

Towards a Kashmiri Settlement Beyond Jihad

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Since the January 2004 agreement between former Indian Prime Minister Atal Behari Vajpayee and President General Pervez Musharraf to resume the process of normalizing the India-Pakistan relationship, hopes for resolving the more than half a century old Kashmir dispute have risen significantly. However, if history is any guide, any optimism over the Kashmir settlement must come with caution. Kashmir has led to two of the three major wars between India and Pakistan (1948 and 1965) and a limited war over Kargil in 1999 which could have gone nuclear. Between December 2001 and June 2002, the two countries faced two crises over Kashmir, either of which could have erupted into a war with potential nuclear risks.

The failure of the United Nations Security Council since 1948 to implement its resolutions on Kashmir which called for the holding of a plebiscite gave India *carte blanche* to suppress the Kashmiri quest for self-determination. India so bluntly manipulated the political process in Kashmir under its administration that the largely Muslim Kashmiri people rose in revolt in the late 1980s. By 1989, the traditionally pacifist freedom movement in Kashmir was hijacked by Mujahideen, who had fought the Soviets in Afghanistan in the 1980s. Since then, Kashmir's jihad dimension has emerged as the principal cause of India-Pakistan tensions. These tensions assumed even graver proportions in the aftermath of September 11 due to India's consistent attempts to link Pakistan with "cross-border" infiltration/terrorism in Kashmir and Pakistan's reluctance to stop such infiltration, if there was any.

The responsibility for making Kashmir the "world's most dangerous place" lies on the shoulders of the United Nations, India, Pakistan, and the United States. Kashmiri and non-Kashmiri Mujahideen have also played a key part in militarising the dispute, but mostly as pawns in the hands of Pakistan with their jihad in Kashmir being an extension of the US-supported jihad against the Soviets. Kashmir is a story of betrayal by India and Pakistan whose past real-politik ambitions towards Kashmir have cost Kashmiris dearly and betrayal by the UN, whose indifference towards the Kashmir dispute, even in the wake of its growing potential for nuclear war in recent years, has contributed to the suppressive, uncertain and potentially volatile environment in the Indian-administered part of the disputed state. While Pakistan's role in militarising the Kashmir dispute by introducing the jihad

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factor is undeniable, the US role in supporting the same in Afghanistan's context in the 1980s without bothering about its spill over impact on Kashmir can also not be overlooked. As for the Kashmiris, they have suffered at the hands of all, especially India and Pakistan. It is they who should have been at the centre-stage of any Kashmiri conflict resolution processes; instead, it has been India and Pakistan, which have contributed mostly to the conflagration of the conflict and perceiving its resolution through their respective real-politik prism.

The jihadi factor might not have become instrumental in determining the dynamics of peace and war in Kashmir had the UN fulfilled its obligations on Kashmir, and had India and Pakistan shown due interest and respect towards predominant Kashmiri aspirations for their political future. What should the UN have done which it has not? What is wrong with India's past policy towards Kashmir? How has Pakistan's role in Kashmir eventually proved counterproductive to the very goals it wanted to achieve vis-à-vis Kashmir? The answers to these questions are important in not only understanding the current impasse over Kashmir, but also in reversing the jihadi course in the Kashmiri self-determination struggle as a means of politically resolving the Kashmir dispute through a bilateral-cum-multilateral conflict resolution effort with genuine Kashmiri input.¹

Pakistan's Stand on Kashmir

Pakistan has traditionally looked at Kashmir as an unfinished chapter in the story of the 1947 partition, when in its view, the princely state should have become a part of Pakistan because of Kashmir's geographical proximity and ethno-religious affinity. With this hope, Pakistan has supported a Kashmiri settlement based upon resolutions of the UN Security Council/UN Commission for India and Pakistan, which call for the holding of a free and fair UN-supervised plebiscite to determine whether the Kashmiri people want to be a part of Pakistan or India. However, the holding of the plebiscite is conditional upon the total withdrawal of Pakistan's security forces from Kashmir under its administration and the partial withdrawal of India's security forces from Kashmir under its administration. According to Pakistan, several of the UN resolutions, most of which were passed in the late 1940s and early 1950s, continue to be relevant to Kashmir because they remain on the UN agenda and have not been discarded as a means for settlement. This is despite the fact that successive UN Secretaries General have argued publicly for a

¹ For update information about origin and evolution of the Kashmir dispute, see Robert G. Wirsing, *Kashmir in the Shadow of War: Regional Rivalries in a Nuclear Age*, New York, M E Sharpe, 2003; and Iffat Malik, *Kashmir: Ethnic Conflict, International Dispute*, New York, Oxford University Press, 2002.

bilateral solution to Kashmir through dialogue between India and Pakistan. In a December 2003 *BBC* interview, President Musharraf indicated that Pakistan had "left aside" its insistence on the 1948 Security Council resolution calling for a plebiscite in the whole of Jammu and Kashmir.²

There was a reason behind this radical shift in Pakistan's official outlook on Kashmir. Over the years, however, a dichotomy between Pakistan's UN-based approach to a Kashmir settlement and its actual conduct vis-à-vis Kashmir, or Kashmir's relevance to the country's relationship with India has increasingly become visible. First, at Tashkent in 1965, Simla in 1972, Lahore in 1999, and Islamabad in 2004, the Pakistani leadership agreed to a bilateral route to a Kashmir resolution. Given the intractable nature of the Kashmir dispute, exploring other avenues, alongside bilateralism, is not unreasonable. However, as far as the Tashkent Declaration, Simla Accord, Lahore Declaration and the most recent Islamabad Vajpayee-Musharraf joint statement are concerned, the means of settlement precludes the multilateral option. Given that, Pakistan's position on Kashmir had been unclear. Did it want a settlement through bilateral means? If yes, then it should not have insisted on the UN-led solution, and concentrated, instead, on pursuing dialogue with India and improving on the past achievements, if any, in the dialogue process. On the other hand, if Pakistan wanted to settle the dispute through the UN, then it had to discard the bilateral option. Islamabad could not try both bilateral and multilateral avenues, since its own as well as India's Kashmir stance, contradicted each other. Thus, when Musharraf spoke about Pakistan's willingness to "keep aside" the UN resolutions, he was basically attempting to resolve this contradiction in the country's official stance on Kashmir.

Another reason why Pakistan's conduct regarding Kashmir has negated its UN resolutions-based stand on Kashmir, relates to what it has done to change the physical reality of what the UN resolutions describe as 'Pakistan-administered Kashmir.' In December 1962, Pakistan ceded 2,050 sq km of northern Kashmiri territory to China under a border re-arrangement accord. This northern territory bordering China was part of the princely state of Jammu and Kashmir prior to its controversial accession to India in 1947. Then, under the 1973 Constitution, the northern regions of the disputed Kashmir region under Pakistani administration, were turned into the Federally-Administered Northern Areas (FANA). Inhabited by ethnically non-Kashmiri, predominantly Balti-speaking people, these areas have an ambiguous political status: the people there do not have the right to vote in national elections, nor does the government of 'Azad Kashmir' - the remaining part of Pakistan-administered Kashmir - have any jurisdiction in FANA. The reason why the federal government has kept the political status of the northern

² Swapan Dasgupta, "India's Man in Pakistan," *Wall Street Journal*, 12 January 2004.

areas ambiguous is because Pakistan wants to re-include these areas in the Jammu and Kashmir state if a UN plebiscite is held and Islamabad cannot incorporate FANA fully into the federation since this will be a violation of the UN resolutions.

More importantly, the Kashmir dispute has finally become internationalised, but contrary to Pakistan's expectations. Islamabad always wanted Kashmiri self-determination to be internationalised so that the whole of Jammu and Kashmir could accede to Pakistan through the UN plebiscite. However, when the internationalisation of Kashmir finally occurred, as a result of recurrent standoffs in India-Pakistan relations, especially in the aftermath of the 11 September 2001 terrorist attacks against the United States, it was jihadi terrorism that came to characterise the Kashmiri struggle. Consequently, amid calls for international intervention in Kashmir to facilitate an India-Pakistan dialogue with Kashmiri participation, there is growing international acceptance of Indian sovereignty over the Indian-administered part of the disputed state.

Had Pakistan not allegedly engaged in facilitating the Kashmir jihad by allowing Arab, Afghan, Pakistani and Kashmiri Mujahideen to receive guerrilla training in Pakistan administered Kashmir and then cross the Line of Control into Indian administered Kashmir to wage jihad, its strategy to internationalize Kashmiri self-determination might not have boomeranged after September 11. An important consequence of Pakistan's help in the creation and sustenance of the Taliban movement in Afghanistan was the fuelling of the Kashmir jihad. This development was overlooked by Pakistan, especially by its Inter-Services Intelligence (ISI) Directorate, since the military establishment wanted to "bleed India" as revenge for the Pakistan Army's humiliating defeat in the 1971 war. Such a policy on Pakistan's part was in violation of the UN resolutions, under which India and Pakistan are obliged to exercise peaceful means over Kashmir. By allegedly letting these jihadis cross the Line of Control, which was established initially as the Ceasefire Line under the UN resolutions, Pakistan violated the UN Charter and International Law. In the aftermath of September 11, especially after the UN Security Council resolution on terrorism 1373 was passed on 28 September 2001, Islamabad could not afford to overlook the "cross-border" infiltration of Mujahideen into Indian administered Kashmir.

The resolution, among other things, requires all member-states to "prohibit their nationals or persons or entities in their territories from making funds, financial assets, economic resources, financial or other related services available to persons who commit or attempt to commit, facilitate or participate in the commission of terrorist acts" It also urges the member-states to "refrain from providing any form of support to entities or persons involved in terrorist acts; take the necessary steps to prevent the commission of terrorist acts; deny safe haven to those who finance, plan, support, commit terrorist acts and

provide safe havens as well”; and “prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other countries and their citizens.”³

For their part, Mujahideen have found themselves since 11 September in the unenviable position of having to depend for support on a government, that of Pakistan, which itself has increasingly turned against them. Having renounced its support for the Taliban with one stroke and enlisted as a frontline state in the global war on terrorism, Pakistan has come under consistent international pressure, particularly from the United States, to crush the organisational infrastructure of jihad forces operating in Indian administered Kashmir, from its territory or Kashmir under its administration. In fact, as soon as the war on terrorism began in Afghanistan, it created an awkward contradiction in Pakistan’s position: to the West it stood in the frontline against terrorism, and to the East it supported a movement whose activities inevitably lent themselves to charges, by Indians and others, of terrorism.⁴ The 13 December 2001 attack on the Indian parliament exposed Pakistan’s awkward position, as the Indian government asserted that the terrorists were Pakistanis and tied to the Pakistan-based Lashkar-e-Tayyiba and Jaish-e-Mohammad, the two Mujahideen groups most active in Kashmiri jihad. The United States was quick to brand them terrorist organizations. Consequently, in his 12 January 2002 speech, President-General Pervez Musharraf was forced to adopt a radical change in the country’s pro-jihadi Kashmiri policy, which had been in place since 1989. He went so far as to say: “Pakistan rejects and condemns terrorism in all its forms and manifestations. Pakistan will not allow its territory to be used for terrorist activity anywhere in the world. No organisation will be allowed to indulge in terrorism in the name of Kashmir.”⁵

Two years later, on 17 January 2004, while addressing the joint session of parliament in Islamabad, President Musharraf declared jihad against Islamic extremism. He reminded the nation that “a handful of elements with ulterior motives have been indulging in promoting the evil and are also attempting to defame the military as well as the public representatives... These few narrow-minded people are presenting a wrong picture of Islam. They want to impose their will on the majority. In fact these people are trying to weaken the country.” He appealed to the members of parliament and the people of Pakistan “to wage jihad against extremism,”

³ See UN Security Council, S/RES/1373 (2001).

⁴ “The Pressure Rises in Pakistan,” *The New York Times*, 20 December 2001; John F. Burns, “Pakistan Is Said to Order an End to Support for Militant Groups,” *The New York Times*, 2 January 2002; and Wirsing, *Kashmir in the Shadow of War*, pp 117-137.

⁵ For full text of Musharraf’s speech, see *Dawn*, 12 January 2002, online at <http://www.dawn.com/2002/01/12/speech020112.htm>

adding: “We will have to take action with full force to uproot foreign elements that could indulge in terrorism in Pakistan or Afghanistan.” President Musharraf also declared that “a peaceful and just solution of the Kashmir issue is the only option to tackle allegations against Pakistan vis-à-vis Kashmir. Some progress has been achieved and this will have to be taken forward towards resolution of the problem in accordance with the aspirations of the Kashmiri people.”⁶

In fact, since his January 2002 debut speech about liberating Kashmir from jihadi terrorism, Islamabad has not only banned Lashkar-e-Tayyiba, Jaish-e-Mohammad and a number of other jihadi and sectarian Islamic organizations, it has also placed restrictions on the activities of the United Jihad Council, a 14-member umbrella group of Kashmiri and non-Kashmiri Mujahideen factions based in Pakistan or ‘Azad Kashmir,’ including two leading jihadi organisations, Hizbul Mujahideen and Harkatul Mujahideen. In May 2003, Maulana Masood Azhar, the leader of Jaish-e-Mohammed, was not allowed by the federal government to address a public rally in Muzaffarabad, the capital of Pakistani-administered Kashmir.⁷ Since then, Maulana Azhar has gone underground. One of the suicide bombers in the 25 December assassination attempt on Musharraf belonged to Jaish-e-Muhammad. Islamabad has also repeatedly assured the international community, especially the US, it does not assist or overlook the Mujahideen’s infiltration of the Line of Control. There is no doubt that a reversal in Pakistan’s policy of sponsoring the post-1989 jihad movement in Indian administered Kashmir has started since January 2002, even though progress in its implementation has been rather slow. For instance, state authorities have not pursued any credible legal proceedings against many of the jihadi leaders and activists, who are simply lying low or have gone underground. Moreover, the institutions that produce jihadis, namely, the madrassas, remain beyond any credible reform. So does their curriculum. Despite successive internationally televised promises, President Musharraf has not done enough to reverse the process of Talibanisation of Pakistani society, without which, liberating Kashmir from the jihadi factor would be difficult, if not impossible.

India’s Kashmir Policy

Like Pakistan, India’s policy on Kashmir has also been contradictory: New Delhi considers the State of Jammu and Kashmir (Indian-administered Kashmir under UN resolutions) as an integral part of the Indian Union, since,

⁶ Text of the speech is available at *The Nation*, 18 January 2004, online at www.nation.com.pk

⁷ 14 John Gersham, “Overview of Self-Determination Issues in Kashmir,” *Foreign Policy in Focus*, 18 January 2002.

in its view, Kashmir's Hindu prince Maharaja Hari Singh had acceded to India at the time of Partition. Simultaneously, however, India considers Kashmir a bilateral dispute with Pakistan to be resolved through a dialogue between the two countries. At Tashkent, Simla, Lahore and most recently in Islamabad, India committed itself to the bilateral settlement of Kashmir. As it did during the several rounds of the 1997-98 foreign secretaries-level talks, which established a joint Working Group on Jammu and Kashmir. The composite dialogue which began between India and Pakistan also has Kashmir as the core issue. India has, therefore, maintained diametrically opposed positions on Kashmir, and it has to choose either of the two. If Jammu and Kashmir is an integral part of the Indian federation, then it cannot be negotiated. If the state of Jammu and Kashmir is accepted by India to be a disputed territory, then it has to be willing to negotiate a political settlement either bilaterally with Pakistan or multilaterally under UN auspices or any other international mediation.

The contradiction inherent in the Indian stand on Kashmir has been consequential in three important ways insofar as the worsening of the Kashmir dispute in the long term is concerned. First, India had not only taken the lead in taking the case of Kashmir before the Security Council, it was also the first to violate these resolutions. Nowhere do the UN resolutions mention that the Muslim-majority State of Jammu and Kashmir is an integral part of India, because its Hindu Maharaja signed the Instrument of Accession with India. That India is required under these resolutions to partially withdraw its troops preceding the holding of the plebiscite, unlike Pakistan's total withdrawal, does not amount to a UN acknowledgement of Indian sovereignty over Jammu and Kashmir. Leaving aside the argument whether the Maharaja signed the Instrument of Accession under duress or not, the Governor General of India, Lord Mountbatten did write to him in October 1947, saying the State would only be incorporated into the Indian Union once a reference had been made to the people of Kashmir.⁸ Obviously, by holding fraudulent elections in the disputed region, India cannot claim it has made the said reference to the people of Kashmir.

If the forcible acquisition of Junagadh and Hyderabad, despite their Muslim rulers' intended preference for Pakistan is justified by India, then Islamabad can also justify the Pakistan-sponsored Pashtun tribal upsurge in Kashmir in 1947, its Operation Gibraltar of 1965, the 1999 military incursion in Kargil, given that the Partition Plan emphasised geographical and ethno-religious factors as the basis for the accession of 565 princely states to either India or Pakistan. However, none of the above can be justified under the Partition Plan and the UN Resolutions. Both offered the people of the respective princely states only two choices: accede to either Pakistan or India.

⁸ Malik, *Kashmir: Ethnic Conflict, International Dispute*, pp 66-67.

The preceding discussion proves the irrelevancy of the Instrument of Accession in Kashmir's context in the aftermath of the Indian acceptance of the UN resolutions. India's outright rejection of a UN-supervised Kashmiri settlement on the basis of the redundancy of over half century old Security Council resolutions is unreasonable, because it presumes the Jammu and Kashmir state to have become an integral part of India and ignores the potentially volatile trouble in the Indian-administered part of the disputed state. Such a long time lapse may have made a Kashmiri settlement strictly in accordance with the terms of these resolutions impractical, yet that cannot wash away the fact that Kashmir is an internationally recognised dispute centred upon people's aspirations for self-determination.

A second consequence of India's self-contradictory approach to Kashmir is visible in its consistent attempt to make Jammu and Kashmir an integral part of the federation, disregarding the predominant political aspirations of the Kashmiri people as well as the will of the international community as expressed in the UN resolutions. In order to integrate the disputed state into the federation, New Delhi has co-opted Kashmiri elites, especially National Conference leaders Sheikh Abdullah, succeeded by Farooq Abdullah, through controversial constitutional measures and fraudulent electoral processes. Almost immediately after the passage of the UN resolutions on Kashmir, Prime Minister Jawaharlal Nehru broke his pledge to settle the dispute according to the "wishes of the Kashmir people". Article 370, which gives "special status" to "the Jammu and Kashmir state" was inserted in the Indian constitution. In November 1957, the 'Jammu and Kashmir Constituent Assembly' was established. Later Nehru and Sheikh Abdullah signed the Delhi Agreement, which incorporated Article 370. In 1957, the disputed state was incorporated into the Indian Union under a new constitutional provision, which was rushed through by the 'government' of Bakhshi Ghulam Mohammed in Indian administered Kashmir.

Like Pakistan, New Delhi has tried to change the physical reality of the disputed state of Jammu and Kashmir under its administration by systematically incorporating it into the Indian Union, thereby angering the Kashmiri people and forcing them to demand freedom from Indian rule. New Delhi's response to a Kashmiri uprising in the late 1980s, triggered mainly by the holding of stage-managed polls in the disputed territory, was the imposition of direct rule in the disputed state, which continued until 1996. The security situation after another such election in 1996, which brought the National Conference again into power, did not show any improvement. The October 2002 elections in the disputed state resulted in the formation of a coalition government of the People's Democratic Party and the Congress party. It is too early to assess the government's performance on the human rights front, despite its promise to investigate all reports of human rights abuses. A large number of past abuses have never been independently

investigated by the authorities in the Indian-administered Kashmir, nor have findings of commissions of inquiry set up under the previous government, such as the Pandian Commission on unlawful killings in April 2000, been made public.⁹

The third consequence of the contradictory nature of India's Kashmir policy is visible in its consistent attempt to 'Pakistanise' the violent trouble in Kashmir under its administration, ever since the introduction of the jihadi factor in the Kashmiri dispute. Especially since September 11, India's strategy has been to bracket Pakistan with terrorism by harping upon the theme of "cross-border" infiltration of Islamic militants from Pakistan-administered Kashmir. That such infiltration has occurred since 1989 is a proven fact. So is Pakistan's facilitation of it. However, both American and Indian officials have admitted that the level of such infiltration has decreased significantly. As to whether Pakistan is still aiding and abetting the Kashmiri and non-Kashmiri Mujahideen, this will remain unknown in the absence of a credible international monitoring mechanism along the Line of Control. The same is required to completely end the infiltration of Islamic militants from the Pakistani side of the Line of Control into the Indian side, which may itself be difficult due to the mountainous and difficult nature of the Kashmiri terrain. Given Musharraf's January 2004 overture to Vajpayee, and the latter's response in kind, one should hope the two sides would show flexibility on the issue of alleged terrorist infiltration from the Pakistani side of the Line of Control.

Kashmiri Aspirations

By holding Pakistan responsible for Kashmiri trouble, India only tries to escape from a ground reality; which is that Kashmir is an international dispute, which has to be settled in accordance with Kashmiri wishes. That the introduction of the jihadi factor has tarnished the largely secular, pacifist character of the Kashmiri freedom struggle is an irrefutable reality, which Pakistan cannot ignore because of its instrumental role in the process. While the Mujahideen engagement in Kashmir started only after the Soviet troops left Afghanistan, India's consistent manipulations and misrule in the disputed region under its administration had been the primary reason for growing Kashmiri aspirations for freedom.

The early Kashmiri nationalists were disillusioned with Sheikh Abdullah's complicity with the Indian state, and their principal demand was that India fulfil its commitment to the UN and allow a plebiscite to be held in

⁹ See Amnesty International, *If They are Dead, Tell Us*, London, Amnesty International, 20 February 1999; and Amnesty International, *Disappearances in Jammu and Kashmir*, London, Amnesty International, 2 March 1999.

the territory to enable the people to decide their own political future. Challenging the legitimacy of Indian rule, these Kashmiri nationalists, led by Jammu and Kashmir Liberation Front (JKLF), advocated an independent, secular democratic Jammu and Kashmir. Dissonant voices increased throughout the 1980s in the face of unemployment, increasing Islamic assertion, and dubious elections. In July 1988, this disaffection turned violent, as JKLF activists launched a militant movement for independence. However, with the arrival of Mujahideen from the Afghan theatre from 1989 onwards, JKLF's pro-independence struggle was taken over by the jihadi forces, based mostly in Pakistan-administered Kashmir. With that, the Jamaat-i-Islami Jammu Kashmir (JIJK) emerged as a central force in Kashmiri politics. Supported by JIJK, Hizbul Mujahadeen was the first Mujahideen group to enter Kashmir under Indian administration. By mid-1990s, a number of other, more violent jihadi organisations, including Lashkar-e-Tayyiba and Harkat-ul-Ansar (later renamed as the Harkat-ul-Mujahadeen), became active. While JKLF declared a ceasefire in 1994, it has remained an active political force.¹⁰ Unlike JKLF, the Mujahideen groups see the Kashmiri struggle not simply as a jihad between the Muslims of Kashmir and the Indian state, but in far wider terms: as a holy war between the Muslims of the world, on the one hand, and the Hindus as an entire community, in league with other disbelieving enemies of Islam, on the other.¹¹

However, not every Kashmiri organisation is engaged in jihad. The All-Parties Hurriyat Conference (APHC) is a loose coalition of around two dozen parties, some of them seeking independence, others aspiring for union with Pakistan, and still others interested in dialogue with New Delhi. Thus, the APHC can be considered a representative Muslim organisation reflecting diverse Muslim-Kashmiri political aspirations. Yet India does not acknowledge its representative character based upon popular Kashmiri support. India's recent attempts to pursue direct talks with Kashmiri groups, such as the Hizbul Mujahideen in 2000 through prime ministerial emissaries, have also been motivated by short-term real politik gains, instead of any sincere objective towards long-lasting Kashmiri settlement. For its part, APHC has refused to participate in the electoral process in the disputed state. It boycotted the October 2002 elections. India's preference in Kashmir under its administration has been repression, a policy that has assumed grave proportions since September 11. India has increased its suppression against the Kashmiri leadership in the shadow of the war on terrorism. JKLF

¹⁰ For details, see Sumit Ganguly, *The Crisis in Kashmir: Portents of War, Hopes of Peace*, Cambridge, Cambridge University Press, 1998.

¹¹ See Yoginder Sikand, "The Changing Course of the Kashmiri Struggle: From National Liberation to Islamist Jihad?" *Muslim World*, Vol. 91, No.2 (Spring 2001), pp 229-256.

chairman Yasin Malik has been in prison at least three times since March 2002 under the Prevention of Terrorism Ordinance (PTOO) and the Public Safety Act (PSA), each time charged with anti-national activity. Former APHC chairman Syed Ali Geelani was similarly arrested and charged under POTA and PSA.¹²

International Responsibility

In the light of Kashmiri aspirations for freedom, India's and Pakistan's traditional preference for respective real-politik ambitions vis-à-vis Kashmir, and the volatile nature of the Kashmir dispute, the international community's role in a Kashmiri settlement is crucial. In recent years, the UN lacklustre approach to Kashmir has become too apparent: twice between December 2001 and June 2002, conflict over Kashmir could have been the cause of a nuclear disaster, yet UN Secretary-General Kofi Annan only asked for India and Pakistan to exercise restraint and resolve their differences, including those over Kashmir, by peaceful means.¹³ More than anything else, India's human rights track-record in Kashmir should have justified a proactive UN role in resolving the Kashmir dispute. Pronouncements by the Secretary-General, such as the one quoted above, contradict his earlier positions and even a 1998 UN Security Council resolution. At the Millennium Summit in New York in September 2000, he cited human rights violations as granting the UN the right to intervene - as it did in the case of Kosovo and East Timor. In fact, Kosovo marked the first instance where the international community, to promote and protect a higher value, namely, the sanctity of human lives, bypassed a sovereign state's borders. In June 1998, following the India-Pakistan nuclear tests, the UN Security Council passed a unanimous resolution that linked peace and stability in South Asia to the resolution of long-standing disputes, an unmistakable reference to Kashmir.¹⁴ Obviously, insofar as the UN resolutions on Kashmir are concerned, their implementation has become complicated because, due to Indian repression and Pakistan's sponsorship of jihad, many Kashmiris in both Indian-administered and Pakistani-administered parts have become pro-independence. The UN-recommended course for Kashmiri settlement through a plebiscite does not give a third choice to Kashmiris: that of choosing a separate state. Moreover, most Kashmiris in the Indian-administered part dislike the jihadi forces.¹⁵

¹² See the Human Rights Watch Group Global Report, 2003, online at <http://www.hrw.org/wr2k3/asia6.html>

¹³ UN press release, SG/SM/8304, 15 July 2002.

¹⁴ Mushahid Hussain, "New Realism on Kashmir," *The Nation*, 13 June 2001.

¹⁵ In a poll conducted by a British pollster, Mori, 65 per cent of Kashmiri Muslim respondents said that foreign militants were damaging the Kashmiri cause while 68 per cent believed that Pakistan's involvement was not based on a genuine concern for

A viable Kashmiri settlement requires a two-pronged approach to first “de-Islamise” Kashmir and then settle it in accordance with Kashmiri wishes. Firstly, the Kashmir issue needs to be freed from the shackles of trans-national Islamic radicalism. This requires a spirit of trust and cooperation between India and Pakistan, which can be fostered through sustained and credible international engagement in South Asia. Secondly, once Kashmir returns to the pre-1989 stage of peaceful freedom struggle, in order to prevent it from once again translating into a trans-national Islamic militancy, the international community needs to go beyond crisis prevention and damage limitation strategies. It must fulfil its commitment on Kashmir in a way that addresses the predominant Kashmiri aspirations, rather than the conflicting real-politik interests of both India and Pakistan vis-à-vis the Kashmir dispute. Even if the leaders of India and Pakistan seem to show sincerity towards normalisation of their countries’ ties, the world community, particularly the United States and other permanent members of the UN Security Council, need to be proactively engaged in the India-Pakistan normalisation process, as it gradually unravels.

Like the United Nations, American strategy has mostly been aimed at reducing India-Pakistan tensions over Kashmir. Every time the crisis in Pakistan-India ties has threatened to erupt into war, what Washington has done in recent years has been to dispatch one of its dignitaries to South Asia to defuse the rising tension and avert war. Such stop gap diplomacy on America’s part is unlikely to work in trouble-torn South Asia.¹⁶ It may have brought the two countries back from the brink, but the underlying issues of conflict between the two countries remain intact. So do Kashmiri aspirations for freedom. Until and unless these are addressed durably, it may only be a matter of time before another risky situation recurs in the Indian Subcontinent.

Similarly, single-handed pressure on Pakistan by the United States and international players on the issue of infiltration of the Mujahideen in Kashmir, without reciprocal pressure on India to stop violating the human rights of Kashmiris, and upping the ante over Kashmir is unlikely to resolve any of the issues at hand. In this context, an important development was the declaration of a ceasefire along the Line of Control in Kashmir by both India and Pakistan in November 2003. After half a century, the Kashmiris can walk freely. Guns are silent. This is an unprecedented development, which should lead to other similar breakthroughs. The strategy, bilateral as well as multilateral, should be to build upon such unique developments in otherwise sordid Kashmiri history. There is talk of opening a bus service between

Kashmiris. “Damning But True: A Breach in Pak’s Grand Delusion on J&K: UK Pollster Mori Confirms the Obvious”, *Financial Times*, 1 June 2002.

¹⁶ Alexander Evans, “Reducing Tension is Not Enough,” *Washington Quarterly*, Vol. 24, No.2 (Spring 2001), pp 81-193.

Muzaffarabad and Srinagar, the capitals of the Pakistani and Indian parts of Kashmir, respectively. However, this could be counter-productive: it could facilitate the cross-Line of Control mobility of the jihadis.

As far as the issue of cross-Line of Control infiltration or terrorism is concerned, the most feasible option is to deploy hundreds, if not thousands, more observers of the United Nations Military Observers Group in India and Pakistan (UNMOGIP) along the Line of Control, so that they can verify independently whether any such infiltration is taking place. Given the mistrust between India and Pakistan, which should not be expected to disappear overnight, any joint patrolling of the Line of Control by their troops or sharing of intelligence information between them, the two options that India has suggested, and Pakistan has rejected, will not work. An impartial monitoring of the Line of Control can only be done by an international observers force under UN supervision. India's objections to such enhanced international monitoring of the Line of Control do not make any sense. For, more than helping Pakistan, such a monitoring regime will help India, if India's claims' regarding Pakistan's continued aiding and abetting of "cross-border" infiltration of militants into Kashmir under its administration are true.

Conclusion

India's blanket rejection of any international mediation leaves it looking needlessly obstructionist to the peace process on Kashmir. This is despite the fact that India wants to play a global role, the realisation of which requires a Kashmir settlement. While the civilian and military toll of terrorist attacks in Jammu and Kashmir clearly aggrieves India and drives its threats and warnings to Pakistan, all dissent in Kashmir is not, however, external. India's policy shares responsibility. If Kashmiri Muslims remain alienated, Islamist extremists will have a base of support, no matter how limited, in the Indian-administered Kashmir. New Delhi has mostly been unwilling to accept the anti-extremist shift in Pakistan's state orientation. India has failed to acknowledge that it now has a shared interest with Islamabad in crushing Islamic extremism. While Prime Minister Vajpayee seems willing to cooperate with President Musharraf in resolving the jihadi and other more important aspects of the Kashmiri problem, as the joint statement of January 2004 suggests, only time will tell us how far he is willing to march on the road to peace.

As far as Pakistan is concerned, Islamic extremists have already done a lot of damage to it, especially in distorting the country's image in the world and hurting its relations with the rest of the world. Since 11 September, they have attacked Western targets in the country, including the killing of the *Wall Street Journal* reporter Daniel Pearl, the attack on the Catholic Church next to the US embassy in Islamabad, the car bomb attacks on the US Consulate and

the bus carrying French submarine engineers in Karachi. Twice in December 2003, they tried to kill President Musharraf. Given that, the Pakistani leadership cannot afford to overlook the terrorist activities of radical Islamic forces inside the country, and, by implication, it cannot overlook their engagement in terrorism in the Indian-administered Kashmir or the rest of India. Pakistan's role in the US war on terrorism is bound to be crucial: first, because it is located in the very region which is one of the main sources of Islamic terrorism, and, secondly, because the very founding ideals of Pakistan speak of nothing but modernity and moderation.

Despite the issuing of a joint statement by the leaders of India and Pakistan at January 2004's SAARC summit in Islamabad, and the resumption of composite dialogue over Kashmir and other unresolved issues in February, not all the roadblocks in India-Pakistan relationship have been cleared. India has a new Congress-led government, which, given its secular credentials, should be more open for a dialogue over Kashmir. Yet the fact remains that New Delhi has not budged even an inch from its age-old position that Kashmir is a subject for peaceful, bilateral negotiations. Pakistan, on the other hand, has retreated from its position that the use of violence in a liberation struggle cannot be equated with terrorism. General Musharraf may have issued many blanket condemnations of terrorism in the aftermath of 9/11 but the reiteration in a joint statement involving India has a different connotation. No wonder there have been howls of "betrayal" from the jihadis in Pakistan. For Pakistan, this is a more awesome U-turn than the abandonment of the Taliban after 9/11.¹⁷ The challenge before General Musharraf is daunting, given the strong opposition to his rule by radical Islamic parties which traditionally oppose any compromise with India over Kashmir. Thus far, however, President Musharraf and the Muslim League government at the Centre seem committed to pursue the dialogue with New Delhi.

As for the revival of India-Pakistan dialogue over Kashmir, even in the best of circumstances, finding an acceptable solution through it will be an uphill task because the Kashmir dispute is so deeply entwined with Indian and Pakistani perceptions of national interest and identity. Given that, the achievement of a genuine Kashmiri settlement with due participation by Kashmiri people is likely to be difficult through high level diplomacy between the two countries' leadership alone, if one considers the moves that India and Pakistani leaders have gradually made towards normalising the two countries' ties since April 2003, including the resumption of normal diplomatic, communication and transport activities. January 2004 surely represented a moment of truth in the rather volatile India-Pakistan relationship, when Vajpayee and Musharraf decided to break the ice over Kashmir. This landmark decision came about after extensive international pressure and

¹⁷ Dasgupta, "India's Man in Pakistan."

appeals. It showed realisation by the two leaders of the futility of continuing conflict. The diplomatic process that, until June, included the holding of two rounds of Foreign Secretary level talks, seem to be translating the Musharraf-Vajpayee understanding into a practical reality. The first of these rounds held in Islamabad in February drew a clear-cut roadmap for peace between the two countries, including the settlement of Kashmir to their “mutual satisfaction.” The talks’ second round, held in New Delhi in June, resulted in several new steps to improve relations, including the reopening of consulates in Bombay and Karachi, improve the lives of ordinary Kashmiris, such as opening a bus route across the Line of Control, and establish a hotline between their foreign ministries to reduce the threat of accidental nuclear war.¹⁸

The journey to India-Pakistan peace over Kashmir will be difficult, and will require consistent international interest and intervention to keep the parties on the track of peace. Whether the international role is about implementing UN resolutions with the inclusion of the third option of independence, or facilitating an India-Pakistan dialogue over Kashmir with due Kashmiri participation to turn the Line of Control into a permanent border, or any other proposition, is beside the point. The present thaw in ties between the two countries can also be temporary: for another devastating terrorist attack in India or in Indian administered Kashmir by Pakistan-based radical Islamic forces may quickly renew tensions. The only way renewal of an India-Pakistan standoff in the aftermath of such an attack can be avoided is for India to realise that whenever jihadi forces undertake a major terrorist operation in India or Kashmir under its administration, their aim is not only to destabilize India but also to let Pakistan’s current military and political leadership fail on its anti-extremist agenda.

The December 2003 twin-attempts on the life of President Musharraf should be sufficient to convince the new Indian leadership that it is in its interest, as much as that of Pakistans’, that President Musharraf succeeds in his anti-jihadi mission. In the end, what matters the most in the case of Kashmir is not the mode of its settlement *per se*; rather, the willingness of the main parties to the dispute, the Kashmiris, Pakistanis and Indians, to sit together, show flexibility and reach a compromise. Following the January 2004 Islamabad-New Delhi rapprochement, and with the resumption of composite dialogue covering Kashmir and other unresolved issues, one hopes Kashmiri history may turn full circle soon - for the Kashmiri people, first and foremost.

¹⁸ John Lancaster, “India, Pakistan Take New Steps,” *The Washington Post*, 29 June 2004.

