

INTERNAL SECURITY IN INDIA

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Theme Paper for the Fifty-first Members'
Annual Conference of the IIPA

**Indian Institute of Public Administration
New Delhi**

2007

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The long struggle for independence from British control and then the arduous process of integration of the British India and Princely states towards the formation of the Union of India generated considerable anxiety about the sustainability of the Indian State. Concern for national integration and security remained a dominant theme in the Constituent Assembly of India. Creating institutions and appropriate legal-constitutional framework for their effective functioning to not only ease the apprehensions but also deliver contentment to the people of India was bound to be a challenging exercise. A country marked by enormous diversity, a multitude of cultures, languages, castes, tribes and religious communities, with wide economic disparities and varied levels of political engagement, India was not a picture frozen in time. It was India alive, growing each moment, and bearing testimony to the change as it shaped. Despite all sincerity and wisdom, which entered into the Constitution-making exercise, need for further experimentation, innovation and improvement for the delivery of the promises could not be ruled out. There was adequate space for all that, and much more.

What followed was a long journey of struggle that was India. To keep the nation intact, and to do this without compromising on peace, justice, autonomy and ethics, was a major challenge. India witnessed numerous competing assertions of identity, for inclusion or autonomy, sometimes even for secession. There were claims for ownership of India, to belong and be seen to belong, and therefore be offered a fair share of India's resources. There have also been efforts to turn away from India, to disown India and claim autonomy or independence. The understanding, experiences, aspirations, possibilities and actions undertaken in this journey have been far from inert- these have frequently altered, at the end of state as well as people. An account of these provides an insight into the dynamics of internal security scenario as it evolved in the last sixty years of Independence. It is an account that can be read in multiple ways and rendered competing interpretations. It is also an account that offers enormous scope for learning and rectification as well as finding new pathways to security for the people of India. This paper attempts to analyse some of these dimensions.

It is important to state at the outset that internal security is an arena of conceptual and analytical contestation. The first key point of contention pertains to the location of state in the security scenario. Conventionally, state is seen to be sovereign, cohesive and capable of providing security. Perceived as the source of political identity for citizens, it is also expected to offer security to the citizens. However, this notion of state is currently

challenged on two grounds. One, on grounds of the declining capacity of state due to the emergence of external influences on internal security. Apart from the limits on state sovereignty inflicted by international law and organisations, such as the covenants and conventions of the UN, or by other multilateral fora, there has emerged the challenge of transnational actors and influences, from drug traffickers and hawala operators to states which provide support to claims of some people in other states regardless of its security implications for other peoples.

The legitimacy of state as the key provider of security, and therefore as the valid agency which can set the defining parameters of permissible or ruled out actions/ claims on grounds of security is also contested on a second ground. This emanates from the experience/ perceived possibility of state itself becoming a source of insecurity, either on account of connivance with the privileged against the weak or due to its inability to recognise and respect concerns for autonomy from specific regions or communities. People, not state, should be the referent to security is the argument of those who challenge the state-centric approaches to security.

The second significant point of contestation on the question of internal security relates to the scope of the concept. Whether security concerns should be limited to the physical threats or these should also include non-conventional sources of threat is the basis of contention. The latter would imply a broadening of the concept of internal security to cover threats to security emanating from social, economic, political and environmental reasons too and therefore addressing security concerns would imply addressing these issues as well.

The third point of contestation relates to the extent of separability of external and internal security issues. A clear-cut demarcation is not possible either in terms of reasons or sources or effects. This is especially so when a state-centric notion of security is not accepted and people are seen as the referents. For the constitution of 'external' itself would be flexible in such a context and the boundaries of external and internal would keep shifting with the group or community which experiences insecurity or which seeks security. Even the state-centric notions of security find it difficult to address security issues within the confines of traditional demarcations and it is asserted that the internal-external dynamics which have taken over the world need to be acknowledged and addressed accordingly.

The key question that faces us is to understand the conceptualisation of internal security issues by the Indian state and the people of India as bearers of Indian identity or as constituents of specific communities or groups within India. How positions which had been once explicitly and systematically thrashed out in the policy domain and which had frequently been vociferously defended, were altered, sometimes embodying radical departures, makes an interesting reading on the political economy of internal security in India and the dialectics of state-people relations, which has shaped and reshaped at each interface, especially when it confronted the sharp conflicts, embedded in complex socio-

cultural relations and stretched to political and economic spheres, more so when these were linked to multifarious external variables too.

The Republic of India took the challenge of internal security with all earnestness. The task of nation-building, of providing a sense of India to all and of ensuring that they felt safe and secure as citizens of India required institution-building. It required institutions, which could handle without hurt the numerous histories of the people of India—social, cultural, political, economic and administrative; absorb these multiple histories and create a new history of India; provide channels for the realisation of the dreams and aspirations which accompanied the notion of being a part of free India; and minimise possibilities of conflicts, facilitate resolution in case these emerged and ensure that a sense of security arrived with Independent India. The state took upon itself the responsibility of providing security, retaining some of the mechanics inherited from the British India but also altering and innovating to deliver the promise.

The Constitution of India envisaged a federal framework of polity with clear demarcation of powers entrusted to the Union and the Units in the Seventh Schedule of the Constitution. The scheme of things provided for a Union list, a State list and a Concurrent list. The residuary powers rested with the Union. It is noteworthy in this context that the Constitution allotted public order and police to the States and put criminal law, criminal procedure, preventive detention, etc. in the concurrent jurisdiction in view of their relevance to the Centre's responsibility for national security and the need to maintain uniformity of criminal law and procedure across the country. The 42nd Amendment to the Constitution inserted in the Union list "Deployment of any armed forces of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power; powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment". The State list was also altered to make additions to 'Public Order' and 'Police'.

The Constitution also carried a strong centralist thrust and enabled the Union government to acquire powers over subjects, which were listed under the State list. The provisions for emergency under Articles 352, constitutional break-down of state machinery under Article 356 and financial emergency under Article 360 provide such possibilities. Article 355 empowers the Union Government to deploy central paramilitary forces in a state where public order is in jeopardy and outside the control of the police as it shall be the duty of the Union to protect every State against external aggression and internal disturbance. Article 257 (1) provides that in case of conflict, the valid exercise of Union executive power must take priority over the valid exercise of state executive power. A close reading of the actual use of these provisions reinforces the impression about the centralising propensity of Indian federalism. One is also struck by the concern with internal disturbance and a state-centric reading of disturbance. Internal disturbance as a justification for increase in state power over the citizens has been a ground of

contention all along and resistance from various quarters—political parties, civil society groups, communities and individuals—has kept it under some check.

There has, however, been considerable expansion of the powers of state through legislative enactments as well as administrative and financial provisioning to enable it to handle internal and external security challenges. Apart from the large police establishment, which comes under the jurisdiction of states, a large number of Central police and paramilitary forces have been created to perform various roles in the interest of national security. These include Assam Rifles, Border Security Force, Central Industrial Security Force, Central Reserve Police Force, Rapid Action Force, which is a semi-independent part of the CRPF trained to respond to sectarian violence, the Anti-Riot Police of the Indian Union, Indo-Tibetan Border Police, India Reserve Battalions¹, Rashtriya Rifles, Defence Security Corps, Railway Protection Force, Indian Home Guard, Civil Defence, Special Security Bureau, National Security Guards, Special Protection Group and Sashastra Suraksha Bal. The financial commitment to the modernisation of these has expanded rapidly in recent years. These central police and paramilitary forces have grown manifold over the years in terms of number of personnel as well as expenditure incurred. There has been nearly five-fold increase in the expenditure on seven central police forces since 1990. As a part of its recent drive for the modernisation of the central paramilitary forces, an expenditure of Rs. 4,185 crore for modern arms, ammunition, equipment and vehicles has been committed.²

A complex network of Intelligence agencies has also been set up over the years. These include Research and Analysis Wing, Intelligence Bureau, Military Intelligence, Defence Intelligence Agency, Central Bureau of Investigation, Women Intelligence Wing for Foreign Office Services, Inter Provincial Intelligence Wing, Department for Economic and Business Intelligence, Technical Department for Intelligence on Electronics & Telecommunications, and Wing for Online Warfare for India. States have their own intelligence networks too. There is a growing concern for appropriate utilisation of these in a coordinated manner.

Laws aimed at enabling state agencies to address security concerns have multiplied over the years. The last three decades have witnessed a number of enactments to tackle various specific contingencies: Jammu and Kashmir Public Safety Act, 1978, Assam Preventive Detention Act, 1980, National Security Act, 1980, amended 1984 and 1987. Anti-Hijacking Act, 1982, Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983, Punjab Disturbed Areas Act, 1983, Chandigarh Disturbed Areas Act, 1983, Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982, Terrorist Affected Areas, Special Courts) Act, 1984, National Security (Second Amendment) Ordinance, 1984, Terrorist and Disruptive Activities (Prevention) Act, 1985, amended 1987, National Security Guard Act, 1986, Criminal Courts and Security Guard Courts

¹ These are raised by the states with initial grant from the Government of India.

² See Government of India, Ministry of Home Affairs, *Annual Report*, 2005-06 and 2006-07.

Rules, 1987 and the Special Protection Group Act, 1988, The Religious Institution (Prevention of Misuse) Act, 1988, Armed Forces (Jammu & Kashmir) Special Powers Act, 1990, Places of Worship (Special Provisions) Act, 1991, Indo-Tibetan Border Police Act, 1992, Acquisition of Certain Area at Ayodhya Act, 1993, Prevention of Terrorism Act, 2002, Private Security Agencies (Regulation) Act, 2005. The Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005, is under active consideration of the government.

While these laws have increased the powers of state, and these are prone to be used against citizens whose very protection is their intent, it is important to bear in mind that many of the laws have been intensely debated by state institutions themselves— National Commission on Human Rights, Minorities Commission, Indian judiciary and opposition parties have often been very vocal in adversely commenting upon some aspects of these—and in some cases, these had to be amended or revoked too. The debate on Terrorist and Disruptive Activities (Prevention) Act (TADA) and Prevention of Terrorism Act (POTA) has been very intense and led to their repeal in the wake of their misuse³, although there were also protests from those who supported strong action and control mechanisms for the state. The implementation of these laws has also been closely monitored by the civil society organisations and concerned citizens who moved to the courts on many occasions. The misuse of some of these laws, or their apprehended misuse, however, remained a contentious area and has been a reason for many strong protests, which resulted in violence and even loss of lives. Protests against the Armed Forces Special Powers Act in Jammu and Kashmir as well as North Eastern states have been particularly strong.

The reading of the institutional framework created to provide for security concerns of people in diverse social and regional contexts cannot, however, be complete without taking note of some of the innovative exercises attempted in the Indian federal framework to create space for the concerns of diverse communities. This was not only for preservation of their cultural identity, but also for enabling self-rule. Constitution of India provides special protection to the minorities as well as Scheduled Castes and Tribes. Special status has been conceded for certain states such as Jammu and Kashmir,

³ TADA, which was repealed in 1995, had a poor track record of convictions. Out of more than 76,000 persons arrested under TADA upto 1994, cases against 25 per cent were dropped by the police, and out of the 35 per cent cases that were actually brought to trial, 95 per cent ended in acquittals. A mere one per cent of the persons arrested under TADA were eventually convicted. In Jammu and Kashmir, not a single case of the 20,000 registered resulted in conviction. TADA was applied to social activists and non-violent protestors too. The abuse of the Act is evident from the fact that by May 1993, Gujarat, a state which until then was unaffected by terrorism, had over 17,000 persons detained under TADA, which meant 32.08 per cent of the total 52,998 detainees in the country at that time. The misuse of POTO and POTA in the two years of their existence is also evident from such facts as that in Gujarat, out of the 240 persons arrested under these, 239 were muslims. Vijendra Singh Jafa, “Insurgencies in North-East India: Dimensions of Discord and Containment” in S.D. Muni, (Ed.) *Responding to Terrorism in South Asia*, (New Delhi: Manohar, 2006). pp.77-116. POTA was repealed in 2004 after the UPA government came to power.

Nagaland, Assam, Manipur, Arunachal Pradesh and Sikkim under Articles 370 and 371. Under the special protection clause in Article 371, tribal customary laws, procedures and land rights are protected. Sixth Schedule of the Constitution created Autonomous District Councils (ADCs) for six major tribal groupings in six regions comprising the bulk of North-East India. Later other regions, including those beyond North-East, like Darjeeling, Jharkhand and Ladakh were also granted ADC like status. These councils were entrusted powers ranging from land use and economic development to social customs, to administer justice by establishing district and regional courts for trial and appeal; to establish and manage primary schools, dispensaries, markets, roads, road transport and waterways in the district; and to assess and collect certain taxes. These institutions, however, remained ineffective in addressing many of the issues of local concern for lack of financial support.⁴ The 73rd and 74th amendments, which were a significant step in the direction of self-rule suggested the transfer of 29 subjects to panchayats and 18 to municipalities. Later, a special law was enacted to extend panchayats to scheduled areas, making provision for *gram sabhas* as the key institution of power. However, these also met with resource constraints and could not deliver a sense of self-rule to the people of India.

A major reorganisation of states accepting the linguistic criteria in defining state boundaries was also attempted to provide a sense of security to those who were uncomfortable with the existing arrangements. Although sixteen new states have been created since the reorganisation attempted in 1956, according to one analysis, there remained demands for statehood from several other regions. Sometimes these settled with sub-state formations like regional Autonomous Councils, etc.⁵

State has resorted to both coercive and accommodative strategies to deal with demands for autonomy. Often, there was a concern to take a tough stand and not appear to be a soft state, especially when the challenges were from militant groups. The problem resurfaced, even if things seemed to be under control for some time, if the issues of conflict persisted. The experiences of the shaping of India in territorial terms, but also in terms of ownership and identity formation without hurt and with a feeling of autonomy and justice have been complex. These have not only been influenced by the histories of specific regions and communities, but also by the objective conditions of their political

⁴ See Subir Bhaumik and Jayanta Bhattacharya, "Autonomy in NorthEast: The Hills of Tripura and Mizoram" in Ranabir Samaddar, *The Politics of Autonomy: Indian Experiences* (New Delhi: Sage, 2005).

⁵ Important among these have been the demand for Maru Pradesh in Rajasthan; Bundelkhand, Poorvanchal, Bhojpur and Harit Pradesh or Jatland in the Uttar Pradesh; Vindhya Pradesh, Baghelkhand, Rewanchal, Madhya Bharat, Mahakosal, Malwa in Madhya Pradesh, Mithila in Bihar, Saurashtra in Gujarat; Konkan, Vidarbha and Marathwada in Maharashtra; Telengana in Andhra Pradesh; Coorg, Kodagu, and Sagari Prant in Karnataka; Kosal Rajya in Orissa, Gorkhaland, and Kamtapuri in West Bengal; Kashmir, Jammu and Ladakh in Jammu & Kashmir; Bodoland, Karbi-Anglong, and Poorbanchal in Assam; Kukiland in Nagaland; Garoland in Meghalaya; and Hmar State in Mizoram. Ajay Kumar Singh, "Federalism and State Formation: An Appraisal of Indian Practice" in B.D.Dua and M.P. Singh (ed.) *Indian Federalism in the New Millennium* (New Delhi: Manohar, 2003).

and economic existence in India. There has been considerable variation in the experiences of state as well as people, contributing to the complex security dynamics and responses to these by each. While some conflicts have been addressed effectively, others have perpetuated over the years, and still others have acquired new dimensions or grown in proportion.

This paper has attempted an analysis of security scenario in India in a framework of regional specificity as well as the pervasive concerns, which are not region-bound though they may become more or less evident in specific regions. The conceptualisation of security issues in Jammu and Kashmir, North-East and Naxalism affected areas is quite problematic because of reasons of history as well as prevailing political economy of these regions. It is therefore considered appropriate to take a closer look at these three situations. In addition, the paper looks at the bearing of caste and communal tensions and the overall crime situation on the security of the people.⁶ These areas of concern have been analysed with a view to understand the dynamics, which characterise these and explore the possibilities of their resolution. This is attempted with a view to escape the limitations of the statist notions of security and place the reading of security in a people-centred perspective, where people's perception of security matters as much as that of the state and in case of tension between the two, acceptable principles of resolution can be evolved.

The Regional Complex and Security

Security Dynamics in North-East

North-East of India, comprising eight states of India, constitutes 8.06 per cent of the area of India and 3.78 per cent of its population as per 2001 Census. Representing enormous cultural diversity, it is home to around 200 ethnic communities. The area has tremendous geo-political significance too. The region shares 99 per cent of its borders with Tibet, Myanmar, Bangladesh and Bhutan and has only a tenuous connection with the rest of the country by a 21-kilometre wide 'Siliguri corridor' in North Bengal. Prior to the partition of India, Provinces or hill regions of North-East had close trade and other economic as well as non-economic links with the adjoining areas of the East Bengal or Myanmar. The Khasi, Jaintia and Garo hills maintained close relations with Sylhet, the Mizo hills with the Chittagong hills tracts and Tripura with Comilla, Noakhali and Sylhet. Parts of the Mizo hills, Manipur and the Naga hills had direct links with Myanmar, where many of their ethnic kinsmen lived. The areas of the

⁶ The Status Paper on Internal Security situation released by the Ministry of Home Affairs in March 2007 considers terrorist violence in J&K, North-East, naxal affected areas and in the hinterland, and communal violence to be the main manifestations of challenges to internal security and law and order situation. Government of India, Ministry of Home Affairs, *Status Paper on Internal Security Situation*, 2007.

former North-East Frontier Agency, now Arunachal Pradesh, had close contacts with Tibet and Bhutan. In fact, some of these regions had closer ties with the adjoining areas of Bengal and Myanmar than with each other. These areas enjoyed various degrees of autonomy. All this changed with the independence of India as these areas became a part of India.

Efforts to accommodate the autonomy concerns of some ethnic groups in North-East during the '60s and the '70s translated into reorganising Assam and creation of the states of Nagaland in 1963, Meghalaya in 1972, Mizoram as Union Territory in 1972, which was granted statehood in 1987, Manipur in 1972, and Arunachal Pradesh in 1987. However, there are around 200 tribes in North-East, and many of them have been engaged in inter-ethnic conflicts for centuries. The possibilities of improving the share of political and economic power for some often increased the insecurity of others. In Assam, there are tensions between Bodos, Kacharis and several other tribal groups; in Meghalaya, between Garos and Khasis; in Manipur, between Meiteis, Nagas, Kukis, and Hmars; and in Mizoram, between Chakmas and Reangs - many Reang refugees are in fact staying in camps in Tripura. There are also tribal-non tribal conflicts and conflicts between hill tribes and plain tribes. Often, these conflicts gain ground from their majority-minority positions too. The local *versus* migrant conflicts are also strong, especially in Assam and Tripura, where apart from illegal immigration that has resulted in significant demographic change and has been a ground for contention, violence against *Biharis* or Hindi-speaking people has also been quite widespread.

On the other hand, however, there are voices for unification too in the North-East, as, in case of Nagas who have been seeking their unification with Nagas in other regions and have posed challenges to peace in other states. Nagas have not only felt betrayed because of their region being handed over to India after the British left but also because many Naga areas became a part of other states, thereby posing a threat to their unified existence. For the same reason, they are also resented by other states that see their demand for a greater Nagaland to be a threat to them. Part of the problem in North-East is attributed to the inability of the people to reconcile with their newly acquired identity as citizens of India and alter their existing relations based on ethnic ties. But part of the problem is also on account of the aspirations of communities to acquire an equal status and power as that offered to others. Struggle for independence has sometimes given way to the demand for statehood, and the demand for statehood has sometimes been given up for an autonomous council—as in case of Bodoland. However, even in areas where autonomous councils have been created, such as Karbi Anglong, the minority groups face conditions of insecurity, often violence.⁷ Many areas of North-East have seen strong phases of militancy, building on the discourses of autonomy and critiques of the injustices perpetrated on specific communities by the central and state government and

⁷ Sanjay Barbora, "Autonomy in the NorthEast: The Frontiers of Centralised Politics" in Ranabir Sammaddar, *op.cit*

build around autonomy discourses. Many of them also get liberal support from across the border.

The overall extent of extremist violence in the North-East till March 2007 had shown a marginal increase over the corresponding period in the previous year.⁸ Assam has witnessed increased ULFA violence; Manipur continues to be affected by ethnic conflicts and insurgent activities of a large number of militant groups, inter-factional clashes in Nagaland continue to be a source of tension and Meghalaya and Arunachal Pradesh continue to suffer from violence. It is noteworthy that the whole of Manipur, except Imphal Municipal area, Nagaland and Assam, Tirap and Changlang districts of Arunachal Pradesh and a 20 km. belt in the States having common border with Assam, have been declared 'Disturbed Areas' under the Armed Forces (Special Powers) Act, 1958 as amended in 1972. In Tripura, areas under 28 police stations in full and part of areas under six police stations have been declared 'Disturbed Areas'. A large number of groups are active in different parts of North-East. Many of them have been declared illegal⁹. With some others, talks for peace are on. Efforts are also being made to engage the countries, such as Myanmar, Bangladesh, Nepal, Pakistan, where some of the groups have a support network, so that these links can be snapped.

The Government of India has increased its reliance on military strategy even as there is an increased commitment towards developmental resolution. All the North-Eastern States except Sikkim, are now being given 100 per cent central assistance for modernisation of Police Forces. Reimbursement of the cost of raising of new India Reserve Battalions has been increased from Rs.13 crore to Rs.20.75 crore. The Security Related Expenditure (SRE) Scheme has been revised to make it more beneficial to the States. The Surrender-cum-Rehabilitation Scheme has been brought on par with that in J&K with 100 per cent expenditure being reimbursed by the Central Government. To address the development gaps, the Centre has also announced special development

⁸ The number of incidents in the North-East taken together moved up from 1234 in 2004 to 1336 in 2006 though the total number of civilian killings came down from 414 to 309, security forces killed came down from 110 to 76 and the number of extremists killed came down from 404 to 395. Government of India, Ministry of Home Affairs, *Status Paper on Internal Security Situation*, 2007.

⁹ According to the Annual Report of the Ministry of Home Affairs for 2006-07, the major insurgent groups which are active in the North Eastern States include the United Liberation Front of Assam (ULFA) and National Democratic Front of Bodoland (NDFB) in Assam; People's Liberation Army (PLA), United National Liberation Front (UNLF), People's Revolutionary Party of Kangleipak (PREPAK), Kangleipak Communist Party (KCP), Kanglei Yaol Kanba Lup (KYKL), Manipur People's Liberation Front (MPLF) and Revolutionary People's Front (RPF) in Manipur; Achik National Volunteer Council (ANVC), Hynniewtre National Liberation Council (HNLC) in Meghalaya; All Tripura Tiger Force (ATIF) and National Liberation Front of Tripura (NLFT) in Tripura; The National Socialist Council of Nagaland (Isak Muivah) –[NSCN(I/M)] and The National Socialist Council of Nagaland (Khaplang) – [NSCN(K)] in Nagaland. All these, except the two factions of National Socialist Council of Nagaland, have been declared 'Unlawful Associations' under the Unlawful Activities (Prevention) Act, 1967. In addition, numerous other militant groups like the Dima Halan Daogah (DHD), United Peoples Democratic Solidarity (UPDS), Kuki National Army (KNA), Zomi Revolutionary Army (ZRA), Naga National Council (NNC), etc. are also operating in the North East. Government of India, Ministry of Home Affairs, *Annual Report*, 2006-07.

packages for the States of Assam in November 2004 and January 2006, Manipur in November 2004, and Tripura in October 2005. The Ministry of Development of North-Eastern Region is monitoring the progress on the implementation of these packages.

The excessive thrust on control strategy relying on the coercive apparatus of the state, however, has increased the alienation of the people from the state despite the various offers of support that were provided by it either as preventive or remedial measures. A former DGP of Nagaland and presently special rapporteur of the National Human Rights Commission, Chaman Lal, expresses his disappointment at the poor state of human rights in the North-Eastern states thus:

The deployment of the army and other armed forces of the Centre, which began with the outbreak of the Naga struggle in the mid 50s has continued unabated. The effort all along has been to deal with the violence militarily instead of addressing its underlying causes and conditions. Besides resulting in the heavy militarisation of the entire environment, this approach has corroded the ability of the States to develop and maintain a viable apparatus of their own to execute the responsibility of maintaining law and order. It would not be wrong to say that the Governments of the North-Eastern States, particularly Manipur, Nagaland and Tripura have abdicated their constitutional obligation and are being virtually run by the Centre with the help of the army and para-military forces.¹⁰

Although the overall situation in the North-East has improved in recent years and efforts are on to find a negotiated settlement to the complex Naga problem, the North-East remains disturbed with military movements continuing with ferocity in Manipur, Tripura and parts of Assam and Meghalaya.... While harassment at check-posts and aggressiveness during search and cordon operations are stoically accepted as part of normal life in the North-East, people express their resentment and agitate for their rights when a major incident involving large-scale destruction of life and property of civilian population results from indiscriminate, panicky, firing triggered by an unprofessional or revengeful attitude of the armed forces. Frequency of such incidents may not be alarmingly high but they are not a rare phenomenon in the militarised environment of the affected states.¹¹

A recent study of the impact of armed violence on civilians living in the violence-affected district of Nalbari in Assam points out that communities are fearful of being caught in the crossfire and becoming incidental casualties when encounters between security forces and militants occur in inhabited areas. There have also been incidents of

¹⁰ See Chaman Lal, *Dialogue Quarterly*, Vol. V, No. 4, April-June 2004, pp137-148. As DGP, Nagaland, from 1993-1996, Chaman Lal states, he did not come across a single family in the State without a tale of sorrow linked to army atrocities/ excesses.

¹¹ *Op.cit.*

over-reaction by panicky or trigger-happy security personnel who open fire indiscriminately or due to mistaken identity. Security forces, people feel, are quite prone to such excesses, as events have proved over a long period of time. Further, frequent cordon and search operations, often in the middle of the night, abusive behaviour during search operations, physical acts of humiliation, indiscriminate arrests, illegal confinement, torture in custody and particularly brutal reprisals on civilians where militants had ambushed security forces, molestations and rapes, have all contributed to compound the fear of violence and violations by security forces within these communities.¹²

It is disappointing to note that people do not have institutional channels to redress their grievances about human rights violations they frequently face. The State Human Rights Commission, in place in Assam and Manipur, have no jurisdiction in regard to violation of human rights by the members of the armed forces and therefore cannot entertain any complaints against them. The NHRC, besides being distant, has little powers to make any effective intervention. This is the sad reality of the state of civil and political rights of the people of the North-East. There is a strong case for a comprehensive review of the state of human rights, including the social and economic rights of people of North-East which, most reports indicate, is even worse than the state of civil and political rights.¹³

A major problem faced by the people in the North-East area, which not only adds to their problems of human security but also impacts upon the prospects of peace in the North-East, is the existing nexus between various forces in the context. This has impacted upon the state of governance in most parts of the North-East. According to one account:

The counter-terrorist policies pursued in the region ensure the continuation of the terror industry. Dishonest deals with terrorist leaders have led to the creation of a Frankensteinian monster that retains all the instruments of terror and operates substantially under the protection of and in collusion with the state and its agents. The 'surrender schemes', devised by state governments, aim to bribe terrorists away from their violent activities. The social and economic costs of such policy have proved to be devastating. It is believed that a large proportion of those who "surrendered" were far from hardcore militants with some not having anything to with militancy. As for weapons, not only did the surrendering cadres fail to surrender all their weapons, they were subsequently provided gun licences and armed guards by the state, on the grounds of their personal security against retributive attacks by their former comrades. A nexus between mainstream

¹² Anindita Dasgupta, "Civilians and Localisation of Conflict in Assam", *Economic and Political Weekly*, Vol. XXXIX, No. 40, October 2, 2004. pp.4461-4470. The role of militants in disrupting the everyday lives of people is also admitted.

¹³ Lal, *Op.cit.*

politicians, militants and surrendered militants is a frequently noted dimension of contemporary politics of north-east India. What results is a kind of “stable anarchy” where the rule of law lapses entirely, as the institutions of governance are subverted directly or through collusive arrangements to serve personal and partisan ends of those who control.¹⁴

Collusive relations of militant groups in North-East with political and administrative elite have been widely commented upon. A considerable portion of public resources get diverted towards the under-ground economy. A bulk of commodities meant for the Public Distribution System are simply diverted to the open market generating huge incomes for both corrupt government officials and banned terrorist outfits. It is widely acknowledged that extortion, protection money and ‘taxes’ are regularly levied on the business and salaried class by several of the groups in the North-East. Illicit trade in drugs and arms is also an important source of income for these groups. And these arms have serious implications for the every day lives of the people.¹⁵

The optimism generated by the proponents of “look East” policy and peace talks between armed opposition groups and the state would suggest that there has been a radical change in the Government of India’s North-East policy. However, militarisation and ethnic confrontation continue to define the parameters of public policy in the North-East. Ethnic violence is accentuated by the existence of parallel political and administrative structures that undermine the rule of law. A recent review of developments in the North-East underlines:

The north-east is poised on the cusp of an unprecedented transformation of its historical position as a frontier. Colonial concerns and post-colonial cartography have created a condition wherein the discourse of citizenship has all but disappeared from the language of development and rights. Instead, one sees the extension of garrison mentality, where the north-east is sought to be micromanaged by policy-makers for whom the people and the region is veritable military terrain.¹⁶

The apprehension expressed by some observers of developments in the North-East that violence would remain a ubiquitous presence in the transformation of the region, unless governance and politics in the region move away from its militaristic mindset and are tempered with notions of transparency and justice¹⁷ is not unfounded and needs to be

¹⁴ Upadhyay, Archana, “Terrorism in the North-East: Linkages and Implications”, *Economic and Political Weekly*, Vol. XLI, No.48, December 2, 2006.pp.4993-999.

¹⁵ Jyotindra Dasgupta, “Community Authenticity and Autonomy” in Amrita Basu and Atul Kohli, *Community Conflicts and the State in India*, (New Delhi: Oxford 1998); Jafa, *Op.cit*; Upadhyay. *Op.cit*.

¹⁶ Sanjay Barbora, “Rethinking India’s Counter-Insurgency Campaign in North East”, *Economic and Political Weekly*, Vol .XLI, No.35, September 2, 2006. pp 3805-3812.

¹⁷ *Op.cit*.

taken seriously by all those who aspire for peace in the North-East. There is a need to reduce militarisation, improve the quality of governance and policy delivery and further the prospects of sustainable development, which does not cause displacement and alienation. It is important that democratic spaces are strengthened and civil society institutions are involved in building bridges and increasing the prospects of peace. It is important that security is looked at from the perspective of people who feel insecure in their every day lives, either for reasons of state, or despite the state.

Security Scenario in Jammu and Kashmir

Internal security has persistently been a challenging issue in Jammu and Kashmir. However, security concerns assumed alarming proportions in the late 1980s, when militancy in Jammu and Kashmir became a major source of tension for the Indian state. The conflict in Kashmir has cost dearly in terms of the lives lost—26,226 lives have been lost in 43,956 incidents of violence in the state between 1988 and 2000—these include civilians, security personnel as well as militants. One thousand six hundred & sixty seven militancy related incidents were reported in the year 2006 and 1,133 lives were claimed by these. But this is not the only loss. The enormous sense of insecurity that is experienced in the everyday lives of people on account of conflict and the widespread human rights violations, particularly the misuse of Jammu and Kashmir Public Safety Act of 1978 has caused considerable frustration and hurt to the people of the state. Hundreds of people had gone missing in the state. As per official sources, a total of 3,744 persons had disappeared from 1990 to 2002 and 135 of them had been declared dead in June 2002. There were 60 complaints of custodial disappearance and 67 complaints of custodial killings from 1996 to 2002; the number was 15 and 26 respectively during 2003-2006. There have also been fake encounters and instances of rape and torture by the armed forces and police.¹⁸ The fear of being wrongly suspected and victimised is the most disturbing aspect of the situation.

Internal displacement has been the other disturbing aspect of the security scenario. While communal clashes and fear of militants is one aspect of displacements¹⁹, the other aspect of it follows from the approach to handling it. Military solutions themselves cause

¹⁸ On March 2, 2006, Chief Minister told the State Assembly that action was taken against 134 officers of the army, 79 personnel of BSF and 60 officials of the state police who were found guilty of custodial killings, torture, rape and molestation in the past 16 years. Of the 134 army officers, two were awarded life imprisonment, 59 rigorous imprisonments, 13 dismissed from service with one year imprisonment and five others dismissed from service. Asian Centre for Human Rights, *Indian Human Rights Report- Jammu and Kashmir 2007*. www.achrweb.org/reports/india/AR07/jammu.htm; Government of India, Ministry of Home Affairs *Annual Report*, 2007.

¹⁹ About 55,476 Kashmiri Pandit families were displaced in the state since early 1990. 34,088 of these were living in Jammu. Others were living in other states and union territories. Over 2,200 families had migrated in 1998 from Doda, Udhampur, Poonch and Rajouri regions, 400 of whom were staying in Talwara. Asian Centre for Human Rights *Op.cit.*

considerable uprooting of the people, besides adding to other insecurities on account of the presence of security forces, which have little training in dealing with civilians. According to the findings of an 11 member Parliamentary Standing Committee on Defence that visited Jammu and Kashmir in March 2002, over 200 villages of Jammu, Kathua, Rajouri, and Poonch districts had been affected by the build-up on the borders in general and laying of mines in particular. After the terrorist attack on the Indian Parliament, the army took over 70,100 acre of land in the border areas of which 23,000 acre have sprawling minefields²⁰. It was pointed out by the Committee that the loss suffered by border villages in Jammu, Kathua, Poonch, and Rajouri districts, owing to the military build-up, was to the tune of Rs.120.52 million. There is not enough awareness, much less effort to analyse other kinds of conflict-induced displacements. Each war, like Kargil, or even the fear of war, has dislocated people, many of whom await rehabilitation.²¹

Mining has become a matter of serious concern over the years as it adds to the insecurity of people in conflict-prone areas. Whether resorted to by the counter-insurgency forces, including the army and paramilitary, to bring down the suspected hideouts of militants and “securitise” the borderlands, or deployed by the militants themselves as a cheap and easily available weapon against the security forces, mine explosions are constantly adding to the population of the crippled and maimed in Jammu and Kashmir. In many areas landmines have been laid in agricultural and pastoral lands and civilians have been displaced from these areas. Apart from a large number of civilian casualties, deaths of livestock in large numbers on both sides of the border have also been reported, adversely affecting both agricultural and pastoral communities in India and Pakistan. Armed groups in Jammu and Kashmir indiscriminately use landmines on public highways and thoroughfares to ambush any convoys and injure hundreds of civilians in grenade attacks.²²

The fear of becoming an indiscriminate victim or being victimised for suspicion of disloyalty by both state forces and the militants pervades the everyday lives of people. Youth is increasingly turning towards drugs to escape these fears. The suicide rate in Kashmir is one of the worst in the country. Nearly 24,000 men and women, mostly youth, have attempted suicide in Kashmir in the last 17 years. Three thousand of them have been successful. A study conducted in the 1980s showed that Kashmir had the lowest suicide rate in the country. Suicide rate has risen now to almost twice the national average. In

²⁰ *The Tribune*, 4 March 2002, cited in Sanjay Chaturvedi, “The Ethno and the Geo: A New Look into Issue of Kashmir’s Autonomy” in Ranabir Samaddar, *op.cit*

²¹ Chaturvedi, *op.cit*.

²² Chaturvedi, *op. cit*. Chaturvedi points out, that there is not enough awareness about other kinds of conflict-induced displacements. Each war, like Kargil, or even the fear of war, has dislocated people, many of whom await rehabilitation while living in places like Devipur. Those living in the Beli Charana camps are the ones displaced due to militancy in the upper ridges and otherwise difficult hilly terrains.

2004, 1,137 persons tried to take their own lives, 62 of them died. Forty two persons committed suicide in the state in the first five months of 2007. Studies and surveys conducted by various reputed organisations and institutes have confirmed that psychological problems have been increasing in Jammu and Kashmir. Medecins Sans Frontiers (MSF), a Holland based humanitarian group conducted a survey in two areas on the impact of conflict. Of the 510 people interviewed, one in every 10 had lost one or more members of the immediate family between 1989 and 2002, and one in three had lost members of their extended families. Half of them felt occasionally safe and more than one third have had “suicidal ideations” last year.²³ According to a survey conducted by State Mental Health Society, around 80,000 people from Kashmir valley visited various mental health professionals during the year 2005-2006 and nearly three-fourths were diagnosed with serious psychological disorders. This represents an over twenty per cent increase from 2005 and reveals that the emotional and mental damage caused by the conflict continues to surge.²⁴ Breakdown of mental health is considered one of the most tragic effects of conflict.

Kashmir problem has been blamed upon a wide range of factors, from the ISI operations to the failure of the Indian government to respect the wishes of Kashmiris—to institute democracy and create a framework for effective self-rule and autonomy for the people of Kashmir. The heavy emphasis placed on ISI operations as reason for militancy in Kashmir accounts for the recommendation of an effective counter strategy against the security threats posed by the Pak ISI.²⁵

It is important to understand the problems in Kashmir in historical perspective. Kashmir has remained a conflict zone ever since its accession into India, which was opposed by Pakistan²⁶. The agreement of accession, which was signed with the then

²³ Aijaz Hussain, “Extremism of Another Kind”, *India Today*, July 9, 2007.

²⁴ Syed Junaid Hashmi, “Trauma of Daily Violence in Jammu and Kashmir Telling Upon Mental Health”, June 20, 2007, www.countercurrents.org/hashmi200607.htm. It is important to mention here that conflict has also increased tremendous stress for the police and security forces in the region. There are reports of increasing suicides as well as violence against colleagues committed by these.

²⁵ Government of India, Ministry of Home Affairs, *Report of Group of Ministers on National Security 2001*. The Annual Report of the Ministry of Home Affairs states: The Government have adopted a well coordinated and multi-pronged approach for tackling the activities of ISI by strengthening border management in order to check illegal cross-border activities, gearing up the intelligence machinery, closer interaction between different agencies of the Centre and the State Governments, neutralising plans of militants and anti-national elements by coordinated action, modernisation and upgradation of police and security forces with advanced sophisticated weapons and communication system etc. It is also emphasised that the Central Government has been sensitizing the State Governments about the threat perception and activities of ISI in the country. Periodic coordination meetings are also held with the State Governments for sharing the inputs received from various quarters as well as for devising strategies to counter such activities. Security agencies belonging to the Union and States have been working together to check the activities of ISI. Government of India, Ministry of Home Affairs, *Annual Report 2006-2007*, P.30.

²⁶ Pakistan backed the tribal invasion of Kashmir in 1947. Unable to defend his kingdom, the Maharaja of Kashmir sought India’s assistance and signed the Instrument of Accession, thereby paving the way for the Indian security forces to come to his aid.

Maharaja of Kashmir, was not acceptable to some political forces in Kashmir. Nehru's initial promise that the final decision on Kashmir would be taken on the basis of the will of the people was not fulfilled and this offended many in the state. Sheikh Abdullah of National Conference was against the position that Maharaja should decide about accession of Kashmir to India. There were others who favoured either Kashmir's independent status or its joining Pakistan on grounds of its being a Muslim majority state²⁷. Plebiscite remained the official policy till 1954—it was to be held when the conditions in the state were conducive.²⁸

The initial years saw an eager attempt by Nehru to ensure a secular and democratic order in Jammu and Kashmir. Supporting popular forces in Kashmir who could take a secular position on Kashmir was considered important in order to mobilise public opinion in favour of India. Nehru's support to the National Conference can be interpreted in this context—Sheikh Abdullah had openly questioned the undemocratic nature of the State of Pakistan and indicated that the question was not one of joining Pakistan but defining the autonomy of the Kashmir.²⁹ For Nehru, Kashmir symbolised secularism and winning over Kashmir meant strengthening secular credentials of India. The political conviction of the National Conference's largely Muslim leadership that Kashmir's autonomy would be better protected in a secular and democratic Indian state was a vital factor that influenced its accession in favour of India.

The keen concern to accommodate Kashmiri sensitivities was evident in the Constitution of India, which provided special status to Jammu and Kashmir under Article 370, as also, the Delhi Agreement of 1952, which abolished hereditary rule, vested residuary powers in the state, continued special citizenship rights for “state subjects,” permitted the state to fly a separate flag alongside the national flag, and, subject to certain restrictions and limitations, extended to Kashmir provisions of India's Constitution regarding fundamental rights, emergency powers of the President, and jurisdiction of the Supreme Court.

²⁷ India took the dispute to the UN Security Council in 1948, which passed a resolution noting that both India and Pakistan desired that the question of accession of Jammu and Kashmir should be decided through the democratic method of a free and impartial plebiscite, and recommending therefore to both the countries to create conditions for a free and impartial plebiscite.

²⁸ As B.N. Rao pointed out in a speech in 1950, India has never quite succeeded in refuting three misconceptions about the Kashmir conflict that were a direct result of British interventions in the Security Council. First, it was not a Hindu-Muslim conflict in Kashmir. Second, the trouble in Kashmir did not proceed from accession. In fact, the invasion preceded accession. Third, India's commitment to hold a plebiscite was self-imposed; there was nothing compelling it to do so since the signing of the Instrument of Accession would have achieved its desired goal. Sisir Gupta, *Kashmir: A Study in India-Pakistan Relations* (Bombay: Asia, 1966). P.206. India blamed Pakistan for not creating conditions for plebiscite and later took the position that in view of the vote to the Jammu and Kashmir Constituent Assembly in 1952 and subsequent national elections, there was no need for plebiscite.

²⁹ “Inaugural speech of Sheikh Mohammad Abdullah in the Constituent Assembly www.Kashmir_information.com/LegalDocs/Sheikh_Speech.html

Eventually, however, the conceptualisation of Kashmir's autonomy became a problem because of the inability of both Centre and the State to create a genuine federal framework which could give strength to the Kashmiris without breaking away from India. Sheikh Abdullah sought complete internal sovereignty and later began exploring the possibility of a sovereign state. He was arrested and imprisoned in 1953 and Ghulam Mohammad Bakshi's government was installed in the State. These actions set in motion a gradual dismantling of Article 370 and stifling of its democratic aspirations. Nehru wanted the National Conference to remain an affiliate of the Centre's Congress and was thus equally responsible for not allowing the democratic opposition to take root in Kashmir. He had concluded that "national interest was more important than democracy and as Kashmiri politics revolved around personalities, there was no material for democracy there. He subordinated the claims of democracy, morality and subnational aspirations to the claims of [a certain conceptualisation of] Indian nationalism. In the process, Kashmiris were denied even an accountable government, let alone self-determination."³⁰ The close identification of state government with the Centre implied the transformation of anti-government protests into anti-India feeling and furthered the process of alienation of the people of Jammu and Kashmir.

The agitation over the theft of the holy relic from the Hazaratbal shrine in 1963 resulted in strong protests against the state government and led to a change of regime. Ghulam Sadiq replaced Bakshi. In 1964, Kashmir conspiracy case against Sheikh Abdullah was withdrawn. Abdullah, who was still an important political force in Kashmir, now conceded to Kashmir's accession into India in matters of defence, external affairs and communications but did not accept the surrender of residual sovereignty. Final accession, he maintained, would depend on a plebiscite but a negotiated settlement could be considered. The process of negotiation, however, was disrupted with Nehru's death. During Sadiq's regime, misappropriation of a substantial portion of central aid for the state's economic development and denial of political rights due to the central government's short-sighted policies of bulldozing the constitutional and political integration of the state only furthered the alienation of the Kashmiris from the Indian state. The idea of joining Pakistan, however, still did not find popular support. After Pakistan's defeat in the 1971 war, Kashmiris seemed to have reconciled themselves to the finality of accession.³¹ Sheikh Abdullah explained, "Our dispute with Government of India is not about accession but it is about quantum of autonomy."³² Under the 1974 Kashmir Accord, Sheikh Abdullah accepted Jammu and Kashmir as a "constituent unit of the Union of India" and was told clearly that Article 370 could not be restored to its

³⁰ Sumantra Bose, *The Challenge in Kashmir: Democracy, Self-Determination and a Just Peace* (New Delhi: Sage, 1997).

³¹ Navnita Chadha Behera, *Demystifying Kashmir* (New Delhi: Dorling Kindersley, 2007)

³² Sheikh Abdullah, *Flames of the Chinar, Translated from Urdu by Khushwant Singh* (New Delhi: Viking, 1993). P.164

original form. Mrs. Gandhi therefore sought total submergence of subnational identities.³³

In the early eighties, the state witnessed a growing communalisation of political process- this was evident in the election campaign of various political parties. National Conference defeated the Congress in 1983 elections. However, the dismissal of two democratically elected governments in the subsequent period set the process of oppositional mobilisation in the state on a different path. The subsequent accord between National Conference and Congress party further closed the possibilities of any meaningful political dissent within the available institutional avenues. The period saw the rise of militant formations, which questioned the conduct of the Indian state as well as the existing status of Kashmir.³⁴ By 1989, the consistent erosion of Kashmir's political autonomy and the successive Centre-imposed rulers only strengthened the belief that there was little possibility of Kashmiris escaping their marginalisation in India, and this precipitated the demand for secession that marked the onset of militancy. In 1990 the underground militant movement erupted into mass processions and marked a shift in the official discourse towards a counter-insurgency strategy to check "cross-border terrorism".

Government has attempted a resolution of Kashmir problem through militarisation as well as negotiations—with the forces inside as well as outside. Some efforts backfired, others brought some hope, still others produced unanticipated fall-outs. Increasing military intervention to control the situation did not yield much results in terms of restoring peace in Kashmir. The State Assembly elections in 2002 brought to power the coalition led by People's Democratic Party (PDP) leader Mufti Mohammad Sayeed, which was replaced in 2005 as per coalition agreement by Ghulam Nabi Azad of the Congress party.

Several initiatives by the Central government to initiate a dialogue with militants, beginning with Planning Commission Chairman, K.C. Pant, made little headway. In 2002, the Centre tried to persuade the Hurriyat to contest the State Assembly elections. The Hurriyat was under tremendous pressure from the more militant groups to announce a boycott. Invitation was given to "all parties interested" in a dialogue in 2003. Hurriyat itself suffered a split in September 2003.³⁵ Two rounds of negotiations between the

³³ Behera, *op.cit.*

³⁴ The emergence of Jammu and Kashmir Liberation Front (JKLF), which sought 'independence' for Kashmir, the more fundamentalist Hizb-ul-Mujahiddeen (HM), which sought Kashmir's merger with Pakistan, the growing power of Harkat-ul-Ansar (HuA) and, later, the Lashkar-e-Taiba (LeT) were some such developments which marked the rise of violence in the state. The All Party Hurriyat Conference (APHC), a loose combine of twenty-three separatist outfits, was launched in 1993.

³⁵ JKLF's Yasin Malik and the Democratic Freedom Party's Shabir Shah distanced themselves from the other two factions, one led by the hard-line Islamist Geelani, which was supported by the Muttahida (United) Jihad Council along with the ultra right groups such as the Lashkar-e-Taiba and the Jaish-I-Mohammed and the other centrist faction led by Maulvi Abbas Ansari.. Later, they formed the Ittehad

moderate faction and the then Deputy Prime Minister, L.K. Advani, in January and March 2004 brought renewed threats by militants.³⁶

The situation at present is interpreted in the official discourse as promising and moving in the right direction. The two round table conferences organised by the government recently—one in February 2006 in Delhi, the other in May 2006 in Srinagar—have been hailed by many as a milestone in moving towards a viable solution to Kashmir issue. Addressed by the Prime Minister and attended by the whole spectrum of political parties, separatist leaders, and political groups these conferences provided a political platform where all the regions as well as ethno-religious and linguistic communities could have a direct say in the negotiating process. This is a move in the direction of exploring intra-regional democracy and institutional possibilities of greater federalisation keeping in view the concerns of various ethno-linguistic communities in the region. The Valley leadership—the separatists as well as the mainstream political parties—remained critical, however.³⁷ Five working groups were formed, four of which have submitted their report. These were discussed at the third round table conference, which was held recently. Government is focusing on confidence building measures and rehabilitation initiatives. The possibilities of ‘making borders irrelevant’ are being talked about though demands for demilitarisation have not been conceded and the violation of human rights and insecurity in every day life remain a cause of worry.

An important line of argument explaining the Kashmir problems is that short-term political expediency was favoured at the expense of democracy and the politics of identity, connected to region and religion, became more important in political mobilisation than long-term socio-economic development based on universalistic values and that cross-cutting cleavages in society were replaced by one-dimensional affiliations and strong polarisation creating space for the mobilisation of Kashmiri Muslims against the Indian state.³⁸

Force along with other separatists and the Kashmir Bar Association in order to broker a peace between the two warring groups. That effort also failed. See Behera, *op.cit.*

³⁶ Praveen Swami, “A Meaningful Course,” *Frontline*, February 13, 2004.

³⁷ Hurriyat leader Mirwaiz Umar Farooq characterized it as a “crowded” seminar,” and chose to stay away while PDP president Mehbooba Mufti argued that the participants should be exclusive to main significant political parties rather than a huge crowd.

³⁸ Sten Widmalm, “The Rise and Fall of Democracy in Jammu and Kashmir” in Amrita Basu and Atul Kohli, eds., *Community Conflicts and the State in India*, (New Delhi: Oxford, 2001). Widmalm, however, adds to his list of prescriptions when he says: Democracy can obviously aid the nation-building project, but this does not mean that it is an infallible prescription for nation building or peace. During the past two years, the central government tried to reinstall democracy in JK and, although polling for both the Lok Sabha and the Vidhan Sabha took place in 1996, stability has not ensued. But democracy is more than elections. Institutions such as courts, the police, the Election Commission, and public administration need serious reform if they are once more to function in an independent manner. Moreover, bringing peace to a conflict requires a diplomatic solution as well. Until that is accomplished, we can expect the authority of both the Central government and the state government to be challenged by influential groups in the area by violent means. *Op. cit.*, pp.181-182.

Another explanation is that the autonomy demand of people of Jammu and Kashmir has not been well responded to. The issue of regional autonomy has not been handled effectively. Only a federal and decentralised polity can preserve emotional and political unity in a diverse state like Jammu and Kashmir. Regional identities are the greatest secularising force in the State. Secularised regions of Jammu and Ladakh are the best guarantees of preserving Kashmiri identity. The question, therefore, is how to reconcile the interests and urges of the three regions to make a harmonious personality of the state. Without that any dialogue on its external status may encourage sectarian and communal forces that could threaten the secular character of the State and the country as also peace in the subcontinent. An over-centralised unitary system in as diverse a State as Jammu and Kashmir will continue to complicate problem and perpetuate governmental instability.³⁹

It is noteworthy that in September 1996, soon after coming to power, Farooq Abdullah appointed two state-level committees to examine the issue of autonomy – one, the State Autonomy Committee, entrusted with the issue of inter-state or “external” aspect, implying the relationship between the Central government and the State of Jammu and Kashmir, the other, the Regional Autonomy Committee (RAC), responsible for its intra-state or “internal” aspect, or the relationship among the three regions of Jammu, Ladakh, and Kashmir Valley. The Report of the State Autonomy Committee was formally accepted by the National Conference government in January 2000. Many commentators apprehended that granting autonomy would mean a serious threat to the integrity of the country with the possibility of balkanisation.

The Regional Autonomy Committee Report advocates the reorganisation of the State into eight new “provinces”, whose boundaries are defined on ethno-religious lines, framing it more in terms of a “grant” of autonomy rather than ‘demands’ for autonomy. The State Assembly’s strong support to the Report in June 2000, however, invited a loud opposition.⁴⁰ While the Union Cabinet reaffirmed its commitment to “devolution of power” to the States of the Indian Union, it argued that, “the acceptance of this resolution will set the clock back and reverse the natural process of harmonising the aspirations of the people of Jammu and Kashmir with the integrity of the nation”.⁴¹ The Report has been criticised for endorsing the idea of following communal faultlines by recommending that the State be reorganised into eight provinces. It emphasised the ethno-cultural, religious and linguistic homogeneity of Kashmir valley, yet recommended its division

³⁹ Balraj Puri, “Without Federalism and Decentralisation Kashmir Problem will continue to Deteriorate”, *Mainstream*, Vol. XLV, No. 16, April 6-12, 2007, pp.4-6.

⁴⁰ Perceiving that the status of Jammu and Ladakh would be further marginalised in the new ethno-geopolitical order, the “representatives” of the state’s Hindu and Buddhist minorities demanded an absolute rejection of the Report. On 30 June 2000, the Ladakh Autonomous Hill Development Council unanimously passed a resolution at its general council meeting demanding “separation” from Jammu and Kashmir and the status of a Union Territory.

⁴¹ On 4 July 2000, the BJP-led Union Cabinet termed the State Assembly’s so called autonomy resolution “unacceptable.”

into three new provinces.⁴² There are more differences than agreement on the way in which autonomy question needs to be handled in Jammu and Kashmir. The debate is likely to be influenced by the security experiences of the people as much as the perceptions of possibilities, which an arrangement would offer to specific communities.

The road to peace in Jammu and Kashmir is not easy, especially in view of the fact that political mobilisation on communal lines has served the dominant political forces. At the same time there is the issue of state credibility, which becomes suspect every time there is a violation of human rights by any of the state agencies. Persisting climate of terror affects the participation of people as citizens of a free and democratic society; it also affects the morale of forces engaged to provide military solutions and puts them under undue stress to perform, when performance is measured in terms of the militants killed. Peace must come with a sense of security from being terrorised – on the mere suspicion of being with the other side. The road to peace must build on trust. The various confidence-building measures and engagement of civil society in instituting and furthering the peace process offers hope in this respect. Every step in that direction must strengthen the forces of democracy and must create effective institutions of democracy and federalism—for the articulation of self-rule for all communities in the region. Peace and security in Kashmir would depend on the availability and effectiveness of institutional mechanisms for the resolution of the crisis of identity and autonomy. It will also require governance which can instill a sense of ownership in the people who wish to live with a sense of pride in their culture.

Locating Security Concerns in Naxal Areas

The third important area of concern evident in the official discourse on internal security⁴³ is the growth of naxalism across the country. A Chief Ministers' meeting deliberated on the issue in April 2006. In his address at the meeting, Prime Minister Man Mohan Singh underlined, “the Naxalite movement may have lost much of its intellectual attraction, but has gained in strength and has now spread to over 160 districts all over the country”. He further emphasised the need to recognise that:

...naxalism is not merely a law and order issue. In many areas, the phenomenon of naxalism is directly related to under-development. Exploitation, artificially depressed wages, iniquitous socio-political circumstances, inadequate employment opportunities, lack of access to resources, under-developed agriculture, geographical isolation, lack of and reforms—all contribute significantly to the growth of the naxalite movement. All these factors have to be

⁴² Behera, *op.cit.* p.135

⁴³ Government of India, Ministry of Home Affairs, *Status Paper on Internal Security Situation*, 2007; Ministry of Home Affairs, *Status Paper on the Naxal Problem*, 2006.

taken into consideration as we evolve solutions for facing the challenge of naxalism.

In the *Status Paper on the Naxal Problem* tabled in Parliament in March 2006, the Ministry of Home Affairs underlined:

The Naxalite movement continues to persist in terms of spatial spread, intensity of violence, militarisation and consolidation, ominous linkages with subversive/secessionist groups and increased efforts to elicit mass support. The naxalites operate in vacuum created by absence of administrative and political institutions, espouse the local demands and take advantage of the disenchantment prevalent among the exploited segments of the population and seek to offer an alternative system of governance which promises emancipation of these segments from the clutches of ‘exploiter’ classes through the barrel of a gun.⁴⁴

In 1969, coinciding with the emergence of the naxalite movement, the Research and Policy Division of the Ministry of Home Affairs produced a pioneering study on the ‘Causes and Nature of Current Agrarian Unrest’, which warned that the ‘green revolution’ could turn into a ‘red revolution’ if appropriate land reform measures were not taken to ensure social justice. The study found that the new technocratic approach to the development of the rural economy, based as it was on an outmoded agrarian structure, was geared to the goal of productivity but with secondary regard for social imperatives, leading to a situation in which “elements of disparity, instability and unrest are becoming conspicuous with the possibility of increase in tensions”. It noted the administrative obstacles to the implementation of agrarian reforms: lack of qualifications and integrity necessary for the administration of tenancy reforms on the part of civil servants, who were also overburdened with other responsibilities; insufficient co-ordination between the state agency for land reforms and the agriculture and co-operative departments; lack of correct and updated land records; weak budgetary support; illiteracy and ignorance on the part of tenants; dual role of landlords as moneylenders; heterogeneous interests of the village population; and the gulf in social status separating tenants from landlords, which influenced the administrative and judicial authorities handling land disputes. The study was discussed in Parliament and the press and state governments were urged to implement land reform measures expeditiously.⁴⁵

⁴⁴ Government of India, Ministry of Home Affairs, *Status Paper on the Naxal Problem*, 2006

⁴⁵ K.S. Subramanian, “Naxalite Movement and the Union Home Ministry”, *Economic and Political Weekly*, Vol. XL, No. 7, February 19, 2005. pp. 728-29. According to Subramanian, “The Naxalite movement, based on the interests of the rural poor, cannot be usefully regarded as an ‘internal security’ matter except perhaps in demented discourses on ‘national security’. A movement for social justice, it emerged in the late 1960s as an armed peasant struggle in the Naxalbari subdivision of the Siliguri district of West Bengal and spread like forest fire to Andhra Pradesh and Kerala. Political repression worked temporarily but the underlying social issues persisted and the movement has retained its presence. These

In Andhra Pradesh, where the movement has been strong, the Committee of Concerned Citizens (CCC), a civil society initiative, has graphically brought out a report on increasing state violence, the Naxalite response and the on-going peace efforts. Underlining that over the last three decades of the movement's existence in the state, weapons have gained in prominence and pushed politics to the background. The CCC observed that as the Andhra Pradesh government ignored that Naxalite movement was essentially an expression of the people's aspiration to a life of dignity and self-respect and viewed it as a law and order problem, this led to physical liquidation of people in so-called 'encounters'; repression and harassment of people by illegal detention, torture and false cases; suppression of democratic activities; unlawful behaviour towards democratic organisations; and encouragement of vigilante groups. The political leadership of the state shifted its burden to the police, encouraging them to indulge in 'encounters', which are nothing but custodial and targeted killings. The thrust of the naxalite movement also changed towards 'military' action. The movement today connotes a confrontation between the police and the naxalites, each with its own agenda of violence. The democratic space has shrunk fast; state and society are brutalised. The need to restraint on the part of state is considered crucial for the restoration of rule of law.⁴⁶ The situation in Andhra Pradesh has improved somewhat with the talks between the state government and naxalites.

In 2006, naxal violence was reported from 395 police stations in 11 states in the country. It was reported from around 27 per cent police stations in the States of Jharkhand and Chattisgarh. There have been 1,509 incidents of naxal violence in 2006 as against 1,608 incidents in 2005, indicating a decline of 6.15 per cent. Resultant casualties in 2006, however, were 678 as against 677 casualties in 2005. Chhattisgarh and Jharkhand together accounted for 68 per cent of total incidents and 75 per cent of total casualties. Chhattisgarh alone accounted for 47.38 per cent of total incidents and 57.22 per cent of total casualties during 2006.⁴⁷ It is noteworthy that even while official discourse appears to convey the impression of naxalite movement being one organised movement, in effect there emerged three major formations in the post 1977 years, which differ on their approach to achieve socio-economic transformation.⁴⁸

The Prime Minister's advice to the state Chief Ministers concerned about naxalism was to focus on good governance and evolve management and containment strategy. This

issues have become pressing, given the intensity of the agrarian crisis, which has been well documented recently."

⁴⁶ Subramanian, *op.cit.*

⁴⁷ Government of India, Ministry of Home Affairs, *Status Paper on Internal Security Situation, 2007.*

⁴⁸ For an account of the evolution of naxalite movement, see Manoranjan Mohanty, "Challenges of Revolutionary Violence-The Naxalite Movement in Perspective", *Economic and Political Weekly*, Vol. XL, No. 29, July 22, 2006. pp.3163-3168. Mohanty dismisses the talk of "red corridor" stretching from the border of Nepal, through Bihar, Jharkhand, Chattisgarh, Orissa, Andhra Pradesh and all the way to Karnataka as "not much of a reality" because there are "many gaps and variations in the degree of influence".

was expected to include effective implementation of development programmes, periodic monitoring and ensuring that there were no leakages. The Chief Ministers were also advised to consider reducing the burden of debt on the rural poor tribals. They could reduce the unnecessary harassment of tribals by compounding and closing small forest offences. They could provide effective price and procurement support to produce in tribal areas. They could initiate another wave of rural reforms, which can ensure employment and land to the poorest in these areas. They could promote local participation in governance.⁴⁹ These are indeed promising possibilities. If only these could be delivered, things would be different. But what happened at the level of policy?

In the State of Chhattisgarh, which is admittedly the worst affected state of India in terms of incidents as well as casualties, a counter-offensive has been launched against naxalism in the form of *Salwa Judum*. Most media and official reports described this movement for quite some time as a spontaneous and self-initiated reaction of *adivasis* of Dantewada district to maoist oppression, and hailed it as a turning point in the fight against naxalism. A fourteen-member team from five organisations conducted an investigation in 2005 in Bijapur and Bhairamgarh blocks of Dantewada district.⁵⁰ The Report was emphatic in its conclusions:

On the basis of the fact-finding, three facts stood out strongly, all of which ran counter to the government's assertions: First, it is clear that the *Salwa Judum* is not a spontaneous people's movement, but a state-organised anti-insurgency campaign. Second, it is misleading to describe the situation as simply one where ordinary villagers are caught between the Maoists and the military. The Maoists have widespread support and as long as people continued to live in the villages, it was difficult for the government to isolate the Maoists. Rather than questioning its own non-performance on basic development, the government has resorted to clearing villages on a large scale. Tens of thousands of people are now refugees in temporary roadside camps or living with relatives with complete disruption of their daily lives. Prospects for their return are currently dim. Third, the entire operation, instead of being a peace mission as it is claimed, has escalated violence on all sides.⁵¹

Chhattisgarh Government reported recently that it spent Rs.36.5 million on food and Rs.700,000 on transportation for villagers in relief camps under the *Salwa Judum* movement. A total of 46,945 villagers were living in various relief camps in the district. A total of 268 civilians had been killed since the movement began and the government

⁴⁹ <http://pmindia.nic.in/speech/content.asp?id=311>

⁵⁰ The organisations are: People's Union for Civil Liberties (PUCL) Chhattisgarh, People's Union For Civil Liberties (PUCL) Jharkhand, People's Union for Democratic Rights (PUDR) Delhi, Association for the Protection of Democratic Rights (APDR) West Bengal, and Indian Association of People's Lawyers (IAPL).

⁵¹ <http://www.pucl.org/Topics/human-rights/2006/salwajudum.htm>

paid Rs.31 million to the families of the deceased as economic assistance, and about Rs.3.8 million to 796 people who were injured in attacks, the release said.⁵² It remains to be seen how normalcy can be restored in these areas, where resources and energy of government is directed towards what is described as ‘militarisation of villages’⁵³.

In its *Annual Report for 2005-06*, the Ministry of Home Affairs identified three priority areas to deal with the naxal problem. These pertain to local capacity-building of the affected states in terms of intelligence gathering and training police forces for effective military action; making administrative machinery more responsive, transparent and sensitive for effectively dealing with public grievances; and encouraging peace dialogues between the affected states and the naxal groups. In an endeavour to combine the traditional security perspective with the development perspective, three schemes have been provided to strengthen the security apparatus at the state level—Security-Related Expenditure (SRE)⁵⁴, Police Modernisation and Backward District Initiative (BDI). The naxal affected states have been asked to ensure effective implementation of land reforms, Panchayat (Extension to Scheduled Areas) Act, the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 and formulation of resettlement and rehabilitation policy for displaced tribals, enhance government presence, establish better delivery systems for people-centric developmental activities in naxal-affected districts and ensure proper and full utilisation of funds under various developmental schemes. If only these initiatives could be taken to their logical end, there would be little need for huge expenditure on technologies of control/ self-defence for police and intelligence establishment in these states, or in other states in the near future.

If one looks closely at the people’s experiences of policy in some of the most disturbed areas, policy appears to be a work of fiction, which exists only in the imagination of people who arrived at it, who believed in it and who visualised its outcomes. The policy that reaches the local context, the context where it is presumably needed and would be able to deliver some transformation of life, is already transformed. Often it is transformed into an instrument of corruption, and provides avenues of prosperity to both bureaucracy and the elite, which is ready for its appropriation regardless of its ineligibility. In such contexts, where minimum wage is meant only to find entry in the muster rolls, where demand for minimum wage can amount to a denial of work itself, where benefits of development programmes cannot reach in the absence of infrastructure, where food and water are still a hard struggle and education a distant dream at best, where rights are never experienced except by a few and where hierarchical

⁵² *Indo Asian News Service*, June 4, 2007.

⁵³ <http://www.pucl.org/Topics/human-rights/2006/salwajudum.htm>

⁵⁴ SRE envisages the grant of mandatory reimbursements to the families of policemen and civilians killed in conflict, the provision of training to state police forces, encouragement to community policing by local police, provision of rehabilitation to surrendered Naxalites, lump-sum grants to village Defence Committees and an honorarium to Special Police Officers.

order is deeply entrenched, policy is not what policy ought to be. Policy is what it is made out to be. There is no scope for debating its meaning; the meaning is already set. Policy is meaningful only for those who had the means for appropriating its gains. PDS food diverts to the flour mills or smaller shops, medicines and books rarely arrive at the time of need, construction money is siphoned away though expenditure keeps regularly entering the books. When such is the delivery of policy, there is an annihilation of faith. The state begins to appear alien.

The victims of structural deprivation are rendered silent witnesses to misappropriation of policy meant for them. The victims stay quiet, often for long, waiting to hear the first voice of protest. And they join the voice if they can be convinced that this would deliver. Frequently, the voice gets louder with time and conviction. This is when conflict becomes manifest. This is when state feels the need for more police and paramilitary presence. This is when fortification of vulnerable police stations, filling up of vacancies in State police, expeditious raising of India Reserve battalions, optimal utilisation of Central paramilitary forces, earmarking of de-mining units, streamlining of inter-state joint operations, improving operational and grassroots intelligence on naxal related activities, intensifying intelligence based anti-naxal operations become a key area of concern for policy-makers. There is a need to seriously rethink policy delivery for the poor and marginalised. And this also requires a careful exercise at the very conceptualisation of policy in order to rule out the negative fall-outs of policy for the people at large. The large-scale uprooting and displacement of the poor, the marginalising nature of some programmes of development and the lack of locally sensitive policies has had an alienating effect on people. The frequent encounters with the insensitivity of police in the process of execution of such policies further contribute a reduction of public trust in state institutions. State itself creates the entry points for naxalism—through its actions and inactions.

Any concern for addressing the issue of naxalism requires a serious rethinking about the very framework of public policy and governance. A participatory approach to public policy and effective political institutions, ensuring accountability and social justice is crucial to build bridges on which India can progress. And progress without leaving out a vast section of society to either submit to an exploitative order or leaving it with little option but to turn towards the unlawful. It is important to create possibilities of associating people who wish to see a better India, capable of instituting justice as a way of life with the very processes of writing their future and giving them a legitimate space in the policy processes defining the future of India. State must not stop at a few gestures towards accommodation of the concerns of the poor; it must get into an assimilation mode and ensure that concerns of the poor matter to the very heart of policy. Structural disparities must be addressed and state should ensure social justice in every day existence of people.

The Pervasive Security Concerns

Apart from the issues of concern, which are specific to certain regions, there are security concerns of pervasive nature, though regional variations in their expression cannot be denied and the reasons can be found for this variation too.

Caste Conflicts

In the caste divided hierarchical social order of India, caste conflicts have also emerged quite frequently, especially so in specific local contexts where small incidents sometimes resulted in clashes of the worst kind, taking many lives and resulting in a tense and insecure environment for a long time to follow. Sometimes, a challenge to existing patterns of domination was at the centre of these clashes—the narratives of atrocities on *dalits* to ascertain subjugation are a moving comment on the system. On other occasions, state was targeted for its actions or inactions on specific issues of concern—settlement of both identity issues and resource claims and concerns for social justice was attempted through caste mobilisation. Intensification of conflicts with other castes or state agencies themselves generated insecurities in the process. The biased outlook of state functionaries, especially the role of police in handling situations of caste conflict has come in for strong criticism. Recent years have seen reservation issue become a ground for widespread agitations. Perception of insecurity in accessing the limited avenues for education and jobs on account of reservation for the SCs, STs and backward castes has been at the centre of such anti-reservation agitations. Conflicts also emerged on the issue of inclusion or exclusion of specific castes in the list of SCs and STs.⁵⁵ From agrarian conflicts between the *bhumi senas* and *dalit senas* to the urban conflicts on reservation in educational institutions, the common thread is the lack of appropriate institutional and policy instruments, which may create space for addressing the insecurities of all, without any compromises on justice and rights. There is a need to explore the possibilities of addressing the issues of fairness and justice in a more effective manner given the wide-ranging nature of disparities and opportunities available to people at different levels.

Communal Clashes

⁵⁵ This has also been true of specific Scheduled Tribes- the recent clashes between the Gujjar and Meena communities in Rajasthan on the issue of inclusion of the former in the category of Scheduled Tribes became a source of insecurity for the Meenas whose share of jobs would get affected as a consequence of the inclusion of Gujjars in the category.

Communal tensions have been the other source of insecurity, which have surfaced in the form of riots in many parts of the country on many occasions. There has been a long history of Hindu-Muslim conflicts. Tensions build up in some areas with a degree of regularity, as on the occasion of some religious festival when religious symbols could be used for instigation. But there have been areas of peace during such phases of tension and conflict. This has been so despite the fact of the presence of the two communities in these areas. The history of riots and peace zones as well as the history of temporal variation in the riot-prone regions does bring to light the role of instigators and perpetrators of violence in certain contexts. The organised nature of many of the violent incidents, which may appear to be sporadic and driven by people at large, has increasingly been brought to light by the various inquiry commissions or reports of state agencies themselves.⁵⁶ The National Commission on Human Rights drew attention towards the organised nature of Gujarat riots—this was also true of the anti-Sikh riots of 1984 and the Mumbai riots of 1993. The role of police during these riots also came into question.⁵⁷ The victimisation of women in situations of conflicts, especially during riots, has been the worst. Women suffer as victims of rape, molestation and other harassment during disturbances; but they are also discriminated against in post-conflict situations because of policy bias in matters of relief and rehabilitation.⁵⁸

A Communal Violence (Prevention, Control and Rehabilitation) Bill, has been proposed to address some of the issues related to communal violence more effectively. However, it is important to go beyond the state-centred notion of security if any effective results are expected. There is evidence of the role of civil society in keeping peace under conditions of tension. Not only that a vibrant civil society is also attributed with the successful prevention of communal riots.⁵⁹ It is important to build on the issue of peace and harmony through an active engagement of civil society institutions. The widespread sense of insecurity among the minority community also needs to be addressed at a general policy level—while Constitutional protection to cultural rights

⁵⁶ For an academic analysis of the role of 'institutionalized riot system' in caste and communal riots, see Paul Brass, *Theft of an Idol: Text and Context in the Representation of Collective Violence* (Calcutta: Seagull, 1998).

⁵⁷ National Human Rights Commission, *Proceedings of the Commission on Gujarat*, New Delhi, 2002; also see People's Union for Civil Liberties, *an Interim Report to the National Human Rights Commission*, New Delhi, 2002. The Srikrishna Commission Inquiry Report on Mumbai riots has put a question mark on the role of politicians too. Many of the recommendations of the Report have remained unimplemented.

⁵⁸ Ministry of Women and Child Development, *Report of the Working Group on the Empowerment of Women for the Eleventh Plan*, 2006. The Report underlined, "Experiences from the ground and various reports are now showing that women are specifically targeted in situations of communal and sectarian violence as they embody the so-called honor of the community." It is further emphasized that in area experiencing tension and conflict like the Northeast and Kashmir women are particularly vulnerable and are caught in the crossfire. P.62.

⁵⁹ Ashutosh Vashney, "Ethnic Conflict and Civil Society - India and Beyond, *World Politics* Vol. 53, April 2001; and Ashutosh Vashney, *Ethnic Conflict and Civic Life: Hindus and Muslims in India* (New Haven: Yale University Press, 2002).

has been provided, the persisting or growing disparities across communities are a cause of concern.⁶⁰

The Worsening Crime Scenario

The crime scenario in the country is alarming. During the year 2006, 16.69 lakh IPC crimes were reported in the country—Madhya Pradesh accounted for 10.4 per cent of total crimes reported, closely followed by Maharashtra and Tamil Nadu, accounting for 10.3 per cent and 8.9 per cent respectively. In the year 2005, violent crimes against body comprising murder, culpable homicide not amounting to murder, kidnapping and abduction and hurt stood at 4.29 lakh, accounting for 23.6 per cent of the total IPC crimes during the year. A total of 3.88 lakh violent crimes against property comprising dacoity, preparation and assembly for dacoity, robbery, burglary and theft were recorded, implying a share 21.3 per cent in the total IPC crimes at the national level. 64.68 lakh violent crimes against public order comprising of riots and arson were reported during the year. A total of 36.79 lakh crimes were reported during the year 2006 under various Special and Local Laws as against 32.03 lakh crimes in the previous year, showing an increase of 14.8 per cent in 2006.⁶¹ And there are also a large number of cases that went unreported.

The disturbing fact is that the crime rate has worsened over the period of reforms in India, and decline has been worse in the states, which moved ahead faster.⁶² Crimes against women and children have worsened despite the large number of protective laws and schemes, which remain in existence. A total of 1,55,553 incidents of crimes against women were reported during 2005.⁶³ During 2004 the incidence of torture and molestations accounted for 37.7 per cent and 22.4 per cent respectively of the total crimes against women, followed by cases of rape, kidnapping, abduction to the extent of 11.8 per cent and 10.1 per cent. Even more shocking is the fact that 2.9 per cent of the rape victims were less than 10 years of age- the number would be larger as most cases go unreported due to social stigma attached to rape. In 2004, 19.7 per cent rape cases have been tried in the courts out of the total of 71,620 cases for trial and in only 25.2 per cent of cases conviction was made. The crime data pertaining to 2004 maintained by the National Crime Records Bureau reveals a crime committed against women in India every three minutes, a molestation case every 15 minutes, a rape case every 29 minutes, a sexual harassment case every 53 minutes, a dowry death case every 77 minutes, a cruelty

⁶⁰ Sachar Committee has brought this out in its Report submitted to the government in 2006.

⁶¹ Government of India, Ministry of Home Affairs, *Annual Report, 2006-07*.

⁶² Government of India, Planning Commission, *Human Development Report India, 2001*.

⁶³ Government of India, Ministry of Home Affairs, *Annual Report, 2006-07*; Government of India, Ministry of Home Affairs, National Crime Records Bureau, *Crimes in India, 2006*.

by husband and relatives case every nine minutes. So much for the security of women in the India after 60 years of Independence. The growing insecurity of women in India reflects further in the sharp decline in the juvenile sex ratio on account of foeticide following the use of the technology-enabled Sex Determination tests—seventy districts recorded more than 50 point decline during the decade 1991-2001.⁶⁴

Security prospects for the people depend to a considerable extent on the very state of governance and the extent of institutional accountability. The poor credibility and accountability of police, an agency created to enhance the security of citizens, has been a reason for worry. Fake encounters, custodial death, custodial rape, false cases, non-registration of FIR, demanding bribe, destroying evidence, pressurising witnesses to change their statements, there are innumerable allegations which are often made against police. Charges of misuse of power have often been levied against the paramilitary forces and the army. The fear of becoming a victim of any of these is so real that people prefer to be at a distance from any of these. It is very difficult to convince a common citizen to give evidence in a case because of this apprehension of being victimised. The police-politician-criminal nexus is becoming increasingly evident. The questionable role of police came to light even during instances of large-scale violence as, for instance, in anti-Sikh riots or the Gujarat riots. Police working under political pressure is a major problem area; but police has also been blamed for communal intent. Police accountability to public is a more serious matter than it is considered.

The Supreme Court in a landmark judgment delivered in September 2006, took a major step towards initiating police reforms with a view to insulate the police from extraneous influences, giving it functional autonomy and ensuring its accountability. These pertained to the setting up of three institutions at the state level: State Security Commission, Police Establishment Board and Police Complaints Authorities. The Court also ordered the separation of investigative and law and order functions of the police, instructed about the selection process of DGP and a fixed tenure for him, minimum tenure for police officers in the field.⁶⁵ The implementation and effectiveness of these reforms, however, remains to be seen—the states of Maharashtra, Gujarat, Rajasthan and UP have not complied with any of the directions so far though a few of these have been taken up for implementation by some other states.

The *Report of the Group of Ministers on National Security* took note of the failure of State police to effectively maintain law and order and held it responsible for the erosion in the credibility of the Government and for emboldening criminal elements to persist with their unlawful activities with impunity. The report emphasised the need to restore the fitness, capacity and morale of the State police forces, through a transparent

⁶⁴ Ministry of Women and Child Development, *Report of the Working Group on the Empowerment of Women for the Eleventh Plan*, 2006. The gender gap increased far more in the economically developed regions like Haryana, Punjab, Delhi and Gujarat.

⁶⁵ *Prakash Singh and oths. Vs. Union of India and oths.*(2006).

recruitment and promotion process, a well thought-out training regimen and sensitisation to the demands of their profession as well as the expectations of the people. Improved living and working conditions of police, modernisation of the police apparatus and improving police image came to be identified as priority areas. The Group also recommended the modernisation and training of the central paramilitary forces to cope with the tasks expected of them in the prevailing internal security scenario. It also suggested the upgradation of the central intelligence agencies, notably the Intelligence Bureau as well as the intelligence apparatus in the states so that they could provide timely operational intelligence to enable security forces to launch operations. The Report also took a serious note of the slow pace of criminal justice and underlined that the law enforcement machinery must be effectively backed by an efficient criminal justice system. Towards that end, it suggested improvements in the investigation and prosecution functions and suitable modification in the provisions of various laws.

The criminal justice system in India suffers from a huge pendency of cases. It is a matter of concern that there are 2.59 crore cases pending in the courts across the country. Of the total pending cases, the high courts account for 98 lakh cases and the apex court for 43,000. The strengthening of the judicial system is required to reduce the number and ensure speedy justice.⁶⁶ The very low conviction rate involving serious crimes is another serious problem, which contributes to the prevailing sense of security for the common people. The Malimath Committee on Criminal Justice System Reforms noted:

It is common knowledge that the two major problems besieging the Criminal Justice System are huge pendency of criminal cases and the inordinate delay in disposal of criminal cases on the one hand and the very low rate of conviction in cases involving serious crimes on the other. This has encouraged crime. Violence and organised crimes have become the order of the day. As chances of convictions are remote, crime has become a profitable business. Life has become unsafe and people live in constant fear. Law and order situation has deteriorated and the citizens have lost confidence in the Criminal Justice System.⁶⁷

Reforms are called for at multiple levels to strengthen criminal justice administration. Discourse on internal security must incorporate people's concern for effective and speedy delivery of justice and pay urgent attention to reform the judicial system too. The Malimath Committee made 158 recommendations to revamp the criminal justice system- the Report has been forwarded to the state governments for their views.⁶⁸ A *Draft National Policy Paper on Criminal Justice System* is pending for

⁶⁶ Chief Justice K.G. Balakrishnan revealed this while inaugurating the centenary celebrations of the Kollam Bar Association. *Deccan Herald*, August 12, 2007.

⁶⁷ Government of India, Ministry of Home Affairs, *Report of the Committee on Reforms of Criminal Justice System*, pp.4-5.

⁶⁸ For a discussion on some of these recommendations and other reform initiatives, see J. Guha Roy, "Reforms in Criminal Justice", Theme Paper for the 50th Members' Annual Conference of IIPA, 2006.

consideration of government. An amendment has been proposed in the Code of Criminal Procedure in line with the recommendations of the Law Commission in its 154th, 177th and 178th Reports. A model Police Act is also being considered by the government to address some of the issues, which pose a major challenge to the security of the people. These issues are still being debated.

It is important to mention here that new threats to internal security have emerged out of illicit narcotics trade, smuggling of weapons and explosives, money laundering and hawala transactions as well as a variety of other economic offences. The crime industry is growing at a scale, which was unimaginable a few years ago. New technologies are being put in the service of crime and increasing the sense of insecurity of both state agencies and the people.⁶⁹ Globalisation has offered new possibilities of crime and added new dimensions to the crime scene making it far easier to operate organised gangs and execute crime worldwide without the physical barriers of time or space. Many of these complexities require legal and policy instruments to be addressed effectively. However, in a context where criminal-politician-bureaucrat nexus is a source of concern, addressing the issue of organised crime is a serious challenge. For, those who need to introduce or operationalise reforms and design the system to deliver justice and peace to the people are themselves the beneficiaries of *status quo*.

The real question that confronts the security reforms enthusiasts is: Can any effective scheme of reforms then emerge from the state? Or, how meaningfully can the civil society engage with the process of change, which can bring about peace and security into the everyday lives of the people of India?

Conclusion

This paper has attempted an analysis of security issues in a framework of regional specificity as well as the pervasive concerns, which are not region-bound though they may become more or less evident in specific regions. In India, problems of internal security in Jammu and Kashmir, North-East and Naxalism affected areas cannot be understood, much less addressed, without comprehending the local and historical context of the emergence or persistence of security challenges. In fact, the very conceptualisation of security issues in these contexts is problematic because of reasons of history as well as prevailing political economy of these regions. Caste and communal tensions frequently assumed explosive dimensions in some space-time configurations. However, these also remained a pervasive source of conflict and insecurity, which could manifest in violence-localised or large-scale—by some communities or castes, directed at the communities or castes identified as the ‘other’ and perceived as a threat to identity or resource claims. State was also targeted when perceived as belonging to the ‘other’ or when expected to

⁶⁹ This was also taken note of by the Group of Ministers on Internal Security. Government of India, Ministry of Home Affairs, *Report of Group of Ministers*, 2001.

legitimise the claims being put forth. These apart, the crime situation in general has been quite deplorable, posing security problems of threatening proportions in the everyday lives of people. The organised nature of crime, even when it appears to have individuals as targets, has posed new challenges and added further complexity to the security scenario in the country.

Interestingly enough, the history of post-independence India remains a history of competing pulls, marked by demands for accommodation or autonomy, violent disturbances for or against accommodation, use of coercive apparatus to handle the situation and accords and reconciliation gestures, reflecting the dialectics of state-people relations, seeking out new roads to reconciliation of concerns. The discontent against governance and development policy has been quite widespread and took violent turn on several occasions, especially when political mobilisation was high but remained unacknowledged by those in power. A major reorganisation of states on linguistic grounds, a significant recasting of boundaries to accommodate ethnic and developmental claims in the North-East and elsewhere, special development packages to address specific problems of certain states reflect the significance of political processes in addressing the security concerns of people as they perceive them. There have also been periods of high tension on the communal and caste fronts, with communities and castes fighting each other and state remaining a silent witness, or, worse, state functionaries operating in a partisan manner. These also reflect the limited bearing of coercive apparatus in ensuring peace and provisioning security.

Multiple agencies have been involved in the provisioning of security at both technical and political ends. The Centre-state dynamics on the one hand and the inter-state relations on the other are quite significant in influencing the processes as well as outcomes. Often even the choice of strategy conflicted and resulted in accusations from one to the other. Fixing accountability for state-violations became difficult in this scenario. The situation is further complicated by the fact that even threats to security have often been posed by multiple agencies, often competing, though sometimes, operating in cooperation with each other, thereby forming competing alliances. Not only did this result in occasional dissipation of energy and resources of state agencies; appeasing one could lead to displeasing the others and therefore accentuation of violence by the others whenever some forces could be won over by the dialogue method. The framework of dialogue, the subjects of negotiation, the timing and form of negotiations always mattered considerably to the outcomes. Success often depended on taking the various competing agencies to the negotiation table and appropriate political handling of the issues, which in turn, depended on the very understanding of the issues by those engaged in dialogue.

The growing influence of external forces has added further complexity to the security scenario. The strengthening of external non-state agencies or forces, which may enjoy the clandestine support of rival states, could remain beyond the direct control of the state have left their imprint on the security scenario. And these did create space for

negotiations and dialogue with external actors. Some of these external interventions and influences operate through linkages developed through technology and economy. However, despite several bilateral agreements and initiatives for security reasons, disrupting these connections has not been easy. The connections are too deeply entrenched and have built complex political networks, executed through political funds and support to criminals in political activity. The funding of arms trade and the armaments industry too is a significant link in this. It is not surprising that there is a growing concern to evolve coordination mechanisms not only at the central and state levels within the country but also with other states, in particular the border states.

The security problematic, however, is further complicated by two other paradoxes. One, the paradox of state itself becoming a source of insecurity; and the other, the paradox of provisioning leading to denial. The first paradox results from the rise of a repressive state apparatus, which appropriates the powers of law to create terror and subjugation among its own people. The democratic framework of state power combined with the legal-constitutional framework of rights granted to the citizens can define the boundaries of state power and ensure that any violations of the rights of citizens are dealt with effectively. The frequent attempts by state agencies to expand their powers have been kept under restraint through the democratic framework. However, the failure of democracy to offer effective space for dialogue and conflict resolution mechanisms itself created grounds for support to militancy and in turn created the vicious circle of state acquiring powers to handle militancy, both threatening the prospects of security for the citizens at large. The other side of this paradox finds expression in the misuse of state power for reasons of corruption, misuse of power, poor state of governance and various policy failures, which reduce the legitimacy of state and often lead to anti-state agitations. The third side of this paradox is evident at the level of state agencies, which because of the fact of being engaged in providing security are themselves the victims of the reductionist logic of ‘control through elimination’— their own security is at stake unless they ‘act first’ and they may thereby end up assuming the charge of perpetrators regardless of their sincerity and in spite of the stress that they experience to execute security. This paradox can be handled only through a deepening of democracy, improved governance and policy delivery—institutional reforms are crucial to address this paradox.

The second security paradox of ‘provisioning leading to denial’ is far more complicated to handle. This emerges when security discourse turns into the limited discourse of controlling the violators or perceived violators and possible ‘security threats’ and results in the high negative fall-outs of the processes aimed at enhancing security. Security concerns of the state become problematic for the citizens, whose security is the ultimate objective of state actions. Security provisioning leads to denial of security to the citizens as in case of the search operations, the preventive detention, the interrogations and the numerous other acts justified in terms of security concerns. Citizen is the first casualty of the processes that address security issues in terms of control strategy. The

citizen emerges as the perpetrator or the conniving and executing mechanism in this scenario. Citizen is the 'suspect'. Security discourse has come full circle. The citizen is where the citizen was, except that the citizen is exhausted, sick of the charges and suspicions, sick of running around to escape and sick of an empty citizenship that does not deliver. One hopes that citizenship is not dumped at the instance of security, which has remained an unkept promise in the free India.

This is not to deny the significance of state mechanisms for ensuring that internal security concerns are not violated and if threatened or disturbed, corrective action is ensured and remedial efforts are put in place. Law and order machinery, legislative mechanisms for taking action against violators and providing support to victims are as essential as altering or responding to conditions which produce or multiply prospects for people becoming instruments of the forces contributing to the perpetuation of insecurity. Whether there can be special laws to deal with internal security threats and whether or not technological fixes should be seen as capable of offering solutions are questions that call for more detailed analysis in the light of not reason or logic exclusively but legal and political practices too. What has been the history of developments related to laws aimed at handling different challenges to internal security or perceived threats to internal security deserves to be analysed. The real test for the state lies in moving beyond the pulls of a reductionist, techno-centric logic which thrives on ideologies of control and gives little or no legitimate space to the voices of dissent towards the logic, which thrives on assertions of autonomy and dissenting voices in a vibrant framework of tolerance, support and mutual respect.

In order to ensure that the 'exceptional' acts of repression defying the boundaries of legal constitutional can be avoided and, in any case, remain 'exceptions' and do not become part of the normal conduct of agencies entrusted with the responsibility of ensuring security, it is important to guarantee effective and timely judicial intervention in case of violations. Special laws and rules which seek to minimise the possibilities of such recourse and therefore intervention invite critical comment for this very reason. However, it is also not possible to let these agencies escape their responsibility to provide security on the pretext of law not permitting the possibility of intervention on grounds of suspicion or at the risk of being wrong. The judiciary has contributed to the evolution of discourse on this considerably. Public debate has also taken place and laws made and unmade to settle this point of uncertainty and risk. The frequent creation of victims who may not be guilty although they were presumed to be so, is a challenge, which needs to be confronted. For citizens cannot be subjected to such undue risks for no fault of theirs?

Internal security issues need to be placed in the context of relationship between the question rights, justice, autonomy and ethics. The objective therefore should be not simply to recognise the 'other' but to celebrate the 'otherness' and to produce systems, which create conditions for the production of rights, justice, autonomy and ethical existence for all, regardless, of their 'otherness'. A state of affairs where citizen is

suspected every moment of his/her existence as the 'other' cannot be a state of security. Security cannot imply frequent searches for proof of identity and loyalty. Security is the absence of search operations; it requires the creation of conditions, which permit relief from searches. A state of security implies creating space for an active engaging citizenship, which may experience autonomy in full recognition of the presence of 'the other'. It is the end of terror, its state and non-state origins notwithstanding. It is not the elimination of the 'other'; it is the elimination of the fear of the 'other'. It calls for ownership and autonomy, not control and disruption. It is the onset of peace and justice. It is the arrival of rights and ethics. Any striving towards ensuring security for the citizens would imply founding the security discourse in the context of justice, peace, autonomy and ethics and striving towards discourses and structures which enrich these values.