained as distant as ever.

II

(7) A correct appraisal of the Kashmir reality can only be had by looking at the strong and the weak points of both New Delhi and the Kashmiri militancy.

(8) As the situation stands at present, New Delhi's two strong points have been the Indian people's determination not to allow the separation of Jammu-Kashmir from the Indian Union at any cost and the country's overwhelming military power as compared with that of the Kashmiri militancy and its external supporters, while New Delhi's total alienation from the Kashmiri people, growing isolation on the Kashmir question in the international arena and the lack of a clear-cut policy have formed its three serious weaknesses.

(9) The Kashmiri militancy has been characterised by three main positive features, i.e., the overwhelming support of the Kashmiris, the growing international support and the familiarity with the valley's peculiar climate and topography, while its principal negative particulars have included its lack of a common perspective (i.e., the existence of two visions among the Kashmiris—one of independence and the other of accession with Pakistan) and its relatively weaker military power than the Indian forces.

(10) Each side has been trying to utilise the other's weak points to its own advantage and develop one's own favourable factors, while eliminating the unfavourable ones. New Delhi concentrates on creating a wedge between the pro-independence JKLF and the pro-Pak Hizbul Mujahideen in order to create a split among the Kashmiris, on the one hand, while persistently increasing the size and effectiveness of its military force, on the other.

(11) The Kashmiri militancy focuses on methods which rouse Kashmiris disenchatment with India, lure the Indian forces into tricky encounters in order to inflict heavy casualties on them and attract world public attention to the undesirable acts committed by the security forces. In minimising its weakness of a single goal, it emphasises the immediate common task of opposing New Delhi and fighting against the security forces by all types of militant groups, while stressing the settlement of their ideological contention through a referendum in the post-militancy phase. To overcome its combat weakness, it tries to make an effective use of its military resources.

III

(12) The above account of existing balance of forces makes it

clear that there is no possibility of an immediate strategic change in the valley. So far neither of the two sides has been able to gain a strategic initiative. Sometimes the tactical initiative has rested with the one and sometimes with the other. No one is in a cheering mood after four years of fighting. There is neither any ray of hope nor an end of the Kashmir tunnel in sight for any side.

IV

(13) Given the foregoing facts, what are the options available to India on Jammu-Kashmir? First, it may go on doing what it has been doing in the valley for the last four years, i.e., to contain Kashmiri militancy by military means. Second, it may go to war against Pakistan and settle the matter. Third, it may compromise with one section of the Kashmiri militancy, avoiding Pakistan. Fourth, it may accept a third party (including the UN) mediation. And fifth, it may adopt the path of a peaceful settlement by opening a tripartite dialogue between India, Pakistan and the Jammu-Kashmir people and arrive at some agreement.

V

(14) Is the first option a feasible proposition? Here certain points need a thoughtful consideration.

(15) One, the four year experience of armed confrontation in the valley shows that it has so far failed to work. Two, the experience of the armed containment of militancy in other parts of India (i.e., the North-Eastern states, Assam, Punjab, etc.) also negates its suitability. Because it had neither worked in favour of government nor militancy. Barring a temporary suppression for a limited period, all the ethnic and regional militancies are still lingering on. The 1984 armed action at the Golden Temple not only led to sorrowful happenings but also resulted in the antagonising of the Sikh community. Three, the international experience of recent armed struggles in various parts of the world (Cambodia, Afghanistan, South Africa, Angola, Middle East, Al Salvador, etc.) indicates that none of the combatants was able to snatch victory over the other anywhere—thus ending in compromises in all cases. Four, the experience of governance both at home and abroad shows that an unwilling people cannot be kept under control for long. The Kashmiris are not only alienated from the Indian national current but also motivated by two alternative perspectives, i.e., an independent Jammu-Kashmir and Jammu-Kashmir's accession with Pakistan. Unless

resistance to militancy comes from the population itself, it is difficult to solve matters merely by the deployment of security forces. Five, the armed course in Kashmir creates the probability of an Indo-Pak war. Six, the fact of daily increasing international pressure against the use of arms as a means to resolve the Jammu-Kashmir problem is not going to allow New Delhi to pursue this course for long. Seven, the implications of the further pursuance of an armed path in Kashmir will soon become unbearable for India.

These implications are: (a) militarisation of the Indian polity and economy, (b) confrontation with those countries, such as the US, Russia, Japan, EC, OIC, etc., who consider Jammu-Kashmir as a disputed state, (c) preparations for war against Pakistan, (d) stopping of economic reforms in India, (e) strengthening of Hindu fundamentalism and curbing of minorities, (f) stoppage of foreign capital inflows, (g) increasing of poverty and unemployment. These implications can definitely generate political and economic turmoil and consequently destabilisation.

(16) Obviously, the above facts rule out the feasibility of the first option.

VI

(17) Can the option of going to war against Pakistan be a viable one? The experience of the three Indo-Pak wars demonstrates that none of these had been of any help in the solution of even a single problem in India or Pakistan. Rather, they had been responsible for augmenting the miseries of the people in the two countries. The 1962 Sino-Indian war not only harmed India's national interests but also caused its national humiliation. A fourth Indo-Pak war, with its nuclear dimensions, will not only cause total destruction in the two countries, but also disrupt the world development process. The hawkish supposition of an easy Indian victory over Pakistan ignores the recent world experience, showing the superpower setbacks at the hands of weaker forces, e.g., the humbling of the US by the Chinese forces in the 1950 Korean war, by the Vietnamese guerrillas in the two decade long Vietnamese civil war and by a warlord forces in Somalia this year along with the Soviet failures to effectively combat relatively minor forces in Angola, Mozambique, Ethiopia, Afghanistan, etc. The military based superpowerism failed to bring any positive basic change in the world during its 45 year old war operations. In the post-cold war

era, the war has become too much degrading and the world people are dead set to punish every war-monger.

(18) Thus, the facts also reject the viability of the secon option.

VII

(19) What prospects does the third option, i.e., compromise between New Delhi and one section of the Kashmiri militancy, hold. So far, the whole series of Accords—whether between New Delhi and Srinagar (e.g., 1952 Nehru-Sheikh Settlement, 1975 Indira-Sheikh Agreement and 1986 Rajiv-Farooq Accord) or between India and Pakistan (i.e., 1965 Tashkent Agreement and 1972 Simla Pact)—have proved fruitless. This is, because each one of these Accords had been forged between two parties out of the three involved in the Jammu-Kashmir dispute, namely, India, Pakistan and the different ethnic and regional identities in Jammu-Kashmir. The experience of the Rajiv-Longowal Accord on Punjab and of various agreements between New Delhi and the different ethnic movements in the North-Eastern states also reveals the non-working of questionable deals.

(20) Hence, the third option which leaves out Pakistan, the various Kashmiri militants and the non-Kashmiri identities in Jammu-Kashmir also lacks practicability.

(21) Does the fourth option offers a way out? There is no basic objection to the mediation proposal provided all the concerned parties come to an agreement over a common mediator.

The possibility of concurrence on a common peace-maker, however, is very remote in the context of widely divergent positions of the contestants. Earlier the UN mediation efforts during 1949-57 had not borne any fruit.

(22) In view of India's recent objection to the mediation plan, this option too is unworkable.

VIII

(23) Has the fifth option, i.e., a peaceful settlement by opening a tripartite dialogue between India, Pakistan ,and the Jammu-Kashmir people, any chance? The 45 year experience of the search for a solution to Jammu-Kashmir problem denotes that this option has remained unexplored so far. No doubt, there was little possibility of its application in the cold war period. But, in the post-cold war era, when the rest of the world has since accepted dialogue and negotiations as the only viable way for the resolution of any dispute, India and Pakistan are still saddled

with a cold war mindset,

(24) The international projection of the methodology of dialogue and negotiations is not linked to any abstract world liking but is based on certain new realities. One, the globalisation or interdependence of countries, requiring a new social division of labour and a restructuring of the national politics and economies, demands a peaceful settlement of international, inter-ethnic, regional or communal disputes. Two, the expanding struggle for democracy and human rights all over the world has created a general environment for dialogue and discussion everywhere. Three, nearly all the remnant flashpoints of the cold war period have been either already resolved or in the process of resolution. Four, the non-military path of development, adopted by Japan, Germany and the countries of the Asia Pacific region in the cold war period, shows the effectiveness of the peaceful methodology. Five, the economies of the developed countries today need stability and order in the world. Six, instability in whatever region disrupts the order of things in the world today. Seven, our own political stability and economic progress need a peaceful environment.

IX

(25) The method of dialogue and discussion works only when the contending parties, proceeding from the principle of give and take, try to hammer out a formula that meets the interests and aspirations of each one of them.

(26) Going by the above criterion, a peaceful solution to the Jammu-Kashmir problem can assume one of the following forms: (a) Division of Jammu-Kashmir on the Line of Actual Control with minor adjustments here or there; (b) An independent Jammu-Kashmir; (c) Jammu-Kashmir under UN Trusteeship; (d) Joint Indo-Pak control over Jammu-Kashmir, with autonomy to each ethnic and regional identity in Jammu-Kashmir.

(27) The first proposal tilts towards India. Hence, it is neither acceptable to Pakistan nor to the Kashmiris.

(28) The second and the third arrangements are disfavoured by India, Pakistan, the pro-Pak Kashmiris and the non-Kashmiri identities in Jammu-Kashmir.

(29) The fourth proposition meets the interests and aspirations of all the parties.

(30) Obviously, none of the first three plans fulfils the criterion of the dialogue and negotiations methodology, namely, to be

satisfactory to all the concerned parties. Also, none of these can become the basis for creating a feeling of friendship and goodwill between the two old adversaries. Keeping the traditional Indo-Pak rivalry intact, they do not help in bringing about a tension free South Asia. As to the scheme for an independent Jammu-Kashmir, it will not only maintain the state as a bone of contention between India and Pakistan but also turn it into a new contentious issue between the big powers for their sphere of influence. It can also result in an Afghan type of deadly civil war among different ideologically committed militant groups.

(31) Thus, only the fourth course of action forms a practical basis for compromise between all the concerned parties. A joint Indo-Pak control over Jammu-Kashmir, responsible only for the state's defence and currency, with full autonomy to each of the ethnic and regional identities in Jammu-Kashmir, not only fulfils the national interests of India and Pakistan and upholds their respective national honour, but also meets the hopes and aspirations of all the ethnic and regional identities in Jammu-Kashmir. Being a new model, it opens the gate for a rapid progress of the South Asian region and the strengthening of the world peace and development process. 17-12-1993

Statement By Forum For Peaceful Resolution Of Jammu-Kashmir Problem

(The two-day conference, attended by representatives from all areas of the Jammu region, on peaceful resolution of Jammu-Kashmir problem, held in Jammu City on 25th and 26th December, 1993, had adopted the following statement, embodying its approach, principles and working rules)

Time To Act

(1) The present state of affairs in Jammu-Kashmir in general and the Kashmir valley in particular is highly disturbing. The process of armed confrontation in the valley, having started some four years back, knows no abating. This has caused immense hardships and troubles to the people in the valley especially and Jammu-Kashmir broadly.

(2) Accompanying the armed tussle in the valley, the continuing Indo-Pak strained relations since 1947 communal partition have been getting tense day by day—causing worldwide mass anxiety about the eruption of a new Indo-Pak armed conflict, with its nuclear dimensions.

(3) This dreadful situation demands a close look at the four year experience of the ongoing armed confrontation in the valley alongwith the outcome of the three post-1947 Indo-Pak wars over Jammu-Kashmir, and the end of the recent violent strife in some parts of the world (such as Cambodia, Afghanistan, Angola, South Africa, Palestine, Al Salvador, etc.)—which shows that the military solution today has lost much of its relevance to solve any complex problem.

(4) Given the above facts, it logically follows that all democratic, fair-minded and peace-loving people, irrespective of their affiliations, coordinate their efforts to emphasise the futility of the gun culture and project the path of unconditional dialogue

before the contending parties concerning Jammu-Kashmir problem, on the one hand and the people, on the other.

(5) In order to give effect to the foregoing conclusion, it is necessary that all pro-dialogue elements unite and organise a state level, broad-based forum to campaign for the peaceful resolution of the Jammu-Kashmir problem on the following basis.

Approach

To proceed from the premise that the problem of Jammu-Kashmir is primarily a political problem with many dimensions such as international, national, regional, ethnic, cultural, religious and economic, that it can be properly resolved through an unconditional dialogue among all the concerned parties by taking into account the interests and aspirations of each one of them and that the politics of military solution and gun culture will not only complicate the Jammu-Kashmir problem but also lead to the destabilisation the sub-continent and the hampering of the world development process.

Principles

(a) To persistently plead with both New Delhi and Islamabad to solemnly pursue their promise of sorting out the Jammu-Kashmir problem in a peaceful manner through bilateral talks as stipulated in clause 6 of the 1972 Simla Accord.

(b) To demand from both of them to prepare a concrete programme for associating all the ethnic and regional identities from both sides of the Line of Actual Control (LAC) with their bilateral talks on the Jammu-Kashmir problem.

(c) To appeal to New Delhi and the militants to abjure the use of arms as a means of struggle with the view to facilitate a peaceful resolution of the Jammu-Kashmir problem, uphold human rights and avoid excesses on and killings of innocent persons. Also to make request to the Indian and the world people in general and the people of Jammu-Kashmir in particular to exercise their moral pressure on New Delhi and the militants to initiate talks without preconditions.

(d) To call upon New Delhi and Islamabad to initiate a process of dialogue, with the representatives of various ethnic and regional identities on their respective sides of the LAC without preconditions with the view to find out their respective viewpoints about their own future and the solution to the Jammu-Kashmir problem.

(e) To contact and have a dialogue with various ethnic and regional identities on both sides of the LAC on their respective viewpoints about their own future, their inter-ethnic and interregional relations and the solution to the Jammu-Kashmir problem.

(f) To strive to hammer out a just and fair solution to the Jammu-Kashmir problem, a solution which takes into account all the inter-connected realities and meets the aspirations of the related parties.

(g) To approach various democratic persons in India, Pakistan and other countries of the world for seeking their support to get the Jammu-Kashmir problem resolved through a reasonable solution.

(6) Proceeding from the above perspective, the working rules of this forum are as under:

(a) The name of the forum is the Forum for Peaceful Resolution of Jammu-Kashmir Problem.

(b) It is a non-party body.

(c) The functioning of the Forum is fully democratic. The decisions at various levels are generally taken through consensus.

(d) Anyone who accepts the Approach and Principles of this Forum can become its member.

(e) The organisational structure of the Forum consists of the following organs: A Central Committee, elected at the Conference; The District and the Tehsil Committees, elected at their respective Conferences.

(f) The Committees at various levels meet at least once a month.

(g) The Committees at various levels work to motivate the people on the basis of the Approach and Principles of this Forum, coupled with the defence of human rights and civil liberties.

(h) The mass mobilisation is carried on orally as well as in writing. The various ways of oral campaigning include: public meetings and processions, indoor meetings, individual contacts, etc., while campaigns in writing are conducted through pamphlets, posters, wall-writings, etc.

(7) In the next 3 months, the Forum undertakes to perform the following tasks:

(a) To organise the District and the Tehsil Committees,

(b) To conduct talks with the relevant organisations and groups in Kashmir, Leh and Kargil regions,

(c) To send the copies of the statement to various organisations, newspapers and important persons in India, Pakistan and Jammu-Kashmir,

(d) To organise a Conference of the Jammu region after the proper formation of the District and the Tehsil Committees.

Resolution First

1. This Conference welcomes the decision of the New Delhi and Islamabad governments to hold their Foreign Secretary level meeting in Islamabad from January 1 to 3 to sort out the various aspects of the protracted Jammu-Kashmir problem. It hopes that their coming meeting will mark the beginning of a new process of meaningful dialogue to resolve the differences between them—thus lessening the tension in the South Asian region and reinforcing the world peace process.

2. True, the differences between the two countries have been so wide and deep that it is not possible to bridge them in a single meeting. But the Conference ardently expects that their January meeting will be soon followed by talks between other senior leaders of the two countries. Firmly ignoring the hawkish cries on both sides, there is an urgent need to pursue the option of a peaceful resolution of the Jammu-Kashmir problem. The fact must be highlighted time and again that without an appropriate solution to the Jammu-Kashmir problem, no peace in the region and consequently the world seems possible.

Resolution Second

This Conference, while welcoming the coming Indo-Pak talks on the Jammu-Kashmir problem, demands of New Delhi and Islamabad to proceed from the basic reality that the people of Jammu-Kashmir, on both sides of the Line of Actual Control, are a major party to the Jammu-Kashmir problem and that without their active participation there can be no durable solution to this problem. Hence, it appeals to them that, in order to make the talks fruitful, all ethnic and regional identities in the two parts of Jammu-Kashmir be involved in the talks concerning the Jammu-Kashmir problem.

Resolution Third

This Conference, while highly appreciating the ensuing Indo-Pak dialogue, calls upon both the countries to initiate a process of dialogue with the various representatives of the ethnic and

regional identities on their respective sides of the Jammu-Kashmir state without pre-conditions. The effort should be to find out a fair solution to the Jammu-Kashmir problem giving some satisfaction to each party related to this problem.

Resolution Fourth

This Conference deplores the increasing number of human rights violations by both the government and the militants. While the former indulges in custodial killings, torturing of 'suspects', intimidation of locals, subversion of law, etc., the militants commit human rights abuses, such as hostage taking, assassinations, torturing of opponents, etc. It urges both of them to respect human rights, value humanitarian standards, avoid excesses, give up strong arm methods, and win the hearts and minds of the people by renouncing the use of arms.

GATT's New Global Trade Order

I

(1) After seven years of protracted negotiations, the Uruguay Round of the General Agreement on Trade and Tariffs (GATT) had been approved by the 117 contracting parties on December 15, 1993.

(2) Officially, the new agreement aims at removing barriers to trade and stimulating growth in the world economy. This official perception is corroborated by the historical experience which, shows that the post-2nd world war trade liberalisation was a major factor for world economic prosperity and that this growth benefitted both the rich and the poor.

(3) Studies by the Organisation of Economic Cooperation and Development (OECD) and the World Bank had estimated that the current world liberalisation holds out an increase in the annual global growth of between $213 billion to $217 billion in 10 years.

(4) According to New Delhi, the new GATT agreement is likely to benefit India by $1.5 to $2 billion.

(5) But, despite these expected gains, a number of misperceptions continue to cause serious worries in India. So far, neither the government's response to these misgivings nor the answers given by the votaries of the Dunkel Draft have succeeded in allaying the fears in this regard.

II

(6) Much of the criticism of the new GATT agreement is based on disinformations for which New Delhi's confused stand on the Dunkel Draft and its avoidance of a public debate on it has been mainly responsible. Only a small part of this criticism corresponds with reality.

(7) The agreement deals with 15 issues. Of these, 4 are completely new ones: services, patents, foreign investment and agriculture. The other 11 issues can be grouped into three broad

areas: (a) tariffs and trade of particular products, (b) effects of trade and (c) a review of the GATT. The first area includes tariffs, non-tariff measures, tropical products, and natural resource based products. The second area is concerned with safeguards, i.e., subsidies, countervailing measures and dispute settlement. The third area covers GATT articles and functioning of the GATT system (FOGS).

(8) The controversy in India is centred around five issues: agriculture, textiles, services, trade related investment measures (TRIMs) and trade related intellectual property rights (TRIPs).

III

(9) In the agricultural sector, it is feared that with the acceptance of the GATT proposals, India is required to do away with its traditional seeds, farm subsidies, food security and public distribution system and open up its market to foreign agricultural goods. But, there is nothing of this sort in these proposals.

(10) The *Kisans* can use, develop, stock and exchange the traditional seeds as they desire. The seeds developed in the Indian Agricultural Universities and institutes or at international institutes (like the Manila Rice Research Institute or the Hyderabad Dryland Farming AgriculItural Institute) remain outside the purview of the GATT patent proposals. The royalty will have to be paid only on the imported variety of newly patented seeds, developed by the MNCs.

(11) There is no need to scale down the farm subsidies as they are much below (i.e., 5.5%) the level fixed by the new GATT agreement (i.e., 10% of the price of the total agricultural products in 1986). India can increase its farm subsidies further if it so desires.

(12) The food security and public distribution system has not been affected at all, because it subsidises the poor consumer and not the farmer.

(13) The obligation of giving minimum market access commitment for import of 3% agricultural products is not applicable to India because the countries (like India), facing BOPs crisis, are exempted from this provision.

IV

(14) In the sphere of textiles, the apprehension is that the agreement does not safeguard the interests of the textile

exporting countries (including India). But this contains too much exaggeration.

(15) The textile exporting countries wanted the quota system of imports adopted by the developing countries to be abolished for good. The US desired the abolition period to be 15 years. But it has been fixed at 10 years. True, the rate of abolition in the 3/4th part of the transitional phase is slow. But India, alongwith other concerned countries, can demand an evenly balanced rate of abolition before the final signing of the agreement.

(16) The transitional period can be utilised by India for making its textile industry more efficient and thus become a good competitor in the international textile market.

V

(17) In regard to services, the decision has been put off for six months. Whenever the matter is taken up, India should seek greater access for movement of skilled and professional personnel from the developing to the developed countries—thus enabling the former countries to increase their export earnings from the service sector.

VI

(18) As regards the issue of TRIMs, it is feared that the foreign capital and the MNCs will have full freedom to enter and dominate the country. But the fear is unfounded.

(19) Under the new GATT agreement, each country is entitled to follow its own foreign investment policy. It only demands that the legally permitted foreign investment be treated on par with the domestic capital in every respect.

VII

(20) With regard to the question of TRIPs, there is deep anxiety that the new patenting system will harm the Indian industry and agriculture, particularly the pharmaceutical sector. But this is not a fact.

(21) Five major areas of divergence exist between the TRIPs text and the 1970 Indian Patent Act. One is that, while the Indian law patents only the process of a product, the TRIPs text requires the process as well as the product patenting.

The other is that, while the Indian law prescribes 7 years duration in the case of food and pharmaceutical and 14 years in the case of all other sectors, the TRIPs text provides for a

uniform duration of 20 years for all patents.

The third is that, while the Indian law provides automatic compulsory licensing in the case of food, pharmaceutical and chemical sectors, the TRIPs text permits compulsory licensing on the merits of each case after hearing the patent seeker.

The fourth is that, while the Indian law does not allow patenting of life forms, the TRIPs text requires micro organisms to be patented.

The fifth area of divergence is that, while the Indian law demands the proof from the plaintiff, the TRIPs text places the burden of proof on the alleged offender.

(22) All the above provisions of the TRIPs text have been approved by the GATT contracting parties. Still the provision concerning the patenting of genetic material continues to cause uneasiness among many countries. This is, because it, firstly, is not specific and, secondly, lacks the directive, requiring the patentee to disclose the impact of his genetic patent on soil, crop, environment and human health, India should propose proper amendments to this provision at the earliest available opportunity.

(23) The general impression that the genetic patenting will deprive our farmers and researchers of the country's genetic resources is quite misplaced. Because the farmers' and researchers' rights are duly recognised through the sui generis system of protection for plant varieties. India, like other countries is fully entitled to safeguard its plant and livestock life. By declaring the traditional generic materials, used in the *Ayurvedic* system of medicines, agriculture and industry (like the *Neem*, etc.), as national property, India can enable its researchers and farmers to develop new strains.

(24) India today exports about 1,900 varieties of seeds. But it does not earn any royalty. Compared to this, US obtained a royalty of an estimated $66 billion by exporting germplasm. This is because the US exports are patented, while the Indian ones are not. By getting its own seeds patented for foreign use, India, as one of the 8 centres in the world Researching Genetic Diversity can earn a lot from seed technology.

(25) Fears have been expressed that the drug prices in India will shoot up. This is true only to a limited extent. Because the proportion of patented medicines will be only 15 to 20% in contrast to more than 80% of the non-patented ones (i.e., the common medicines and the WHO listed essential drugs). The

240 major allopathic drugs being used in India were developed more than 20 years ago on which no patent laws would apply.

VIII

(26) The controversy on Dunkel Draft in India had generated more heat than light. The critics had never specified what exactly their objections to the Draft were and what was their own alternative and its specific course of action. Their general slogan 'Any option but Dunkel' demands of India to quit the GATT. Such an alternative is highly preposterous. Because, it would force India to enter into bilateral agreements with each of the country's trading partners. Since India is not a major trading player, it would be forced by more powerful trading partners (such as the US, EC and Japan which contribute to over 60% of India's external trade) to make more concessions that go beyond those in the Dunkel Draft. Worst, it would subject India to a unilateral action that powerful countries like the US can take under section 301 of the US Trade Act.

(27) The question worth considering is that if the Dunkel Draft is an attempt by the developed countries to control the resources of the developing ones, then why China, despite its high political standing as a permanent member of the Security Council, growing economic strength and making one concession after another for meeting the requirements of the GATT membership, has been waiting for 5 years to join this agreement. And further, if the Dunkel Draft represents the North's recolonialist plan, then why many developing countries have continued as GATT members and why its old critics (such as Vietnam, Cuba, etc.) are standing in the queue for signing the new GATT deal.

(28) Thus, considering as a whole, the facts point out that, despite apprehensions, some genuine and many exaggerated, India cannot afford to turn its back on GATT. 09-01-1994

JPC Report Indicates Scams Will Go On Happening

(1) The 30 member (with half from the Congress) Joint Parliamentary Committee (JPC), set up some 16 months back to investigate into the biggest ever embezzlement case concerning over public funds, has brought forth its two volume Report spreading over nearly 500 pages.

(2) The JPC Report traces the beginnings of the scam in early 1980s, thus showing that it has nothing to do with new economic policy.

(3) According to the Report, "the scam is basically a deliberate and criminal misuse of public funds through various types of securities transactions, with the aim of illegally siphoning off funds of banks and public sector undertakings to select brokers for speculative (high) rates of return."

(4) It assigns the responsibility of the scam at five levels: Finance Ministry, Reserve Bank, financial institutions (including banks), brokers and political lobbies that helped and provided protection to the culprits.

(5) Identifying the causes of the scam, the Report notes that the most unfortunate aspect of the scam "has been the emergence of a culture of non-accountability which permeated all sections of the government and banking system over the years. The state of the country's system of governance, the persistence of non-adherence to rules, regulations and guidelines, the alarming decay overtime in the banking systems has been fully exposed."

(6) Having made these and a lot of many observations, the JPC did not go into the basic question as to why did such a sorry state of affairs come to prevail in India's national life. It refrained from summing up its own established facts according to which the "highly qualified" auditors certified false accounts as fair, the "most competent investigating agencies" (like the CBI) covered

up the real matters (e.g., the Gold Star Case), the "distinguished" bankers indulged in swindling, the "renowned" brokers engaged in cheating and the "popular" politicians of all hues acted in a suspicious manner. That is why the JPC could neither trace out where the embezzled monies had gone nor suggest the ways and means to avoid the reoccurrence of such a scam.

(7) What comes out clearly from the series of facts provided by the JPC Report is that the whole national system has become rotten to the core—with its political process having become criminal, economic process turned corrupt and inefficient and behavioural process deviated towards unethical norms. As long as this criminal, corrupt, inefficient and degenerated system and its operating agencies dominate the national scene, the scam of one type or the other will go on happening without an end.

10-01-1994

Sustainable Lifestyle: The Way Out

I

(1) The World Watch Institute, a Washington based private non-profit research enterprise, which has been reporting on the state of the global environment and population and their social implications for the past several years, has in its 11th annual look, warned of hungry times ahead.

(2) The Report notes that from 1950 to 1984, world grain production grew 260% raising per capita production by 40%. Over the same period, the world's waterways yielded so much fish that the seafood catch per person doubled.

(3) But in recent years, these trends in food output per person have been reversed with unanticipated abruptness.

(4) Fish harvests from the world's oceans have levelled off at about 100 million tonnes a year, which may not be exceeded. Sea food prices are rising rapidly and a single Bluefin Tuna may now cost as much as $80,000 or more than $100 a pound (.45 kg).

(5) Water bodies are increasingly polluted and fresh water shortages are occurring in the US, Mexico, China, India and West Asia.

(6) Grain production has slowed dramatically in the last few years, with per capita output of rice, corn and wheat, falling 11 percent since 1984. Worldwide stocks of rice are at 20 years lows and the price on the Chicago Board Trade has doubled since August 30, 1993.

(7) Fertiliser use has dropped by 14 percent since 1989, evidence that maximum yields may have been reached for many crops.

(8) Releasing the Report, the Institute's President, Lester Brown, said that his staff of economists and social scientists has been noticing the trends for a few years now, but the critical picture only came into focus with this year's research and analysis.

(9) He said, "Slowed growth in world food supplies provides

real evidence that the planet's biological limits may have been reached."

(10) Among the signs, he cited: "A 3 month doubling of world rice prices; millions of hectares of rangeland chewed down to uselessness; spreading water shortages and a 80,000 dollars Tuna fish."

(11) He said, "As a result of our population size, consumption patterns and technology choices, we have surpassed the planet's carrying capacity. Human demands are approaching the limits of oceanic fisheries to supply fish, of rangelands to support livestock and, in many countries, of the hydrological cycle to produce fresh water. If this decline continued indefinitely, it could lead to social disintegration of the sort seen in Somalia, Sudan and Haiti."

(12) Referring to India, he said, "India already faced with extensive soil erosion and falling water tables, would be adding 590 million people by 2030, even more than China, as its population increases to 1.44 billion. With wheat yields that have already tripled and rice yields that are rising more slowly than in the past, India will find it difficult to support these growing numbers. Perhaps the greatest gap in formulating population policy has been the failure of the India government to consider the carrying capacity of its land."

(13) If national governments, like in India, calculated the food carrying capacity of their countries, they could integrate this analysis into population policies. Otherwise there was a real risk that countries will blindly over-run their food output. Unfortunately few national leaders even used the term "carrying capacity."

(14) He said that responding to the growing imbalances between food and population in scores of countries is a test of our political institutions, of our humanity and modern civilisation itself.

(15) According to the Report, one response to these projected deficits would be to reduce the use of grain for livestock feeding in industrial countries and expand food assistance. New information should accelerate international response to unmet family planning need and develop strategies to address the root cause of high fertility. Another strategy to reverse the tide of spreading hunger would be to improve literacy rates in developing countries and improve the status of women which is very important for any family planning programme to succeed.

II

(16) The World Watch Report does a commendable job by forewarning human community of the danger arising from the depleting global food and water resources and by suggesting remedial measures thereof.

(17) The experience, however, shows that repeated expert admonitions about the challenges coming from environmental pollution and overgrowing population have not been seriously taken by the UN or the various national governments. This is evident from the fact that so far the problems of environmental improvement and population control have attained priority neither in the UN global agenda nor in the national concerns of the different countries. These two most crucial issues are being attended only in a haphazard manner both at the national and the international levels. The principal reason is that almost all national governments, both at home and abroad (even in the UN), give top priority to populist measures which though often detrimental to environment and population control, ensure their continuance in power.

(18) The populist or vote bank politics, as always, orientates the people towards consumerist opportunism or unsustainable lifestyle. Thus the North (i.e., the developed countries), accounting for only 25% of the world population, goes on with its unsustainable development model by appropriating 80% of the world resources, while the South (i.e., the developing countries) with 75% of the world people, continues striving to reach the North's unsustainable level. The 10% well to do in the South appropriate over 60% of their respective national incomes, while 90% have-nots subsist only on 40%. This abuse and misuse of world resources has brought the world to the brink of a disaster. Unless the unsustainable lifestyle, national as well as the individual, is ended, our planet cannot be made a safe place for bio-existence.

(19) The establishment of a sustainable global lifestyle demands a consistent struggle against various unsustainable development theories on the basis of a concrete programme. Such a programme may include the following elements:

(a) environmental improvement,

(b) population control,

(c) poverty eradication,

(d) guaranteeing of the rule of law, human rights, equal rights to minorities, social justice, uplift of weaker sections and

universal education,

(e) rational behaviour pattern,

(f) democratisation of UN as a global management centre.

(20) Thus, the human community today faces a highly formidable, new historical task of transforming the present unsustainable development model and lifestyle (having their genesis in the theories and practices of the old development models and lifestyles, particularly the industrial ones) into new ones. Its success or failure depends, on how mankind, in general, addresses the unsustainable features of that process and how the well-informed democratic organisations and individuals, in particular, organise themselves and orientate the people. 20-01-1994

East Asia Economic Miracle

I

(1) In its 1993 Review of economic performance and prospects of South and East Asia, the Bangkok based UN Economic and Social Commission for Asia and the Pacific (ESCAP) says that while the world economy grew by only one percent in 1993, the combined output of South and East Asia grew by 6.9 percent. The countries in this region retained their dynamism and performed better than those in other regions, including America, Europe, Africa and West Asia.

(2) It notes that China's most striking performance is one of the many reasons for the phenomenal economic success of the region. China has achieved tremendous economic success over the last decade with her per capita Gross National Product tripling over the years.

(3) The Review points out that despite the general slow down in the volume of world trade, most developing countries in the region were able to maintain or increase the level of their exports, due in part to a growing intra-regional trade.

(4) Substantial capital inflow, sustained domestic demand and a favourable policy environment also fuelled economic performance.

(5) The Review mentions the emergence of 'growth triangles', such as the one linking Singapore, the Malaysian state of Johor and the Riau islands of Indonesia, as another positive development.

(6) Despite the poor performance of the Philippines economy, the general outlook for four countries of the Association of South East Asian Nations (ASEAN) is very bright. Indonesia, Malaysia, Thailand and the Philippines experienced a composite growth rate of some 6.3% in 1993. The growth rate is projected to reach 6.9% in 1994 and 7.2% in 1995.

(7) The projected world economic growth for 1994 is only 2.5% and 3.1% for 1995. Malaysia and Thailand have both achieved a

GDP growth rate of more than 7.5% in 1993 (expected to accelerate to 8% in 1994) with an inflation below 4%.

(8) The Review states that strong export, complemented by buoyant domestic consumer demand, has helped to maintain the growth momentum of the two countries.

(9) The public investment, aimed at reducing infrastructure bottlenecks, is expected to expand along with private investment, which should benefit from relaxed monetary policies, concludes the Review.

II

(10) Some three decades back, East Asian countries were as poor as any deficient region in the world. Thailand and Malaysia were under a serious threat from powerful communist militancies. The tiny Singapore had just separated itself from Malaysia. Indonesia was on the verge of a civil war. China was facing food shortages and economic difficulties. Taiwan represented the headquarters of a demolished leadership. Hong Kong was preoccupied with the refugee problem. South Korea had just come out of a civil war. Japan was engaged in post-second world war reconstruction.

(11) During the past 30 years, the economies of the above countries had grown at a remarkable pace. Their growth was three times more than Europe, Latin America and South Asia and five times more than the sub-Saharan Africa. Real per capita incomes quadrupled in Japan, South Korea, Taiwan, Hong Kong and Singapore and tripled in Malaysia, Thailand and Indonesia. In every social sphere, i.e., education, health, social welfare, etc., they blazed a trail.

(12) This economic miracle was because of neither the magic of a free market nor the enchantment of any benevolent public sector. It had been primarily due to the adoption of a non-military strategy (China opted for this strategy around 1978 in the post-Mao period), with its top priority of developing the Human Resources. The essential ingredients of this strategy are:

(a) A judicious mix up of market mechanism and state welfarism.

(b) Stress on education, health and social welfare.

(c) A new participatory labour policy.

(d) Eradication of poverty.

(e) Decreasing of economic inequalities.

(f) Development of infrastructure.

(g) Integration with other regional economies.
(h) An open door policy towards the world capital.
(i) Export led growth.
(j) Liberalisation and technology updating.

(13) The above economic measures enable the East Asian economies to meet the needs of an emerging global economy. In other words, they corresponded with the social division of labour of the evolving world economic order. Had these economic measures been coordinated with a democratic party, based on the rule of law, human rights, equal rights to all minorities, population control, environmental improvement, etc., the results would have been far more productive. 22-01-1994

South Asia: World's Poorest Region

(1) In its Conference on "Overcoming Global Hunger," the World Bank's theme paper says that South Asia which includes India, Pakistan, Burma, Sri Lanka, Nepal, Bhutan, Mauritius, etc., is the poorest region in the world, having nearly 50% of its 1.1 billion people living below the poverty line. These poor people live on less than one dollar a day.

(2) South Asia accounts for 562 million people below the poverty line followed by sub-Saharan Africa with 216 million, East Asia Pacific 169 Million, Latin America and Caribbean 108 million, West Asia and North Africa 73 million and Eastern Europe 15 million.

(3) The World Bank paper notes that the proportion of people in the developing world living in poverty and hunger can cut by half within a generation from 30 percent to 15 percent.

(4) It states that the World Bank has lent more than 300 billion dollar in the past 45 years to assist the developing world which has helped one billion or more people around the world from poverty. Its aid has contributed to raising the overall living standard of the most of people in the developing world, having an estimated 4.5 billion people at the end of 1993, out of a total world population of 5.6 billion.

(5) The latest data shows that there are still about one billion hungry people in the developing world who are in need of additional aid. Among them are some 200 million children suffering from protein energy malnutrition. There are some two million other people who suffer from various micro-nutrient deficiencies, mainly due to lack of vitamin A, iodine and iron, concludes the theme paper.

(6) Why does South Asia contains the world's largest number of the poor and the hungry people? Not because it lacks natural resources. Neither it is due to any 'divine' calamities (i.e., droughts, floods, earthquakes, etc.) nor because of any foreign exploitation. It is also not a fate ordained phenomenon. It is quite

well-known that some three hundred years ago, South Asia had been one of the most prosperous regions of the world.

(7) The root cause of South Asia's abject poverty and hunger lies in its poor political management, inefficient economic performance and devalued behavioural pattern. The poverty of the political management is reflected by the criminalisation of the political process, marked by sectarian and lawless violence. The inefficient economic process is expressed by the all-pervading corruption, black money, wastage of human and material resources, high cost low quality products, poverty, unemployment, etc. The devalued behavioural pattern can be seen from the all-round degraded standards of conduct, like cheating, double-dealing, sycophancy, bribe taking and giving, self-seeking, arrogance, etc. The combination of poor politics, inefficient economies and debased lifestyle has deprived the large segments of our people to participate in the development process and benefit from its fruits. 23-01-1994

Possibility of An Indo-Pak Conflict Goes up

I

(1) Disquieting news, coming from the Indo-Pak border for the last few days, deserves a serious attention.

(2) Agency reports indicated that there had been skirmishes between the border security forces of the two countries at various points all along the Line of Actual Control in Kashmir, that both countries had increased their troop concentration on the entire Indo-Pak border, that both sides have been strengthening their respective strategic positions and that their armies have been put on the maximum alert.

II

(3) One might have ordinarily taken these goings on as routine military movements, if they would not have been synchronised with equally serious political development.

(4) Only three weeks ago, the Islamabad meeting between the two countries ended without arriving at even a minimum agreement. Pakistan insisted that there could be no normalisation of relations between them without India first agreeing to stop human rights violations in Kashmir, reduce the strength of its armed forces in the valley and give the right of self determination to the Kashmiris as envisaged in the 1948-49 UN resolutions. India proposed the adoption of certain confidence building measures—like the disengagement of their forces in Siachen, declaration by the two countries not to be the first in the use of nuclear weapons, etc.—between the two countries in order to create a proper environment for the resolution of the protracted Jammu-Kashmir problem.

(5) Following the sterile Islamabad meeting, New Delhi has accused Pakistan ISI for fomenting troubles in India's North-Eastern states. It has lodged a strong protest with the Bangla Desh for allowing Pakistan to use its territory against India. It

has also asked Nepal for cooperation to augment vigilance on the border.

(6) In the meanwhile, various hawkish Pakistani leaders, including her foreign and defence ministers, have categorically spoken about the possibility of an Indo-Pak war that lead this time to the use of nuclear weapons. Pakistan has reiterated its new concept of a linkage between the Kashmir question and its nuclear capability.

(7) Just a weak ago, Pakistan officially demanded the finalisation of 'modalities' for a plebiscite in Kashmir as the only agenda for any future Indo-Pak dialogue. Only two days before, Benazir Bhutto called upon the people of Pakistan, 'Azad Kashmir and the Indian occupied Kashmir' to observe a strike on February 5 to highlight the desire of the people for a solution to the Kashmir dispute through a plebiscite in accordance with the UN resolutions. She forecast that Kashmir, just like a jugular vein for Pakistan, will soon become a part of Pakistan. India's foreign minister characterised Mrs. Bhutto's statement as stupid.

(8) On the same day, India sent to Pakistan its six proposals concerning the improvement of Indo-Pak relations. Pakistan dismissed these proposals as an Indian device to deflect world attention from the burning Kashmir problem.

III

(9) The tension between the two countries has not erupted all of a sudden. It is the logical development of the preceding happenings. Without going into the distant past, the year just bygone had seen the continuous worsening of the Indo-Pak relations on one issue after another. The Babari Masjid demolition in Ayodhya, attended by attacks on temples in Pakistan, created a new tension point between them. This was followed by Islamabad's demand requiring India to make a drastic cut in its Karachi Consulate staff. New Delhi responded by asking Pakistan to close its Visa Offices in India and curtail the strength of its diplomatic mission in New Delhi.

(10) Relations deteriorated further when New Delhi accused ISI for the March bomb blasts in Bombay and giving shelter to the culprits. After the P.V. Narsimha Rao-Nawaz Sharif meeting at time of April SAARC Summit in Dhaka, Rao declared that there could be no talks with Pakistan until the Bombay blasts issue was sorted out. The same low key relations continued during Pakistan President-Prime Minister tussle and the Pakistani

election process. Under its interim government, Islamabad linked the Kashmir issue with its nuclear programme and rebuked Rao for declaring Kashmir as an integral part of India on August 15. Later, New Delhi ruled out any Oslo type Indo-Pak secret meeting and insisted that unless Pakistan stopped abetting terrorism in Kashmir, there could be no improvement in the bilateral relations.

(11) The October Hazratbal crisis added to further bitterness between the two countries. The newly formed Benazir government declared that it would not hold talks with India unless it lifted the Hazratbal seize and created a relaxed atmosphere in the Valley. In December, Islamabad sought to move a resolution in the UN on human rights violations in Kashmir, but later refrained to do so on the US and some OIC members' suggestion to drop this proposal in favour of holding a fresh round of Indo-Pak talks. They also urged New Delhi to take the initiative for a dialogue with Pakistan on all aspects of the Kashmir problem. Thus Rao wrote to Benazir for holding a foreign secretaries level talks on all bilateral issues, including Jammu-Kashmir. And the follow-up January 1994 Islamabad quest for better relations between the two countries ended without any positive result.

IV

(12) The abrupt ending of the Islamabad meeting and the subsequent sabre-rattling by the leaders of the two countries, coupled with their respective military mobility on the Indo-Pak border gives the appearance of preparations for an armed Indo-Pak conflict. True, Islamabad has shifted towards a tough line with the purpose of silencing its internal hardliners and taking advantage of the prevailing international environment critical of India. Similarly, New Delhi has been acting in the same fashion in order to meet its compulsions both at home and abroad. But their present threatening postures, combined with their past all-round military preparations, not only generates national war psychosis on either side but also pushes the matters to the brink.

(13) Reports from abroad also reveal that the world is already worried about the confrontationist posture of India and Pakistan. By the Bill Clinton Administrations reckoning, there exists a serious possibility of an Indo-Pak nuclear conflict on the Jammu-Kashmir dispute. It has been reported that Boris Yeltsin has recently written a personal letter to Rao for resolving the Jammu-Kashmir problem through peaceful dialogue between the parties,

including the people of Jammu-Kashmir. Earlier Japan, Germany, Britain, France, Iran and a number of other countries had also emphasised the necessity of a peaceful resolution of this problem. In the US, many renowned social research institutions, such as Rand Corporation, Carnegie Institute of Peace, the Asia Foundation, the Centre for Strategic and International studies, the University of Mary Land, American University, etc., have in recent months given close attention to the Jammu-Kashmir problem by holding many debates and seminars. Only 10 days ago, the joint Clinton-Yeltsin Moscow Declaration asked India and Pakistan to join the NPT regime, as already done by many countries. Therefore, the world can hardly brook a war which could turn nuclear and upset the strategic objectives and national priorities of different countries.

V

(14) To posturise itself as quite reasonable and the adversary as a warmonger, each New Delhi and Islamabad has been repeating its untenable propositions to justify its case.

(15) New Delhi, on the one hand, declares Jammu-Kashmir as an inalienable part of India and, on the other, subscribes to the 1972 Simla Accord (whose clause 6 mentions Jammu-Kashmir as a dispute) and now and then conducts dialogue with Pakistan on the question of Jammu-Kashmir. Flying in the face of total Kashmiri alienation from the Indian mainstream, it reduces the complex issue of Jammu-Kashmir to merely a problem of Pak abetment, of terrorism. Trampling the human rights in the Valley, it proclaims that it was fighting for a secular and democratic order in Kashmir.

(16) The untenability of Islamabad's argument is evident from the fact that, on the one hand, it accepts the Simla Accord (which provides for a peaceful settlement of the Jammu-Kashmir problem through bilateral talks between India and Pakistan) and, on the other, invokes 1948-49 UN resolutions for a plebiscite in the state concealing under its carpet the 1948-49 UN resolutions' basic stipulation that Pakistan withdraw its entire troops and administration from the part of Jammu-Kashmir under its control in order to allow the UN to make arrangements for a plebiscite in Jammu-Kashmir in consultation with the Indian government, it insists on the withdrawal of Indian forces from Kashmir and holding a plebiscite in the state (with Azad Kashmir under its control). Refusing the right of the Jammu-Kashmir people to

have their own option concerning their future (the third option), it poses itself as the champion of self-determination, in Jammu-Kashmir. Violating its own declarations of resolving the Jammu-Kashmir problem through Indo-Pak bilateral talks, it now imposes pre-conditions for such a dialogue.

(17) All above illogical propositions put forth by India and Pakistan emerge from their beliefs and postures of the 1947 communal partition. This mindset has already involved them into three wars. And if the same mental blockade continues, it can push them into another bloody tragedy.

VI

(18) Is the fourth Indo-Pak war going to resolve the Jammu-Kashmir problem? If we go by the historical experience of the three Indo-Pak wars, it is bound to fail not only in resolving the Jammu-Kashmir problem but is sure to create new insoluble troubles. If we take into account the latest expert opinion, a new Indo-Pak war, with its nuclear dimensions, will be quite destructive for both the countries, including Jammu-Kashmir. Irreparable vast human and material resources will be destroyed on both sides. Neither of the two contestants will come out as a winner. A weakened India and a pulled down Pakistan would each find it harder to keep its ethnic-regional units together.

(19) War is a solution neither to the problems of India nor Pakistan. It is irrational from every angle, particularly from that of these two countries whose two-fifth of the population goes to bed half hungry, one-third is houseless, more than half illiterate, over one-third under and unemployed, etc.

VII

(20) India and Pakistan can satisfactorily cope with the Jammu-Kashmir problem if they respond to it creatively by basing their respective national visions on the spirit of our times and proceeding from the actual situation in India, Pakistan and Jammu-Kashmir.

(21) The spirit of our times, emerging from the new era of the interdependence of countries, demands internal democratisation and external cooperation and integration instead of past centralisation at home and confrontation abroad. It provides us the vision of One World in which the respective interests of India and Pakistan have become mutual rather than contradictory and in which they must join hands to build their common future.

(22) As regards the actual situation in India, Pakistan and Jammu-Kashmir, the Indian people are not prepared to part with Jammu-Kashmir at any cost, the Pakistani people are not ready to allow Jammu-Kashmir's union with India whatever the consequences and Kashmiri people are determined to pursue their own course.

(23) Proceeding from the spirit of our times and the actual situation in India, Pakistan and Jammu-Kashmir, it is necessary that India and Pakistan opt for a democratic solution of Jammu-Kashmir problem—a solution that reconciles the interests of the people of India, Pakistan and Jammu-Kashmir and that is acceptable to all. Those options favouring one or the other side—e.g., the option of plebiscite not acceptable to India or that of partition on the line of actual control not favoured by Pakistan and the Kashmiris—cannot be viable ones.

(24) Obviously, such a solution firstly requires that India and Pakistan accept the principle of solving the Jammu-Kashmir problem in the interests of all the parties. Secondly, it demands that India and Pakistan involve the people of Jammu-Kashmir (characterised by various ethnic-regional identities, like Kashmiris, Dogras, Paharis, Ladakhis, Kashmiri migrants, Pathwaris, Gilgitis, Baltis) to decide the future of the state by convening a tripartite conference. Thirdly, it demands that all the parties try to hammer out a unanimous decision.

(25) Possibly two proposals can become the basis for a joint agreement.

(a) The entire state, with each of the above-mentioned ethnic-regional identities having an autonomous status to be under the joint Indo-Pak control which shall be responsible for the defence and currency of the whole state.

(b) Kashmir valley to be made autonomous under joint Indo-Pak control (dealing only with the defence and the currency of the valley). Jammu region to be made a full-fledged state within the Indian union (with option to the Kashmiri speaking villages in Doda District to join either the Jammu region or the Valley and similar choice to Pahari and Pathwari speaking villages in Poonch and Rajouri Districts to join either the Jammu region or the so called Azad Kashmir on the basis of contiguity). Ladakh region to be a union territory within the Indian Union. Kargil to be given the option to join either with Ladakh or Gilgit. Azad Kashmir with the exception of Gilgit and Baltistan which, like the valley, come under the joint Indo-Pak control, to stay with Pakistan.

Kashmiri migrants to be settled in accordance with their consultation and consent.

(26) All other options are favourable to either one side or the other. As regards the proposals concerning an independent Kashmir and placing the valley under UN control, they are not likely to help in bringing peace and tranquillity to the valley and may prove very costly.

(27) An independent Kashmir, like Afghanistan, may turn the valley into a zone of fratricidal war between various ideologically oriented militant groups, maintain the Valley as a bone of contention between India and Pakistan and also make it a new contentious issue between the big powers for their sphere of influence.

(28) The Valley under UN Control will not help in creating a feeling of friendship and goodwill between India and Pakistan and bringing about a tension free South Asia. Lacking a single political centre, the basically different political forces vying for power under a UN depending on borrowed forces may create a Somalia like situation.

(29) The joint Indo-Pak control over the entire Jammu-Kashmir state is not only a remedy for the Jammu-Kashmir problem but also a way to bring India and Pakistan closer to each other.

(30) The 45 year long Indo-Pak confrontation has not only hampered their respective all-round development, but also throttled the development of the SAARC. Unless the conflict between its two main members is resolved, even a minimum unity of action inside the SAARC is not possible.

(31) A closer union between India and Pakistan on the basis of Jammu-Kashmir would lead to the ending of regional conflicts, stopping of arms race, strengthening of secularism and democracy, boosting of economic development, improving of environment, etc. in all the countries of South Asia and open the gate of their social progress. 26-01-1994.

Should We Support Parties That Criminalise Political Life

I

(1) The above question has been thrown up by the following report appearing in almost all the important Dailies in our country.

"The names of several top political leaders cutting across party lines and some high ranking officials figure in diaries seized by the Central Bureau of Investigation from some alleged hawala racketeers said to be involved in sending illegal money to Hizb-ul-Mujahideen and those involved in the Bombay bomb blasts.

"Although the CBI has authenticated the existence of such diaries in a counter-affidavit filed in the Supreme Court, no attempt has been made to obtain the version of those whose names figure prominently along with the amount of money allegedly received through illegal channels said to be operating from London, Dubai, Bombay and New Delhi." (*Times of India*, 29-01-1994, P-1)

"The names of top politicians who according to the notings in the diary received illegal money between 1989 and 1991, include the following :

"Congress Leaders: Mr Rajiv Gandhi (Rs: 2 crores), Mr Arjun Singh (Rs. 10.5 lakhs), Mr Bhajan Lal (Rs. 1.14 crores), Mr Balram Jakhar (61.24 lakhs), Mr Madhav Rao Scindia (Rs. 75 lakh), Mr Narain Dutt Tiwari (Rs. 25.88 lakhs), Mr Kalpanath Rai (54.75 lakhs), Mr P Shiv Shankar (Rs. 16.94 lakhs), Mr Jaffer Sharif (Rs. 10 lakhs), Mr Buta Singh (Rs.7.5 lakhs), Mr V.C. Shukla (Rs. 65.85 lakhs), the late L.P. Sahi (Rs. 3.5 lakhs), Mr M.L. Fotedar (Rs. 10 lakhs) Mr R.K. Dhawan (Rs. 50 lakhs), Mr Lalit Suri (Rs. 10.5 crores), Mr Kamal Nath (Rs. 17 lakhs,) Mr Moti Lal Vora (Rs. to lakhs), Mr Zail Singh (Rs. 5 lakhs), Mr Pranab Mukherji (Rs. 10 lakhs), Mr K.K. Tewari (Rs. 30 lakhs), Mr. Rajesh Pilot (Rs. 10 lakhs), Mr J. Pahadia, (Rs. 5 lakhs), Mr M.J. Akbar (Rs, 5 lakhs), and Mr Chandu Lal Chandrakar (Rs. 5 lakhs);

"BJP Leaders: Mr L.K. Advani (Rs. 60 lakhs), Mr Madan Lal Khurana (Rs. 3 lakhs) and Mr Vijay Kumar Malhotra (Rs. 1 lakh).

"Janata Dal: Mr S.R. Bommai (Rs. 52 lakhs), Mr Sharad Yadav (Rs. 5 lakhs), Mr Arun Nehru (Rs. 3 lakhs), Mr Arif Mohammad Khan (Rs. 7.56 crores), and Mr Chimanbhai Patel (Rs. 1.95 crores).

"Janata Dal (s): Mr Chander Shekhar (Rs. 1 crore), Mr Jaswant Sinha (Rs.21.1 lakhs), Mr Ranjit Singh (Rs. 15 lakhs), Mr Devi Lal (Rs. 50 lakhs), Mr Kalyan Singh Kalvi (Rs. 95 lakhs), Mr Digvijay Singh (Rs. 10 lakhs) Mr Hari Mohan Dhawan (Rs 20 lakhs), and Mr Ashoke Sen (Rs. 20 lakhs)." (*Statesman*, 29-01-1994)

II

(2) This report provides one more instance of shameful corruption that can be added to the already available long list of political corruption cases—like the Bofors, Securities Scam, Harshad revelations, etc.—involving the heavyweights in all the mainstream parties. Obviously political corruption is only one of the forms that criminalises political life in our country.

(3) It also shows a nexus between our top politicians, criminals and police (who has been knowingly sleeping over the case) that constitutes another form of the criminalisation of our political life. The closeness of criminals to the big politicians enables the former to smoothly join the mainstream parties and gradually enter legislatures or occupy important party offices by virtue of their money-cum-muscle power. A substantial number of shady elements now holds influential positions in our power hierarchy. Many of them have become powerful centres of power brokers at different levels from the Prime Minister's office down to the village panchayat.

4. The money-cum-muscle power dominated politics of our mainstream parties has brought in its own logic. On the one hand, it has hindered all the constitutional and legal measures to establish the rule of law in our political process, turning the country into a violence-prone nation, with state violence as a general method to deal with social conflicts. Today there is hardly any social conflict in which the security forces are not directly or indirectly involved. On the other, it has perpetuated primordialism (i.e., casteism, communalism, etc.) and generated new methodology of opportunism (i.e., career making or personal gain through double-dealing, fraud, cheating, etc.) in our behavioural pattern.

(5) A manipulated and deformed rule of law and a devalued cultural pattern has, in turn, created an environment in which human rights violations, discrimination against minorities and

suppression of weaker sections goes on unabated and in which the economic and financial issues are subordinated to the political exigencies, thus maintaining poverty, unemployment, inequality, etc.

(6) Obviously, a political process tailored to money-cum-muscle power has been a great hindrance to the building of a democratic and prosperous society in our country. It has deprived the people of even the meagre political and economic rights available to them under the present Constitution and law.

III

(7) Can something be done to stop the rot which has corroded our political process? Two courses of action are open to us. One is to cleanse the mainstream parties by ridding them of their politics of opportunism and the other is to build a new party, with a new vision and style.

(8) The course of reforming the mainstream parties requires a change in their respective visions and functioning styles. For instance, it demands that the Congress gives up the vision of Gandhian revivalism or Nehruvian socialism and the functioning of Nehruvian style of double dealing, that the BJP forsakes the vision of *Hindutva* and the communal style of functioning and that the Janaja Dal and the Left parties leave aside the casteist vision and the revengeful functioning style. But it is easier said than done. Because, with a motivated and committed leadership and cadre, no mainstream party can afford to part with its decades old vision and style, in the foreseeable future. Possibly, they may undergo changes under the impact of new developments sometime in future. But probably then they will not be what they are today.

(9) The other course concerning the building of a new party, with the clear cut aim of empowering the people in the decision making process, demands three initiatives: (a) forming of a desirable-cum-realistic vision, (b) the carrying out of reforms in the political process, and (c) the adoption of a value-based behavioural pattern.

(a) As regards the new vision, it should, by updating our present national model in the light of the post-1947 experience of our national performance and the international reality of an interdependent world, adopting the long-term vision of a global society and the short-term vision of an interdependent national model.

The interdependent national model may comprise the following essential points:

(i) A rational humanist approach,

(ii) A federal polity, autonomy to all states, decentralisation of power from top to bottom and resolution of all internal conflicts through peaceful means,

(iii) A sustainable development economic structure, based on the qualitative improvement of environment and the human and material resources and built through a judicious mix-up of market mechanism and state planning,

(iv) A new behavioural value system, stressing rational thinking and democratic functioning,

(v) A peaceful foreign-cum-defence policy, standing for the resolution of all disputes with other countries through dialogue, settlement of Kashmir problem through joint Indo-Pak control over the state with an autonomous status, transforming of the SAARC into a common market with a regional security system, etc.

(b) As regards the reforming of the political process, it should, in order to end the domination of money-cum-muscle power as well as communalism and casteism, include the following measures:

(i) State funding of all types of elections,

(ii) Barring of election expenditure by all parties and candidates,

(iii) Securing of over 50% of polled votes by a successful candidate,

(iv) Right to recall,

(v) Making of the parties accountable to the people by ensuring their elections every two years, the authentic auditing of their accounts and the delinking of their politics from religion, caste, race, etc.,

(vi) Ensuring of the legislators' accountability to their electors by legally binding every legislator to open within his constituency an office where anyone of his electors, if he so desires, can easily meet him, circulate a written report of his activities every six months to the entire electorate, disclose his assets every year, hold the same legislative office only for two years, prepare a plan with the electors' cooperation for the development of the given constituency and make all efforts for its realisation, render all possible help in the solution of the individual problems of the masses, resign his membership of the concerned body whenever 2/3rd of his electorate give it in writing to the competent authority, etc.

(c) As regards the adoption of a value based behavioural pattern, it should be based on the following norms: Adherence to the rule of law in all walks of life, decentralisation of power at all levels, method of dialogue and discussion for resolving all sorts of disputes, consensus as the main form of decision making with the use of majority-minority form only in exceptional cases, regular election of all elective bodies, fairness in all dealings, transparency in all matters, free and frank discussion on every issue, serious attention to others' views, mass participation in every activity, shunning of opportunism of all hues, regular check up of one's thinking and practice, linking one's words with deeds and means with ends and vice versa, and so on.

(10) The afore-mentioned three initiatives, conforming to the concrete realities, can help us to cope with the problem of the criminalisation of our political life. 09-03-1994

Geneva UNHRC Meet
Need To Draw Correct Lessons

I

(1) What concrete message the United Nations Human Rights Commission (UNHRC) Meet in Geneva on the Pak resolution concerning human rights violations in Kashmir does transmit to India, Pakistan and the world community?

(2) New Delhi's perception is that the deferment of this resolution signifies a spectacular victory for India and a clear-cut defeat for Pakistan. This official version is shared by all the mainstream parties and being propagated by the entire media, academics, diplomats, official, and non-official etc. Such an official euphoria has created the mass impression that India has won a strategic victory and the final victory is close at hand.

(3) Islamabad claims that it has achieved its aim of bringing the human rights violations in Kashmir to the world attention and that it would continue to raise this issue before all the international fora in future too. But the opposition led by Nawaz Sharif has called it "the biggest diplomatic fiasco in the history of Pakistan."

(4) The predominant international feeling, as expressed by the leaders of certain other countries and different national media, has been that a crisis like situation has been averted through a sensible compromise.

II

(5) The actual happenings at the Geneva Meet, however, denote the following facts.

(6) That 45 members out of a total of 53 UNHRC membership were neutral. They were neither on Pakistan's side nor were convinced by India's point of view. The remaining eight (including both India and Pakistan) were evenly divided, with Mauritius, Peru and Kenya opposing the Pakistani resolution and Sudan, Libya and Syria supporting it.

(7) That the main factor in the preponderance of the neutral

trend among the developing countries was the realisation that the adoption of such a resolution would set a precedent which could be used in their own cases, mostly involving bilateral conflicts and internal ethnic or secessionist troubles.

(8) That China and Iran acted as mediators simply because they wanted India's support to ward off the respective resolutions against them in the UNHRC.

(9) That, in order to forge the mediation deal, India agreed to make many about turns in its earlier positions. It accepted to allow a delegation of the OIC to visit Jammu-Kashmir, although it has so for refused such permission even to the Amnesty International. It voted for China's repressive policy in Tibet, instead of its traditional abstention on this question. It sided with Iran's wholly suppressive record of human rights at home and its abetment of terrorism abroad. It hosted daily dinner meetings to cultivate the various delegations continuously for six weeks. All these actions show a mockery of India's democratic protestations.

(10) That there is a great deal of difference between Islamabad's rhetoric to defend its Geneva performance and the actual resolution it wanted to be passed by the UNHRC. The resolution, no doubt, aimed at internationalising the Jammu-Kashmir issue (as claimed by Pakistan). But Pakistan wanted to achieve this aim by sending a UNHRC fact finding team to investigate human rights violations in the valley and not withdrawing the resolution. It was hoping for an easy win, but ultimately had to make a humiliating retreat.

(11) Thus, whatever had happened in Geneva, shows neither the victory of one nor the defeat of the other. It had only worsened the already estranged Indo-Pak relations—thus further hardening their confrontationist postures. The fuss created by the Indo-Pak wrangling at the UNHRC Meet could have been avoided, had India and Pakistan proceeded the world community's actual desire for improving Indo-Pak relations.

III

(12) The situation could still be improved if India and Pakistan draw appropriate lessons from the Geneva outcome.

(13) The first and foremost lesson is that the world community is seriously concerned about the mounting Indo-Pak tension on Jammu-Kashmir and that is why both India and Pakistan stood isolated at the UNHRC Geneva Meet.

(14) Secondly, the Geneva Meet has upgraded the issue of

Jammu-Kashmir to a major world potential flashpoint which is likely to attract more and more world attention. Only 4 days after Geneva, this issue has been one of the important items of discussion between Prime Ministers P.V. Narsimha Rao and John Major during the former's British tour. A team of International Red Cross is just arriving and an OIC delegation will follow soon. During the past three weeks, two foreign delegations—that of four envoys from EC countries and that of 10 envoys from both the developed and developing countries had already visited the state. Now perhaps, Amnesty International, Asia Watch and other well known human rights organisations may also be permitted to visit the valley—a very desirable step which should have been taken much earlier.

(15) Thirdly, it has resulted in the further deepening of the Indo-Pak deadlock on Jammu-Kashmir, thus worsening the gravity and intensity of the situation in South Asia.

(16) Fourthly, it has shown that, from now on, the world community would be seriously watching the Indian actions in the valley and the Indo-Pak moves on the South Asian chessboard. Henceforth, the repetition of the repressive acts in the valley (Like Sopore, Bejbehara, Kupwara, etc.) and the destructive arms race between India and Pakistan in the subcontinent would invite severe reaction from the international public opinion.

(17) Fifthly, it has manifested that, whether it is the US, China or Iran, every one of them, despite its oft repeated lofty professions, indulges in naked opportunism to attain even its petty interests what to say of its high concerns.

(18) Sixthly, it has indicated that the question of improving the human rights record exists not only on the Indian side of Kashmir but also in the 'Azad Kashmir'.

(19) Lastly, but more importantly, it has demonstrated that the whole world community considers the issue of Jammu-Kashmir as a dispute, whether bilateral or multilateral or whether sub-continental or global and that it fervently desires a peaceful resolution of this issue between the concerned parties.

IV

(20) The above-mentioned lessons demand that both India and Pakistan, giving the consideration to the aspirations and the mood of the world community, take prudent decisions and concrete steps towards resolving the Jammu-Kashmir problem, restoring normalcy in the strained Indo-Pak relations and

stabilising the South Asian situation. But, instead of pursuing this course, both the countries are now resorting to new provocatory watchwords and precipitate actions—thus adding fuel to the already smouldering Indo-Pak fires.

(21) Only a few days ago, the Indian Prime Minister had declared that Jammu-Kashmir is an inalienable part of the Indian Union, that Pakistan has no locus standi in this state, that there is no dispute between India and Pakistan on Jammu-Kashmir and that the first task in Kashmir today is to wipe out the Pak sponsored militancy, to be followed by the revival of the political process. Prior to this, the Indian Parliament had adopted a unanimous resolution declaring Jammu-Kashmir as an integral part of India and non negotiable question.

(22) The Pakistan Prime Minister, in her first remarks about Pakistan's Geneva Resolution, had said that Islamabad would continue raising the Jammu-Kashmir issues before the world bodies, including the UN, not fearing the game of numbers (i.e., without any consideration for the feelings of different countries) or the opposition criticism at home. Earlier, characterising Jammu-Kashmir as the jugular vein of Pakistan, she had said that Pakistan is incomplete without Jammu-Kashmir.

(23) From the various recent authoritative assertions made by India and Pakistan, there comes a clear message for everyone. The Indian message is that the two countries have nothing to negotiate except to discuss the question of the vacation of Pakistan's illegal occupation of the Jammu-Kashmir area since 1947 and the Pakistan abetment of the ongoing militancy in the valley. The Pakistani message conveys that Islamabad would do everything, particularly the internationalising of the Jammu-Kashmir issue, to end the Indian domination of its lifeline (i.e., the state of Jammu-Kashmir).

V

(24) Where does all this lead to? Only to a renewed cold war politics which has been the bane of the two countries in the entire post-1947 period. The 45 year long historical experience indicates that this politics has, on the one hand, proved ineffective to deal with the 1947 traditional problems, and, on the other, brought in many new ones resulting in all round distortions.

(25) Firstly, the cold war politics, mainly relying on armed power, has made the political processes of the two countries violence prone and chaotic.

The Indian political process faces the challenges from militant separatist movements in various states, mono-cultural nationalism, criminalisation and communalisation of politics, increasing communal and casteist riots, continuous use of the army for worsening law and order, high political corruption, decreasing judicial legitimacy, loss of political parties' credibility, etc.

The Pakistani political process has been already fractured by the separation of Bangladesh. While having, with varying degrees, all the negative points as are contained in the Indian political process, it also is tainted by the army rule for over half of its total existence.

(26) Secondly, the cold war politics, with defence as its top priority, has tended tardiness and inefficiency in the economic processes of the two countries, marked by the poorest growth rates in national and per capita incomes, poverty alleviation, literacy, employment, etc., and the highest ones in corruption, favouritism, black money, pollution, etc.

(27) Thirdly, the cold war politics, oriented to obscurantism, has patronised all varieties of fundamentalism—religious, economic, political, etc.—in the cultural processes of the two countries, with Pakistan surpassing in communal fundamentalism.

(28) Fourthly, the cold war politics, with domination as its main theme, has subjected the foreign-cum-defence processes of the two countries to the continuous arms race and the consequent rising military expenditure, draining the economic resources of the two countries and occasionally involving them into wars.

(29) The continuation of the cold war politics is, in given conditions, likely to drag the two countries into their fourth war which, with its new nuclear dimension, can pose a serious threat to the Indo-Pak as well as the world people.

(30) So long as cold war politics dominates the Indo-Pak scene, the two countries cannot, whatever they may do, carry out the proper democratisation of their political processes, the appropriate liberalisation of their economic processes, the suitable cleansing of their value systems and the desirable rationalisation of their foreign-cum-defence processes. Only by getting rid of this politics, can India and Pakistan develop and flourish.

VI

(31) India and Pakistan can still get out of the trauma of the cold war politics, provided they, taking into account the deplorable experience of this politics and the post-cold war

global reality of the interdependence of countries, try to resolve the fundamental issue of this politics, i.e., the problem of Jammu-Kashmir.

(32) The experience of the Indo-Pak cold war politics point out that the 45 year long Indo-Pak confrontation and the three full-scale Indo-Pak wars have, without solving even one of their respective problems, including that of Jammu-Kashmir, harmed the interests of both the countries—thus showing the need to eradicate the seeds of communal hatred sown by the 1947 partition.

(33) The post-cold war global reality denotes that, with the transformation of human problems, i.e., environment, population control, poverty, human rights, space exploration etc., from the national to the global level, the interests of the countries, particularly those of neighbouring one, have become mutual—thus indicating the commonness of the national interests of India and Pakistan and the togetherness of their future.

(34) Hence, the experience of the Indo-Pak cold war politics and the post-cold war global reality demand that both India and Pakistan, leaving their outdated perceptions and getting out of their hackneyed mindsets, come to a sensible compromise that reconciles the interests of India, Pakistan, and the people of Jammu-Kashmir and that is acceptable to them all.

(35) The most rational solutions—that fulfils the national interests of India and Pakistan and upholds their respective national honour, while meeting the hopes and aspirations of all the ethnic and regional identities in Jammu-Kashmir—is that of a joint Indo-Pak control over the state of Jammu-Kashmir. This joint control should be entrusted with the responsibility of only the state's defence and currency, while guaranteeing full autonomy to each of the ethnic and regional identities in Jammu-Kashmir.

(36) New Delhi and Islamabad, still mired in the cesspool of cold war politics, have not yet woken up to the new global reality. So, it devolves on the Indian and the Pakistan people to seize the opportunity and forge ahead. Particularly, the people of Jammu-Kashmir can, by taking the global perspective and proceeding from the ground realities of our sub-continent, play a historic role by transforming themselves into a peace and friendship bridge that unites on an equal basis not only India and Pakistan but all the SAARC countries into a supra-national community with a common environmental, population control, poverty alleviation and oceanic and space research programme, common defence and a common free trade market. 19-03-1994

Union Budget 1994-95

Why Manmohanomics Is Going Bust

I

(1) The Union Budget for 1994-95 promises to carry forward the 30 month old official "Programme of economic restructuring and reform". But it makes a basic shift in its economic priorities and policy framework. The continuity of the old Programme but a change in its priorities and policies naturally demands an appraisal of its concrete aim and past performance without which the new Budget cannot be properly viewed.

II

(2) What concrete aim does the Programme of economic reconstruction and reform place before itself? As specified by the preceding three budgets, it aims at the globalisation or the liberalisation of the Indian economy. But, interestingly, the new budget does not at all highlight either globalisation or liberalisation. This strategic aim was adopted as an immediate response to the 1990-91 foreign exchange reserves crisis (a product of the official fiscal profligacy of the 1970s and 1980s) and a long-term solution to the serious problems afflicting the Indian economy.

(3) Globalisation of any economy demands two essentials—a clear-cut global perspective, and a definite economic strategy comprising three elements, viz., fiscal discipline, structural reforms and a human face of the reforms (or a just distribution of the burden of structural adjustment), with fiscal discipline as the first priority. But ever since the author of globalisation, Manmohan Singh, has started on this new path, he has been faltering on these two basic points.

(a) On the question of global perspective, Manmohan Singh has always taken a dual position. On the one hand, he has been

stressing the globalisation of the Indian economy and, on the other, repeating the old shibboleths of economic sovereignty and self-reliance. His tragedy is that he visualises the concept of globalisation merely as a new device for strengthening national economies, instead of viewing it as a newly emerging global order with the step by step integration of the different national economies into a single economic mechanism, in conformity with the internationalisation of the fundamental human problems—such as environment, population, security, poverty, developments, trade, etc.—brought forth by the post-second world war scientific-technological revolution.

(b) On the question of economic strategy, Manmohan Singh, in his earlier three budgets, addressed himself to only two strategic elements, i.e., fiscal discipline and structural reforms, while ignoring the third feature of this strategy, i.e., a human face of the reforms. Only in his third budget (i.e., the 1993-94 budget) did he half-heartedly attended to the third strategic point. But, in his new budget, he has given up even the fiscal discipline. Thus, the three year old programme of economic restructuring and reforms has been virtually given a go-by.

III

(4) Does this mean that the programme of economic reconstruction and reforms has fulfilled its strategic tasks? Nothing of the sort. In fact, its overall performance, has been less credible and more deplorable, as can be seen from the following facts.

(5) With regard to structural reforms, the government really deserves credit for carrying out long desirable reforms in the fiscal, industrial, trade and financial spheres, despite its lacking in adopting any tangible agricultural policy so far.

(6) In the sphere of the development of human resources and infrastructure, its performance has been very unsatisfactory. Because, its distribution of the burden of structural adjustment had been quite unequal as is evident from the working of its poverty alleviation schemes and the social sector.

The actual expenditure on the poverty alleviation schemes, at constant prices or as a proportion of GDP, in both 1991-92 and 1992-93, was lower than it was in 1989-90 and 1990-91.

The number of families assisted under the Integrated Rural Development Programme (IRDP), which seeks to promote self-employment among the rural poor by providing productive assets or inputs through a mix of subsidies and bank credit,

declined from 3.4 million in 1989-90 to 2 million in 1992-93.

The employment generated under the Jawahar Rozgar Yojana, which seeks to create employment for the rural poor on works that are meant to create productive assets in the rural sector, also dropped from 864 million mandays in 1989-90 to 778 million mandays in 1992-93.

The allocations for the social sector—education, health, family welfare, water supply, sanitation, housing, urban development, social welfare for under-privileged, nutrition and labour welfare, etc.—stagnated in real terms and declined from a little more than one percent of GDP to a little less than one percent of GDP.

The infrastructure development slowed down, with the public investment in this sector (i.e. energy, communications, transport, roads, etc.) declining from 1.75% of GDP to 0.95% of GDP at the 1980-81 prices between 1989-90 and 1992-93.

(7) On the question of fiscal discipline, the government has missed every one of its marks. The entire fiscal system today is characterised by mounting imbalances.

The fiscal deficit (i.e., borrowings and other liabilities, plus budgetary deficit), which was estimated at 4.7% of GDP in the 1993-94 Budget, would now be 7.3% of GDP, according to the revised estimates. It is far higher than the 5.7% level of 1992-93 and 5.9% level of 1991-92 and is only 0.9% point less than the 8.2% level reached in the 1990-91 crisis period. Against the budgeted figure of Rs. 36,959 crore, it has shot up to Rs. 58,551 crore in the revised estimates. The slippage on the fiscal deficit—the core point of the official fiscal rectitude—shows that we are back to square one.

The revenue deficit (i.e., revenue receipt minus revenue expenditure) has nearly doubled from the budgeted Rs. 17,630 crore to the revised Rs. 34,058 crore. Estimated at 2.4% of GDP in the 1993-94 budget, it would, now be 4.2% of GDP, according to the revised estimates, i.e., almost twice the 2.6% revenue deficit level of the last two years.

The nominal budget deficit (i.e., total receipts minus total expenditure) is (i.e., Rs. 9,060, crore) well over two times to original target (i.e., Rs. 4,314 crore).

(8) The most worrisome feature of these deficits is that the deficit on the revenue account (i.e., consumption expenditure, such as defence, interest payments, etc., which gives no returns) has been financed from the capital account (i.e., productive expenditure which generates, assets and values). This is like

wasting one's capital on merry making.

(9) All the above-mentioned deficits mean that whatever fiscal correction had been achieved in the first two years of the reforms has now been annulled and that the government is living beyond its means. But, contrary to its earlier preaching about the efficacy and the virtuousness of fiscal discipline, the Finance Minister and his entourage are now arguing that the fiscal deficits were not all that harmful and may almost be necessary to revive the industrial growth. However, such high deficits have aroused serious concerns about India's fiscal management, because they can be ignored only at economy's peril.

(10) Thus, it can be seen that all past official fiscal assumptions have proved wrong and that the government has so for neither moderated the three deficits nor totally addressed the agenda of structural reforms.

IV

(11) The economic situation, as it stands today, does not present any cheering picture. The growth rate is lower than anticipated. The rate of inflation is higher than expected. Industry has remained mired in recession. Agricultural production has stagnated at the previous year's level. Growth of exports has, after a rise, decelerated. Tax collections have fallen behind the target. The increase in defence expenditure has pushed up the non-productive expenditure. The fiscal, revenue and budgetary deficits are turning out much higher than targeted. Disinvestment of PSUs' shares has not been possible and hence funds could not be raised from their sale. Shortages in infrastructure, e.g., power sector, continue as usual.

(12) No doubt, after three years of economic reforms, there are certain positive features, characterising the economy, namely bulky foreign exchange reserves, improving current account balance of payments position, steady rupee-dollar exchange rate, increased foreign direct and portfolio investment, moderate rates of inflation and unemployment, etc. But, in an unstable economic situation, as now obtains in the country, every gain presages a risk.

(13) Consider, for instance, the comfortable foreign exchange balance of over $13 billion. A part of its constituents RBI's purchases to prevent the rupee gaining in value against the dollar. Another Part is 'hot money' in the form of portfolio investment. Also some part of it consists of NRI's deposits. The IMF-World

Bank loans too form one of its parts. In a risky situation, the 'hot money' and deposits could fly away at the first alarm—thus sparking a foreign reserves crisis. Again take the improving current account balance of payments position or steady rupee-dollar exchange rate. Both these gains can be wiped off the moment the inflation gets out of hand. Last year, there was the success story of the coming down of the fiscal deficit to 5.7% and it was expected to drop to 4.7% this year. But it soared to 7.3%—thus making meaningless the official assertion.

(14) Now, look at the repeated official declarations to put a ceiling on government's unrestrained borrowings. From Rs. 27,861 crore in 1992-93, the borrowings rose to Rs. 32,645 crore in the budget estimates for 1993-94 and are estimated to reach Rs. 49,491 crore at the end of 1994-95. Consequently, the interest payments burden has also been on the rise from Rs. 31,035 crore in 1992-93 to Rs. 37,500 crore in the revised estimates for 1993-94 and Rs. 46,000 crore in the budget estimates for 1994-95. Interest payments on domestic debit, which were 39% of revenue receipts in 1990-91, will swallow 53.4% in 1994-95. If this trend continues unchecked, interest payments will eventually eat up all revenue. Next year's proposed borrowings from the Indian as well as the foreign sources total Rs. 47,815 crore, more or less equal to Rs. 46,000 crore of interest payments for the same year. Thus, despite its pious declarations to rationalise its borrowing spree, India is now borrowing merely to pay interest on its past debts.

The external debt stands now close to $100 billion, i.e., over 38% of GDP. Debt servicing devours 30% of exports. Just to service this debt, the country will have to pay $25 billion of our annual exports over the next three years. If exports do not maintain their growth and if imports rise after recession, the foreign exchange reserves will soon melt away and India will be again in a balance of payments crisis.

(15) Further, turn to official proclamations to curtail government's non-productive expenditure. But, year after year, this expenditure goes on mounting to intolerable levels. Over 70% of it is consumed by three heads—interest payments, defence and subsidies. The rest is apportioned by the bloated general administration which, according to experts, is about 25% overstaffed. This year, the non-productive expenditure has exceeded budget estimates, especially on defence and para-military forces.

(16) Thus, both the minus and the plus points of the economy point out its unstable position.

V

(17) How does the budget for 1994-95 propose to solve the serious problems confronting the Indian economy? The most outstanding feature of the budget is that it alters the focus of reform or changes its first priority from fiscal discipline to economic growth, making the revival of industry as the principal instrument of economic advance.

(18) The major incentive it offers to industry is tax reform as recommended by the Tax Reforms Committee. It is the principal positive point of this budget. The specific features of the tax reforms—moderate rates in direct taxes (from 97-98% in 1960s to 40% now), widest possible base and a simpler tax system, etc.—are based on sound economic logic as verified by the tax reform experiences of a number of countries. In the sphere of indirect taxes, the giving up of the earlier system of imposing specific duties on a large range of commodities and moving over to ad-valoram duty structure makes a right economic sense. Because it enables the revenue collections to move up pari-passu with any increase in the price of a commodity.

Outside the tax reform, the budget does not make any notable advance in the reforms process.

The other positive budgetary initiatives—a litlle lowering of the interest rates, widening of the rupee convertibility on the current account, etc.—are too feeble to have any significant impact on the economic process.

(19) But even the budgetary assumption that mere cuts in direct taxes would stimulate private investment is based on over-optimism. Because, the industry, as shown by experience, responds to supply side stimuli very slowly. Besides, more than the threat from imports, it is inadequate demand that has crippled the capital goods industry. Without a strong impetus to public investment in the infrastructure—with power sector facing financial viability, telecommunications and coal since awaiting modernisation, oil and gas demanding more investment, railways confronting updating problems, etc.—it is difficult to create effective demand. But the budgetary provision for capital expenditure in the central plan and in central assistance for state plans (from Rs. 19,672 crore to Rs. 18,520 crore) contracts by 6% in nominal terms. Moreover, the public investment also

crowds in the private investment. Further, the private industry too cannot immediately step into infrastructure in a big way. It needs time to get its act together. The alternative is to woo, like China, foreign direct investment. But it too may take some time.

(20) Again, its main growth thrust is likely to be hampered by its own strategy which does not imbibe a significant change in the quality of total receipts and total expenditure. The receipts side continues to draw its 113 sustenance from borrowings, while non-productive spending remains the dominant theme of the expenditure side—with interest payments gobbling up 53.4% of revenue, defence going up by hefty 20%, subsidies staying intact and, general administration employing 39,900 more people next year. Besides, the large increase in defence expenditure, which has already resulted in the raising of security hassles among the neighbouring countries, particularly Pakistan, is bound to generate a new round of arms race between India and Pakistan—leading to more wasteful expenditure. Subsidies will be hard to reduce when inflation is not under control. Populist measures in the coming assembly elections would further inflate expenditure.

(21) Overrun in expenditure is likely to upset the three important financial deficits, already left unattended by the budget—with the fiscal deficits at Rs. 54,915 crore (i.e., 6% of GDP), the revenue deficit at Rs. 32,737 crore (i.e., 3.7%. of GDP) and the budget deficit at Rs. 6,000 crore (i.e., 0.6% of GDP). The mounting fiscal deficit would increase gross borrowings, whether from the RBI or the capital market, which, in turn, would further increase the interest burden.

The new official argument that the revenue deficit would revive growth is seriously flawed because a deficit that finances non-productive spending simply leads to inflation.

(22) The mounting three financial deficits, coupled with the impact of pre-budget hikes in administered prices (estimated to yield about Rs. 5,000 crore), the railway freight revision and the new excise levies, can have an inflationary impact if the supply side does not respond properly.

Inflationary pressures can also strain the balance of payments position, compress the foreign exchange reserves, lead to reverse flow of the 'hot money' and even cause some devaluation to sustain exports.

In case the monsoon does not oblige, there can be a further push up to inflation and recession. Due to stagflation, revenues

could come down, while expenditures could rise. In such a situation, the three financial deficits would further grow.

If the country's finances become unmanageable, it can plunge the whole system into a serious crisis. East Asian experience shows that fiscal stability is a necessary condition for long-term prosperity.

(23) The enormous surge in the three financial deficits can lead to further increase in borrowings. Because, the budget still upholds borrowing as the main method of its financing the deficits. It plans to borrow a further sum of Rs. 48,915 crore from the domestic market in the coming year and may negotiate a foreign debit of $3 billion as it has done this year. The net flow of foreign debt has already turned negative. The country's huge indebtedness has already become a challenge to our economic survival. But this budget at least does not hold any solution to this national threat.

(24) Under the impact of inflation and recession, the weaker sections are likely to undergo more suffering, also because the budget proposals are not addressed to them. As usual, the budget does not treat the poor fairly. Barring rural development, it has only nominally raised the social sector spending, the bulk of which goes to Prime Minister's untested Employment Assurance Scheme. In fact, poverty removal constitutes a very low priority in its agenda.

(25) Thus, from whatever angle, one may judge the budget, it does not appear to be a proper tool for creating a stable environment that is conducive to economic growth and social welfare. That is, it is neither growth directed nor peoples friendly.

(26) In our unstable economy and a strained polity, the chances of destabilisation are high, especially if inflation gets out of hand, monsoon fail or the expected industrial recovery does not materialise.

IV

(27) Why is Manmohan's economic recipe going bust?

(28) This is because his recipe is tailored to the Congress perspective of power grabbing by hook or by crook and its strategic methodology of authoritarian politics, populist economics and unethical style which hinder every proper economic initiative and appropriate response to the problems of globalising the Indian economy.

(29) Today, almost all the national economies the world over

are, in varying degrees, undergoing liberal structural reforms in order to integrate themselves with the global economic process. The real question involved in these reforms is whether this transition is carried out at a high or low social cost, whether it involves a fair distribution of social burden on high and low or places it mainly on the weaker sections and whether the given economic structural change is directed towards a sustainable or consumerist development model.

(30) Since Manmohan's economic recipe is making our country pay a relatively higher social cost, placing the main social burden on the poor and the deprived and directing the transition towards a consumerist model, it is step by step losing ground and becoming unworkable.

(31) The reason why the East Asian countries under their respective authoritarian regimes have succeeded in making a dent in their respective backward economies and transformed themselves into newly developed countries at a relatively low social cost and why the South Asian countries, including India, with relatively less authoritarian regimes and more favourable economic factors, have failed to break the stranglehold of backwardness and remained the poorest lot among the world community lies in the two sets of economic strategies followed by the countries of the two regions.

(32) The success stories of the East Asian countries are based on the fact that, embarking on the path of economic liberalisation some 30 years ago (with China and Vietnam entering the field in the late 1970s and the mid 1980s respectively), they followed a non-confrontationist security-cum economic strategy under the US military protective umbrella (with China giving up its pet confrontationist slogan "East wind will prevail over the West wind" in late 1970s and Vietnam leaving its militarism by ending its armed occupation of Cambodia in the late 1980s). This strategy, pursued by each country according to its given conditions, gave priority to the development of social sector (education, health, social benefits, etc.) and infrastructure and laid stress on an open door policy towards world capital, export led growth and fiscal discipline carrying each one of them to a higher developmental stage.

(33) The tale of the failure of the South Asian countries, including India, rests on the fact that, oriented by their confrontationist politics, they followed a military geared economic strategy. This strategy, with arms imports and

galloping defence spending as its planks, followed mainly by India and Pakistan (the two main players in South Asia), has bound them to negotiate more and more borrowing and resort to continuous deficit financing. The burgeoning indebtedness and ever-mounting deficits have made the Indian and Pakistani economies as chronically inflationary and high cost, retarded their exports, caused perpetual balance of payments crisis and placed an unbearable burden of interest payments on them—resulting in the perpetuation of mass misery and poverty.

(34) Unless India and Pakistan end their confrontationist politics and the military geared economic strategy, they have no future. Either they will get destabilised under the weight of poverty, unemployment, corruption, crime, disorder, ethnic conflicts, etc., or they will finish off each other through a new war, with its nuclear dimension.

VII

(35) The process of globalisation of the Indian economy can still be rescued if, proceeding from the facts of the present Indian situation, India's economic strategic priorities are realistically identified and, corresponding to the latter, the strategic and short term economic tasks well settled.

(36) Priority-wise, if we are really interested in the country's economic progress, our top priority should be to remove the hurdle that has chiefly hindered post-1947 India's economic development. And it is none other than our military geared economic strategy.

Next priority should be the development of human resources, infrastructure, environment and population control.

The restructuring of the Indian economy by establishing its fiscal discipline, carrying on its fiscal, financial, industrial, trade and agricultural reforms process and attending its growth problems should be India's third economic priority.

The fourth and the fifth priorities should consist of the retiring of the public debt as early as possible and the restructuring of the Indian polity and culture.

(37) Strategically, our first task should be to come to a proper agreement with Pakistan on Jammu-Kashmir. A joint Indo-Pak control over Jammu-Kashmir—entrusted with the management of that state's defence, currency and foreign affairs, while guaranteeing full autonomy to each ethnic-regional identity in Jammu-Kashmir—is, and can be, a feasible proposition. Thus, a

preliminary joint Indo-Pak security system (which will gradually develop into the SAARC security system) will enable both India and Pakistan to reduce their respective defence spendings to a substantial limit. This saving can be used to retire the public debt and save foreign exchange.

Next, we should attend to the problems of human resources, infrastructure, environment and population control in an elaborate way.

The formulation of a strategy for economic and financial development should constitute our third task.

The retiring of the public debt in a phased manner should form our fourth strategic-cum-immediate task.

Fifthly, the Indian polity should be restructured on a fully federal and a really decentralised basis, with the Centre holding only foreign affairs, defence, communications, currency and planning, while the states enjoying autonomy in all other matters.

In the restructuring of culture, all relevant efforts should be directed at evolving a new behavioural value system, stressing rational thinking and democratic functioning.

(38) For short-term economic measures, we should, keeping in view the economic strategic priorities and tasks, take the following initiatives.

(a) To auction 20% of PSUs shares allowing even foreign bidders to put in the bid, in 1994-95 and use this amount to retire public debt—thus lessening interest payments burden.

(b) To sell a part of vacant government lands and retire public debt.

(c) To rationalise the subsidy system (both central as well as state-run) and target it at the poor and deserving.

(d) To stop all increases in spending as sanctioned by Parliament.

(e) To broaden the presumption tax and enforce it strictly.

(f) To stop any further hike in any administered price.

(g) To limit the use of telephone, transport, electricity, furniture etc., in all government offices.

(h) To scrap concessional loans to government employees.

(i) To rationalise manpower in the administration.

(39) All the national economic and political indicators are sounding alarm signals. We can ignore them only at a great peril.

21-03-1994

GATT's Myths And Realities

I

(1) Perhaps, in no other country, the new GATT Accord (popularly called the Dunkel proposals) has generated so sharp a debate as in our country. And perhaps, in no other national debate, the facts have been so much misrepresented as in our ongoing national controversy on this accord. But unfortunately this acrimonious contention has so far brought forth more heat than light.

(2) Much of this heat is based on misconceptions, partly flowing from the various traditional national perspectives, partly from a lack of a serious study of the relevant matter and partly from certain genuine apprehensions.

(3) The confusion has been made worse confounded by New Delhi's official policy which, in the beginning, boasted of not signing the accord in its present form, then remained mum during the final stage of its adoption and has now become its great votary. It has continuously shunned a public debate on such an issue of international and national importance and instead used the entire official media for one-sided propaganda.

(4) The controversy still rages on, dividing our nation into two bitterly contesting rival camps on a highly important economic question at a time when, polarised on all the main political problems, our nation needs the maximum national consensus.

II

(5) From whatever angle one may observe, the opposition's case, barring a few genuine apprehensions, lacks a creditable basis. Firstly, it does not reconcile with facts. And secondly, the opposition stands as a house divided by itself, showing a behaviour of intolerance adopted by each of the varying opposition groups towards one another. The only major just demand the opposition had earlier raised was that the whole accord be publicly discussed and finalised after its

approval by the parliament.

(6) The opposition's criticism of the GATT accord can be broadly divided into two parts, i.e., general and the particular.

III

(7) In general terms, the criticism of the GATT has been expressed in varying forms.

(8) The first general argument against GATT is that it robs us of our national sovereignty by taking away our decision making power in regard to agricultural subsidies, seeds, public distribution system, patenting, foreign investment, services, etc.

This is partially true, because the ultimate laws in these areas have to be made by our Parliament in conformity with GATT rules. Besides, the same thing also applies to the US, the only political superpower in the world and one of the three economic superpowers, accounting for about 17% (the highest figure) of the world trade. Similar is the case with the two other economic superpowers, Japan and Germany, and the remaining 121 countries which have signed the GATT accord and which together comprise about 93% of the world trade. If India has to change its patent law, all other GATT members too have to.

GATT does not take away the right of any country to frame its own laws. In case of disputes between countries, the World Trade Court will have jurisdiction to decide the relevant matters. Nothing can be imposed on any unwilling country. Any country can come out of GATT if it, desired at some stage in future with a six month mandatory notice.

International agreements in fact represent marginal adjustments in one's sovereignty, resulting from give and take. In such agreements, one has to take the rough with the smooth. No one can be hundred percent satisfied. Every one (even the US) has to be more than partially satisfied and to a certain extent dissatisfied. There is nothing extraordinary in GATT accord. Has not our country already negotiated a number of give and take deals in various international arrangements, like the UN, IMF, WB, Treaties on Communications, Airways, Oceans, etc.?

(9) The other general argument against GATT is that it is harmful to the interests of our nation. But none of the varying opposition groups specifies what constitutes our national interests and how it hurts our nation.

Contrary to this accusation, the GATT accord provides a number of benefits to our country. Firstly, it will, according to IMF

and OECD estimates, boost our exports by $1.5 billion to $3.5 billion annually which, in turn, would add to a higher growth in our GDP and create more employment. Secondly, it will enable us to gain the most favoured nation status in trade among the 124 GATT contracting countries—thus attracting more investment and technological knowhow with a great impact on India's development. Thirdly, it will make us the member of a multilateral body where no one will enjoy any political or economic clout to dominate the other. In fact, the GATT—which operates on the basis of one member-one vote and the two-third majority decision making—is far more equalitarian than the UN where five big powers hold the veto privilege or the IMF and the WB where the economic giants dominate by virtue of their over-riding voting rights enjoyed in accordance with their economic weightage or the non-proliferation nuclear treaty which sanctifies the monopoly of nuclear weapons by five great military players, while forbidding all countries from entering this field.

A fair multilateralism is the best defence of the weak against the strong, while unilateralism and bilateralism are the weapons of the strong.

(10) The third general argument against GATT is that it favours the developed countries and is against the interests of the developing ones. But the fact is that the rule based GATT accord treats every country on an equal level. It neither favours the one nor the other. The expected future gains accruing from this accord would generally benefit all the countries, with their shares varying according to their respective trading capacities. The developed countries, handling about 70% of the world trade, would naturally be the biggest beneficiaries, while the least developed countries, like some sub-Saharan ones, getting only the barest minimum. India, having been a marginal player in global trade with less than half or one percent of its total share would get only relative to this weight. Thus, GATT would benefit Western Europe by $80 billion, Japan by $20 billion, China by $40 billion, while South Asia, Africa and Latin America would be the minimal gainers. However, none of its members would suffer as a consequence of this accord. New trade troubles may only arise due to the commercial follies of different GATT members.

Every country is likely to have some benefit or the other in one from or another. While the developed countries will benefit from the free globalised trade, the developing ones will profit from better access to the markets of the developed countries.

Had the GATT been an accord against their interests, the developing countries, now constituting about two-third of its membership, would have never joined it. At present, twenty-one more developing countries, including China with its highest world growth rate, are standing in the queue to get admission into the GATT fold.

(11) The fourth general argument against GATT is that it is worse than its earlier version (i.e., 1948-93 GATT). Because, in contrast to the original consensus based GATT, the new one will, according to the critics, give greater scope to the developed countries for arm-twisting of the developing ones due to its majority based decision making process. But this reasoning fails to explain the fact why the developing countries commanding nearly two-thirds majority in the GATT body (henceforth to be called the World Trade Organisation) should, and cannot only outvote any 'undesirable' proposal and get through their reasonable solution.

Two ground realities demolish this critical assumption. One is that the developed countries are more sharply divided over trade among themselves due to their divergent economic priorities. Hence, they cannot form a bloc against the third world. The other ground reality is that the developing countries with their over 80% of trade linked to the old and the newly developed countries, have no concrete basis of unity on the question of trade. Despite its loud sermons of third world unity, India's foreign trade with the developing countries hardly reaches the 15% mark. Obviously, the theory of the North versus the South in matters of trade stands on a feeble foundation.

(12) Lastly, the general argument against GATT is that it is a conspiracy by the rich countries to recolonise the poor ones and that the old story of the British East India company's rule over our country is likely to be repeated if India joins the GATT.

The facts, however, show that it is a total misperception of the current world trade reality and the Indian national scene. Firstly, it ignores the present global trade structure which is based on the interdependence of the countries in relation to capital, technology and market.

Under such an interdependent trade relation—where different capitals, technologies and markets shed their national characters and assume a global nature—no single country has the capacity, both political and economic to lord over another country, even the weakest one. Secondly, the old colonial structure, dominated by the colonial powers, with militarisation as their main prop,

does not befit the modern economic organisation. Thirdly, the developed countries do not comprise a homogeneous trading entity. They are a divided lot. It was due to their acute differences on trade, i.e., those between the US and the EC, between the EC and Japan and between Japan and the US that the Uruguay Round Talks dragged on for seven years. Hence, in our world system of trade, the reality of the rich versus the rich is no less weak than that of the rich versus the poor. Fourthly, the Indian national scene, marked by the said global trade features, is as unfit for the re-enactment of the classical colonial drama as any other region of the world.

True, we are still living in an unequal world. But the facts show that it is step by step marching towards more equality from the old discriminatory regimes, like the UN, IMF and the WB, to more fair systems, such as the GATT. By dealing this improving world with the old law of the jungle, we will only worsen its manageable malaise, while the latest technologies of multilateralism (which is essentially democratic) will enable us to change it into a new world where there is no discrimination and where equal opportunity is available to all.

IV

(13) Coming to the specifics, the opposition's criticism of the GATT accord pertains to seven areas. These are: agriculture, public distribution system, textiles, services, patents, drug prices and foreign investment.

(14) Most of the criticism against GATT is related to the provisions concerning agriculture. But, none of the three issues—i.e., subsidies, compulsory foodgrains imports and seeds—as criticised by the opposition, goes against the Indian agriculture or harms the farming community.

As per the GATT provisions, India does not have to reduce its two types of subsidies to agriculture, i.e., the positive or the product specific and the negative, or the non-product specific. For the product specific subsidies, that is, the subsidies given to a particular crop, like the minimum support price to wheat, the GATT says that in the developing countries, these should be less than 10% of the total value of the agricultural production. But, in India, out of a total of twenty subsidised agricultural commodities, seventeen are negative or non-product specific ones. Only in the case of three items, i.e., sugarcane, groundnut and tobacco, the subsidies are positive or product specific. But

these constitute about five percent. Similarly, the negative or the non-product specific subsidies, that is, the subsidies given for fertilisers, water, seeds, electricity, credits, pesticides, etc., do not exceed 5.5 percent, while, according to GATT, these too can be up to a limit of 10 percent.

Regarding the GATT requirement from every country to give a minimum market access of 3 percent to agricultural imports, this will have no effect on India. Because, the GATT exempts all those countries, which are facing balance of payments problem from this stipulation.

As for seeds, the GATT imposes no obligation of patenting traditional seeds or plant materials. The traditional rights and practices of the farmers for preservation, sale and exchange of seeds remain unaffected. The sui-generis form of protection as mentioned in the provisions concerning agriculture can fully safeguard the rights of the farmers, the plant breeders and the researchers in developing countries. The farmers can, if they like, purchase and make use of the patented seeds. They can even reuse them in the next crop sowing by retaining a portion of their previous production. The only thing they cannot do is the manufacturing and the commercial transacting of the patented seeds.

India today exports about 1,900 varieties of seeds to 12 countries. But it does not earn any royalty or enjoy genetic rights. Compared to this, the US gets an estimated $66 billion as royalty by exporting germplasm. This is because the 1970 Indian Patents Act patents only the process and not the product, while the US Patents Law guarantees both the patenting of the process as well as the product. By changing its Patents Law according to the GATT prescription, India as one of the 8 centres in the World Researching Genetic Diversity, can gain a lot. According to a study by the noted agricultural scientist, M.S. Swaminathan, India would be in a position to control 25 percent of the world's seed trade within 5 to 6 years.

(15) As regards India's public procurement operations and public distribution system, the GATT provisions do not affect them at all. This is because these provisions do not cover subsidies to the consumers. Therefore, the question of the adverse effect of GATT on our public procurement operations or the public distribution system does no arise.

(16) In the area of textiles, the GATT provides for a transition period of 10 years in order to complete the abolition of the quota

system imposed by the developed countries under the multi-fibre agreement. As a consequence, India is expected to increase its sales in the world market. But the gains are constrained by the slow phasing out process of the quota mechanism.

(17) In the area of services, the GATT will provide global market opportunities to our skilled and professional manpower. India has a comparable advantage in skilled labour and hence there is potential for considerable gain in fields like software, construction, consultancy and medical services. But this gain has to be realised through further negotiations as the decision on services has been put off for six months.

(18) In the area of patents, there is widespread concern that the new patenting system under the Trade Related Intellectual Property-rights (TRIPs) Agreement will harm the Indian agriculture and industry, particularly the pharmaceutical sector. But the facts show that the concern is overstated.

The TRIPs agreement cover seven categories, namely, copyright, trademarks, trade secrets, industrial designs, integrated circuits, geographical indications and patents. In six of these categories, except patents, there is no difference between our laws and regulations and those obtaining in the world.

On patents, five main points of divergence exist between the 1970 Indian Patents Act and the TRIPs text.

Firstly, the Indian law patents only the process of a product, while both the product as well as the process patenting is required by the TRIPs text.

Secondly, the Indian law prescribes 7 and 14 years of duration for the food and pharmaceutical patents respectively, while a uniform duration of 20 years is provided for all patents by TRIPs text.

Thirdly, the Indian law provides automatic compulsory licensing in the case of food, pharmaceutical and chemical sectors, while only after hearing the patent seeker on the merits of his case, licensing is permitted by the TRIPs text.

Fourthly, the Indian law does not allow patenting of life farms, while genetic patenting is required by the TRIPs text.

Fifthly, the Indian law demands the proof from the complainant, while the burden of proof is placed on the alleged offender by the TRIPs text.

All the above provisions of the TRIPs agreement have been approved by the GATT contracting parties. But still public anxiety continues on the provision concerning genetic patenting. This is,

because it can, firstly, become specific only after the passing of the Indian law in this respect. And, secondly, this provision lacks the directive, requiring the patentee to disclose the impact of any genetic patent on soil, crop, environment and human health. The TRIPs provision, concerning patents will apply to India around 2005. The ten year transitional period is meant to carry out the necessary changes.

It is a misplaced impression that the genetic patenting will deprive our farmers of the rights over their trees and plants. Because, the farmers' and the researchers' right is duly recognised through the sui generis system of protection for plant varieties. By declaring its traditional genetic meterials, used in the *Ayurvedic* system of medicines (like the turmeric, ginger, *Neem*, *Kuth*, etc.), India can enable its farmers and researchers to develop new strains.

(19) In regard to drug prices, fears have been expressed that the patenting of drug will lead to the shooting up of their prices. But these fears are much exaggerated. Because, the proposition of patented drugs (which will only include the newly invented drugs) will be around 15% in contrast to more than 80% of the non-patented (i.e., the WHO listed essential drugs and the common medicines). About 240 major allopathic drugs being used in India were developed more than 20 years ago on which no patent law would apply. Moreover, every country has the right to determine its own pricing system, including the compulsory licensing mechanism in case of a firm resorting to unfair trade practices.

As regards the Indian drug exports, study by the Export-Import Bank of India indicates that since most of the Indian drug exports are of unpatented drugs, they may not be affected by the agreement.

(20) In the area of foreign investment, it is feared that, under the Trade Related Investment Measures (TRIMs), the foreign capital and the MNCs will have full freedom to enter and dominate the country. But the fear is totally unfounded. Because, the TRIMs agreements accepts a country's right to frame its own foreign investment policy. A recent study by the Export-Import Bank of India shows that the TRIMs agreement does not effect India's current foreign investment policy in any manner.

V

(21) Turning to the few genuine apprehensions, there are three areas of our serious concern. One is that, while the country

needs maximum national consensus on basic issues, both global and national, the common man is still in confusion about the GATT and the mainstream parties are bitterly divided into two hostile blocs on this question.

The other is that, despite seeming no apparent threat from gene patenting to our genetic resources and scientific research in GATT theory, it is yet to be tested how it works in practice.

A third one is that the tension with Pakistan will not allow us to benefit from the new trade order.

VI

(22) Considered as a whole, the GATT accord is neither against India's sovereignty nor its economic development and nor a conspiracy against the third world. Essentially, it has a positive nature, though a few of its provision are not to our national liking. Thus, our country has by joining the GATT, taken a step in the right direction which will help in increasing our national incomes liberalising and globalising our national economy and consolidating the world economic process.

Any act to walk out of GATT would have been highly detrimental to our national interests. Because a unilateral or bilateral rout in the world trade today works against the weak.

None of the opposing forces has any programme as to what it would do if it were at the helm and let India pull out of GATT. This is, because the GATT, being the best possible option under the given conditions, has no desirable and viable alternative.

30-04-1994

Judiciary Needs Cleansing Effect Of Peoples 'Sunlight'

I

(1) "He should keep his mouth shut if he does not know to talk...If he continues to overstep his limits, we know how to step in and deal with him…If necessary, we will summon him here and set him right…This person seems to lost his balance."

(2) These threatening remarks have been made not by any authoritarian ruler or a diehard bureaucrat but by a division bench of the Apex Court. And this vituperative admonition has been administered not to any ordinary person but a Constitutional Authority, i.e., the Chief Election Commission (CEC).

II

(3) Were the two Apex Court judges justified in using an abusive language, even if they had been dealing with a legal offender? The Indian Constitution demands that the Apex Court judges conduct their judicial business in accordance with the constitutional provisions. Legally, the Courts are bound by the existing and sometimes customary laws. Also, they cannot go behind the evidence on record. Generally, they are not expected to take cognisance of uncorroborated reports. Even when any Court suo motto takes note of any statement, the rules of natural justice require notice to the defendant. Because, mere presumption does not legally constitute the basis of any guilt. Interestingly, the two Apex Court judges' rebuke to the CEC betrays the streak of same deplorable tendency which they have accused T.N. Sheshan of.

III

(4) Does a criticism of the judiciary or any other state institution constitute a legal offence? The Apex Court itself has, so often, counselled the judiciary not to get provoked by public criticism. Also, the higher courts in all advanced

democracies have emphasised judicial restraint and sobriety in the language of justice.

(5) The dignity of judiciary (which is considered to be a guardian of public interests) does not get enhanced by stopping the people from ventilating their opinion about the administration of justice. The judicial cause is served better if judiciary applies the Constitution and the law creatively (such as the public interest litigation) and upholds the rule of law under all circumstances. The image of judiciary becomes dignified if the conduct of the custodians of law is principled and irreproachable.

(6) Thus, the two Apex Court judges' loosing of their cool in Sheshan's matter does not look proper in any manner. They could have spoken their mind with grace in their judgment on the concerned case by admonishing Sheshan to speak and behave with a sense of constitutional responsibility. Otherwise there is no law or convention that requires our judges to verbally sermonise in any case.

IV

(7) Turning to the facts of the case, it is true that Sheshan did not at times speak in a way as behoves a constitutional authority. He compared India's President with "a parrot in the cage". He called the various state organs, including judiciary, as having become degenerate. He also did not behave properly by ignoring the constitutional position of the two newly appointed members of the Commission. Obviously, despite his constitutionally pre-eminent status, he does not enjoy the wholesale monopoly of authority. The Constitution stipulates the sharing of power between election commissioners, with the chief at the helm. Team work and not a dictatorial mode is the key element in a democracy.

(8) These negative traits in Sheshan's style are not conducive to the development of democracy in our country. They need to be criticised by all. The sooner they are ended, the better for both our country and Sheshan. But their one-sided criticism without highlighting the more pronounced reality of Sheshan's good performance becomes one-sided.

(9) To set the record straight, it was Sheshan who single handedly initiated a process of cleansing our electoral process from the domination of money and muscle power. For the first time in history, he has sought to make the CEC independent and the elections free and fair. With his crusading spirit, he has

succeeded in forcing the government and the political parties to take the Representation of Peoples Act and Rules and the Moral Code of Conduct seriously—thus causing panic among all the practitioners of corrupt politics. Doubtlessly, he has done a commendable job in the face of heavy odds.

(10) All sorts of vote bank politicians, intellectuals and journalists felt jubilation at the Apex Court's rebuke to Sheshan. There followed a spate of statements and articles in praise of judges' adverse remarks against Sheshan. The Congress spokesman, V.N. Gadgil and Andhra Pradesh Chief Minister, V. Reddy, interpreted the Apex Court's comment as a vindication of their own stand.

(11) Taking note of these developments, the judges themselves had to explain later that their verbal observations about Sheshan never implied any reflection on his work but related only to his too much talking.

(12) However, talkativeness, despite having been a socially annoying affair, has not been an offence ever. So long as one does not offend any law or speak offensively against any person, one is not liable to any legal action.

V

(13) Sheshan's case is not the only one in which the Apex Court judges have crossed the judicial limits. In some other cases too (especially those involving police), the tone and tenor of their pronouncement show signs of creeping arrogance. This does suggest the need for exercising judicial prudence which, in turn, asks for a serious consideration of the guidelines of the International Commission of Justice and the Centre for the Independence of Judges.

(14) Several senior judges have since been speaking about the collapse of the Indian judicial system. Speaking at a Seminar on March 3, 1994, the Chief Justice of India himself had stated that the criminal system in the country was in a bad state and had not achieved the purpose of reducing the incidence of crime. Today, the backlog of 3 crore cases pending before our Courts, the Ramaswami style of certain judicial functionaries at various levels, the warding off all attempts at public scrutiny of judicial omissions and commissions through the invocation of contempt proceedings, etc., are a clear reflection of the malaise in our system of justice. Numerous reports of the Law Commissions, and various suggestions by eminent jurists,

suggesting improvements in our judicial system, have not yet produced the desired results.

(15) The basic reason why our judicial system has not been able to improve its quality is its shunning of the perspective of the public accountability of the judiciary which accepts the right of the people to know about the administration of justice before, during and after a trial (as approved by the Madrid Declaration) and encourages public scrutiny of the entire Administration of Justice (i.e., police, prosecutors, judges and courts) as well as the judicial processes. This has kept our judiciary as a closed circuit, easily amenable to the pressures of the executive and legislature. Unless, we put judiciary to the cleansing effect of the Peoples 'Sunlight' it is highly difficult to attain our twin goal—that of full independence of judiciary from the executive and that of a truthful judicial system. 22-04-1994

(The following note on the Jammu-Kashmir problem was submitted to the eleven member ambassadorial delegation during its visit to Jammu city by the Internationalist Democratic Party On April 29, 1994)

A Desirable and Viable Jammu-Kashmir Solution— Indo-Pak Condominium over The State With Full Autonomy To Each Ethnic Identity

I

(1) Hardly anyone can deny the fact that the problem of Jammu-Kashmir constitutes the biggest potential flashpoint in the world today. Also, there is a universal recognition of the fact that it has remained the core item on the two national agendas of India and Pakistan in their post-1947 history. Obviously, such a high risk issue can only be ignored at a great peril to the human community. Surely, it demands an urgent and close attention, viewing its salient features, historical experience and ground realities—thus facilitating the sorting out of its appropriate solution.

II

(2) Looking at the question of the various dimensions of the problem of Jammu-Kashmir, five main features emerge before us.

(3) One is that, arising out of the 1947 partition of India, it has so far remained an unsettled problem between India, Pakistan and the people of Jammu-Kashmir. The fact of its having been a post-1947 tripartite conflict is evident from a number of happenings, namely, the division of the pre-1947 state of Jammu-Kashmir with one-third of its territory controlled by Pakistan and the rest by India; the continuous post-1947 Indo-Pak confrontation, marked by three wars on this issue; the series of official level Indo-Pak

talks, including those between the Prime Ministers and the Foreign Ministers of the two countries, on the future of the state; the continuation of UN Observers' Headquarters at Srinagar, Jammu and Muzaffarabad since 1948; the launching of various anti-India movements, culminating in the ongoing militancy in the Kashmir valley, the different agitations in Jammu Division's Dogra region for state's full merger with India; the Ladakhi demand for a new constitutional status within the Indian Union; the 'Azad Kashmir' peoples desire, as expressed at times, for a satisfactory solution to the problem of their future; and so on.

(4) Secondly, the state of Jammu-Kashmir is characterised by eight main regional-ethnic identities. That is, the Kashmiri community in the valley; the Dogra community in the Districts of Jammu, Kathua and Udhampur with a fair sprinkling in Doda and Rajouri Districts; the Ladakhi in Ladakh; the Kargili in Kargil; the Pathwari in the Districts of Rajouri and Poonch and 'Azad Kashmir'; the Gilgiti in Gilgit; the Balti in Baltistan and the Pahari (comprising Gujjars and Bakarwals) in the Districts of Rajouri and Poonch and the Kashmir valley.

All these regional-ethnic identities have different historical aspirations. For instance, while an overwhelming number of the Kashmiris stand for secession from India, a vast majority of the Dogras and the Ladakhis demand a full-fledged state for Jammu and the Union Territory status for Ladakh respectively within the Union of India. Also, a large number of people in 'Azad Kashmir' long for some sort of sovereign status.

(5) Thirdly, a great majority of countries in the world, as can be seem from the proceedings of the recently held UN Human Rights Conference, regard the Jammu-Kashmir problem as a bilateral dispute, to be resolved with the involvement of the people of Jammu-Kashmir on both sides.

(6) Fourthly, all that has happened in the past does not provide a stable key to the future as is obvious from the non-working of the 1948-49 UN resolutions, the 1965 Tashkent and 1972 Simla accords and the 1952 New Delhi-Srinagar, the 1975 Indira-Sheikh and 1986 Rajiv-Farooq agreements.

(7) Fifthly, a new beginning has to be made to open up the Jammu-Kashmir impasse.

III

(8) Turning to the question of the 46 year historical experience of the Jammu-Kashmir problem, we find three broad conclusions.

(9) Firstly, it shows that the problem cannot be resolved by the politics of gun as manifested by the whole history of the unceasing Indo-Pak cold war and their occasional hot wars, as well as the experience of the four year old ongoing conflict between the Kashmiri militancy and the New Delhi's counter-militancy.

(10) Secondly, it indicates that the politics of gun which has already led to the diversion of a large quantity of the economic resources of India and Pakistan to unproductive channels and thus the thwarting of their development processes for forty six years can ultimately result in their economic ruin and consequently political destabilisation.

(11) Thirdly, it points out that, taking into account the failure of all hitherto concluded bilateral deals, whether between India and Pakistan or between New Delhi and Srinagar, the proper way to the sorting out of the Jammu-Kashmir problem lies only in trilateral talks, aimed at reconciling the divergent interests of India, Pakistan and the people of Jammu-Kashmir.

IV

(12) Taking up the question of the ground realities concerning the Jammu-Kashmir problem, three major facts deserve serious observation.

(13) At the local level, the people of Jammu-Kashmir, characterised by divergent regional-ethnic identities, aspire for different goals and are marked by varying moods.

(14) At the national level, while the Indian nation is determined to keep Jammu-Kashmir as a part of the Indian Union, the Pakistani nation is equally resolved to bring Jammu-Kashmir to its national fold. Both countries have put their national honour at stake on this question and are ready to pay any price in defence of their national prestige.

(15) At the international level, the human community has entered a new historical era in which the process of globalisation or the interdependence of countries, caused by the post- 1945 Scientific-Technological Revolution, has led to the transformation of all fundamental human problems (i.e., environment, development, security, increasing population, poverty, rule of law, social justice, human rights, etc.) from the national to the global level. Thus, the national interests of different countries, including India and Pakistan, have today become mutual and complimentary instead of divergent and contradictory as had

been the case in the past decades. The new historical turn has already brought about a great change in the national perceptions and priorities of many countries. For example, the US does not today consider communism as a threat to world order and similarly neither Russia nor China now regard Western capitalism as a retrogressive phenomenon. Thus, the US has now given up its priority of cultivating Pakistan as a strategic ally against Soviet communism, while Russia today concentrates on economic reconstruction instead of befriending India against the Western camp. Today, while an overwhelming number of countries, barring a few dominated by the authoritarian and the fundamentalist regimes, are engaged in defusing their tension points, both at home and abroad, and embarking on the path of internal democratisation and liberalisation and external friendship and cooperation, both India Pakistan, still mired in the politics of cold war and the mindset of 1947 communal partition, go on pursuing the beaten track of confrontation and strife—thus creating a highly dangerous situation in South Asia.

V

(16) Given the foregoing facts, it follows that a desirable and viable solution to the Jammu- Kashmir problem is, and can be, the one that reconciles the interests of all the parties involved in the dispute (i.e., India, Pakistan and the people of Jammu-Kashmir) and give satisfaction to each of them—thus defusing the hotbed of tension in South Asia and stabilising the world peace.

(17) Appraising the various options, projected by different quarters, to resolve the Jammu-Kashmir dispute on the basis of above-said criterion, we get the following picture.

(18) The option of the division of Jammu-Kashmir on the Line of Actual Control with adjustments here and there, as always rejected by Pakistan and now even by the Kashmiris, lacks practicability.

(19) The option of a Triest like solution, allowing India and Pakistan to retain the territory of Jammu-Kashmir under their respective control with free intercourse between the people on both sides, being similar to the preceding option, cannot become viable.

(20) The option of Kashmir valley to be made independent, with Jammu and Ladakh regions remaining with India and 'Azad Kashmir' with Pakistan, can give rise to Afghan type civil war

between the pro-independence and pro-Pakistan Kashmiri groups and also turn the valley into a bone of contention between not only India and Pakistan but also among the big powers for gaining their spheres of influence.

(21) The option of placing Jammu-Kashmir under the UN trusteeship cannot become the basis for creating friendship and goodwill between the two traditional adversaries, i.e., India and Pakistan. Keeping their old rivalry intact, it does not help in bringing India and Pakistan closer to each other and making South Asia a tension free region.

(22) The only rational option—that can uphold the national prestige of both India and Pakistan, meet the national urges of the peoples of the two countries and satisfy the aspirations of the different regional-ethnic identities in Jammu-Kashmir—is the one which, while guaranteeing full autonomy to each of the respective identities in Jammu-Kashmi stipulates an Indo-Pak Condominium over the Stale with the responsibility of handling its defence, foreign affairs and currency. The phases of the initiation and the implementation of this process can be worked out in a meeting of the concerned parties.

The establishment of an Indo-Pak Condominium over Jammu-Kashmir constitutes not only a just and fair solution to the Jammu-Kashmir problem but also represents the embryo of SAARC's new model of modernisation that will lead to the ending of regional conflicts, stopping of arms race, strengthening of democracy and secularism, boosting of economic development, halting of the advance towards *Hindutva* and pan-Islamism and improving of the environment, on the one hand, and the strengthening of the world peace and the world development process, on the other. 26-04-1994

For A N-Weapons Free World—Vest N-Weapons Control In UN

I

(1) The problem of nuclear space strike weapons, presenting a great threat to mankind, is an unprecedented problem. No one can ignore it, because it concerns everybody.

(2) Although a global nuclear challenge has decreased to some extent due to the lessening of tensions between the big nuclear powers, particularly the US and Russia, following the collapse of the Soviet bloc and disintegration of the Soviet Union, yet an uncertain situation prevails in the global nuclear arena. The main five nuclear players, particularly the USA and Russia, want to maintain their respective monopoly of the nuclear weapons. A few new countries have already entered the nuclear club and some reached the threshold. There also exists the risk of nuclear weapons falling into the hands of some terrorist groups. A single wrong move on the global nuclear chessboard can trigger off the whole chain of events.

II

(3) In the context of an unstable global nuclear situation, the greatest potential nuclear threat to peace has surfaced in South Asia where India and Pakistan, both having refrained from signing the nuclear non-proliferation treaty and acquired the nuclear weapons capability, are locked into a dispute over the state of Jammu-Kashmir.

(4) The whole world is worried over the deepening Indo-Pak conflict which, with its nuclear dimensions, can cause incalculable harm to South Asia in particular and the world in general. All the countries, especially the developed ones, are impressing upon India and Pakistan to sort out the Jammu-Kashmir problem through dialogue and also resolve the issue of nuclear non-proliferation in this region.

III

(5) The situation is still more complicated for the people of India, where the government, lacking a clear perspective, has been following an ambiguous nuclear weapons policy.

On the one hand, it demands total nuclear disarmament and, on the other, refuses to sign the nuclear non-proliferation treaty.

Advancing the arguments for not signing the NPT, it sometimes says that the treaty is discriminatory and, at other times, argues that it wants to retain the nuclear option due to threats to its national security in the South Asian region.

Opposing the plan for a nuclear weapons free South Asia, it often contends that the nuclear weapons issue is a global issue and can only be resolved at that level and many times pleads that threats to Indian security extend beyond the South Asian region.

Posing itself as a non-nuclear weapons state it declares that it has not yet exercised its nuclear option, but then openly claims that it has produced the space strike missiles and can meet any nuclear challenge at any moment.

The streak of this doublespeak can even be seen in New Delhi's past nuclear policy.

Under Nehru, India held that both the manufacturing and the possessing of the nuclear weapons was immoral. But it was also under him that India began the search for knowing the secrets of the A-Bomb.

Indira Gandhi, while demanding total disarmament, went in for testing a nuclear device. All the subsequent government heads, while uttering anti-nuclear weapons shibboleths, continued the Indian nuclear legacy.

Definitely, such contradictory position only makes matters worse.

IV

(6) Just a few days ago, the US has proposed a new non-proliferation plan, which envisages a Nine Nation Conference—5 permanent members of the Security Council, 2 big economic powers, Japan and Germany, and India and Pakistan—to hammer out a nuclear non-proliferation regime in South Asia.

But the problem is so complicated that it has defied all solutions so far. Unless the Conference addressed the basic issues related to this problem—i.e., the Indo-Pak conflict over Jammu-Kashmir, Sino-Indian border dispute and India's strategic threat perceptions from China, Sino-American and Sino-Russian contention for spheres of influence in Asia—no

effective solution can emerge.

(7) Thus, the first step in the building of a desirable nuclear non-proliferation regime in South Asia requires the creation of mutual trust between India and Pakistan by a fair sorting out of the Jammu-Kashmir problem. Secondly, it requires the inclusion of China in this de-nuclearisation process or a solemn assurance by China to adopt a non-partisan role in South Asia, support a comprehensive nuclear weapons ban treaty and a fissile material production cut-off. Thirdly, it requires the bringing of other Asian nuclear weapons states, such as Israel and Kazakhstan within the purview of the non-proliferation regime. Fourthly, it also requires a declaration by the main five nuclear powers (which swear by total nuclear disarmament, but shirk to fix time limit) pledging to eliminate all nuclear weapons in 15 years.

(8) Obviously, all these requirements are difficult to be realised within the proposed nine member Conference

V

(9) In the present unpredictable global situation, the only fair and just solution to the nuclear and space strike weapons is that a phased comprehensive nuclear weapons elimination treaty—which vests in the UN the control of all nuclear weapons and fissile materials now possessed by different nuclear weapons nations—be chalked out at a global meeting of all nuclear weapons states. Any nation defying this treaty now or in future should be firmly dealt by the world community. This equitable plan is quite in accord with the interests of the world people, meets the interests of all the countries and is fully viable. The various national chauvinist nuclear lobbies may oppose it but it is likely to get the whole hearted support of the world people.

VI

(10) Our country can get out of the tricky nuclear situation, strengthen its national security, turn South Asia into a nuclear weapons free zone and thus enhance peace in Asia and the world by shedding all outworn ideas and postures and adopting the vision of the emerging global society whose first phase, as verified by events in various regions of the world may be the regional community, based on a system of collective security, common market, common problems of environment, population control, human rights social justice, etc. The formation of the South Asian regional community demands that both India and

Pakistan, in consultation with the people of Jammu-Kashmir, first settle the Jammu-Kashmir problem by a new visionary solution which, on the one hand, gives full autonomy to each regional-ethnic identity in Jammu-Kashmir, on both sides of the Line of Actual Control, and, on the other, vests defence, foreign affairs and currency in an Indo-Pak Condominium. Then this mechanism may be, with the approval of all the concerned countries, further developed to the level of SAARC, having a common security, common market, common social and environmental policy. By taking this course, India and Pakistan, blaze a trail in Asia and also the world. 01-05-1994

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