

KASHMIR DISPUTE: SIGNIFICANCE OF ITS EARLY RESOLUTION

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KASHMIR DISPUTE: SIGNIFICANCE OF ITS EARLY RESOLUTION

by

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ABSTRACT

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Peaceful co-existence of India and Pakistan has been flawed since their independence owing to dispute over the former princely state of Kashmir. Pakistan, rejecting the dubious accession of the State with India, controls 1/3rd of Kashmir, whereas the rest remains under Indian control. Dispute - resolution efforts at bilateral and UN level have failed mainly due to India's intransigence. The dispute has already led both the countries to numerous wars and large-scale military escalations, involving perilous nuclear brinkmanship. Lately, the significance of early resolution of the dispute has enhanced in view of its potential as a nuclear flashpoint, implications on the US - led ISAF campaign in Afghanistan, linkage with human rights abuses in Kashmir and the consequent reaction in the form of militancy and abysmal impoverishment of South Asia. Lack of political will and resolve, mutual trust - deficit and deeply entrenched positions are the major impediments in the way of dispute - resolution. Plebiscite, territorial adjustment, maintenance of status quo, independence and grant of autonomy

are the possible options for conflict - resolution. However, in view of the failed bilateralism, it is concluded that a focused US effort is needed for the dispute - resolution.

KASHMIR DISPUTE: SIGNIFICANCE OF ITS EARLY RESOLUTION

The most dangerous place in the world today is the Indian Sub-Continent and the Line of Control in Kashmir.

—US President Bill Clinton¹

European imperialism led to a fundamental redrafting of the political map of Asia and Africa, which were colonized from 17th century onward. The boundaries of many states, which came into effect upon decolonization, did not match with the customary notions of territorial possessions that stood for centuries in these areas as well as the ethnic affiliations of their inhabitants.² Of those that have persisted as a major source of interstate conflict till day, none is more complicated, potentially dangerous and strategically challenging than the dispute between India and Pakistan over Kashmir.³

During the British rule, Kashmir retained quasi-autonomous status in a feudal arrangement that placed a Hindu Maharaja in control of an overwhelmingly Muslim principality. At the time of partition of British India, the decision on whether Kashmir would opt to merge with Hindu - majority India or Muslim - majority Pakistan, in line with the rules decided for the future of the “princely states” by the British Government, fell to the Kashmir’s ruler Maharaja Hari Singh. The Maharaja procrastinated in making the timely decision, which led to a popular uprising in the Kashmir Valley.⁴ In the ensuing struggle, the Kashmiri Muslims, supported by the Pashtun tribesmen from Pakistan, liberated parts of Kashmir contiguous with Pakistan from the Maharaja’s forces. The situation offered a tempting opportunity to India, in connivance with the departing British administration, to force upon the Kashmir’s ruler an unfettered choice of accession in India’s favor.⁵ This was instantly rejected as unfair by both Pakistan and the Muslim population of Kashmir. Ever since, two-third of Kashmir, comprising Jammu, Laddakh

and Kashmir Valley, remains under Indian control, and the rest one-third, comprising Azad (Free) Kashmir and “Gilget – Baltistan”, remains under Pakistan’s control –

Figure 1.

India took the dispute to UN in January 1948 and, to resolve it, UNSC’s adopted resolutions in 1948, 1949 and 1957, asking for granting the right of self-determination to the people of Kashmir through a plebiscite to decide their destiny i.e. choosing to merge with India or Pakistan.⁶ Ironically, mainly due to India’s unwillingness and lack of sincerity, the implementation of these resolutions still remains unfulfilled.⁷ The denial of the right of self - determination promised by the UN gradually resulted in growing dissatisfaction and alienation amongst the Kashmiri population against India. This eventually sparked a freedom movement in Indian - held Kashmir in 1987, followed by its gradual transition into militancy as a reaction to Indian repression.⁸ India alleges Pakistan to support the movement; Pakistan denies this allegation, terms the struggle as purely indigenous and links it to Indian repressive policies and denial of the right of self - determination to the people of Kashmir.

The lingering dispute has resulted into perpetual state of hostilities between India and Pakistan and already led them to three wars. It is also responsible for persistent atmosphere of belligerence along the Line of Control (LOC) in Kashmir, numerous military escalations, widespread regional impoverishment and severe bitterness in bilateral relations.⁹ It has also led to the massive arming of both sides and to the present nuclearization of South Asia.¹⁰

MAP OF KASHMIR

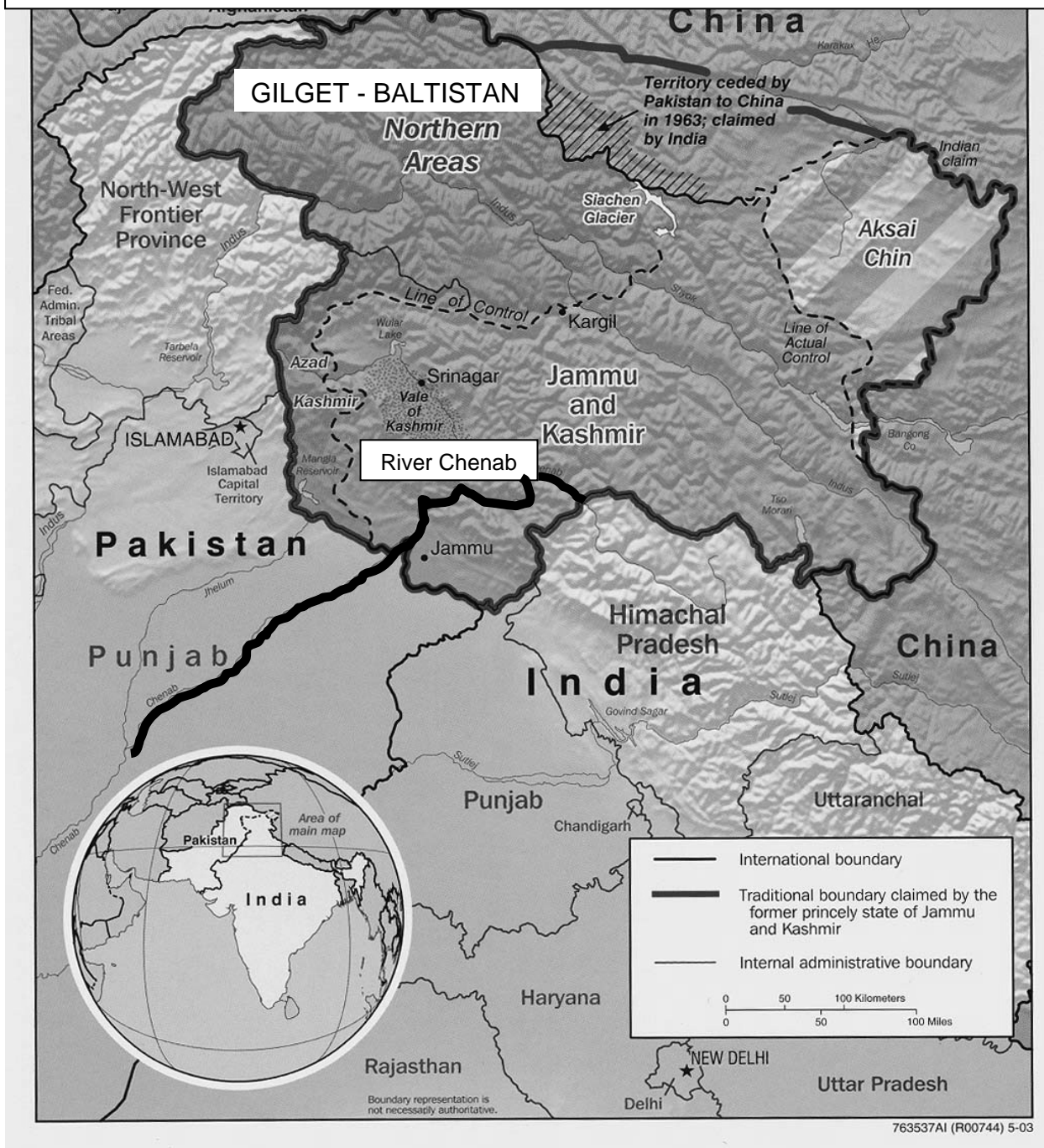


Figure1. (Courtesy of the University of Texas Libraries, The University of Texas at Austin.)

Kashmir Dispute is not just a territorial controversy. In fact, it has impacted shaping practically all aspects of bilateral relations of India and Pakistan since their independence.¹¹ It has had a profound effect not only on the development of their foreign policies, but on their domestic political evolution as well. Lately, India's growing economic power and the corresponding global diplomatic clout, with US granting it the status of a strategic partner, has made her chauvinistic in dealing with Pakistan and helped her put the resolution of the lingering Kashmir Dispute on the backburner.

Events following the tragic 9/11 terrorist attacks in US had a generally adverse impact on the traditionally fragile Indo - Pakistan relations. Presently, Pakistan holds India responsible for fueling militancy in FATA and Balochistan to destabilize it, making use of her presence in Afghanistan.¹² On the contrary, India alleges Pakistan to be involved in sponsoring militant activities in Kashmir and other parts of India. This has resulted in further worsening of bilateral relations as well as dissipation of Pakistan's efforts to wholeheartedly concentrate its military resources on the western borders to effectively fight the major security challenges of terrorism and militancy. The fallout effect of Indo - Pakistan acrimonious relations on the US - led ISAF campaign in Afghanistan is also proving to be harmful.¹³

The prevailing environment, therefore, dictates an early and peaceful resolution of the Kashmir Dispute for satisfying the people of Kashmir and ensuring desired regional peace, stability and economic development, besides ensuring synergy of the coalition's efforts for defeating the scourge of terrorism and militancy in the region.

The paper seeks to conduct a study of the history of the Kashmir Dispute, genesis of the popular uprising, significance of its early settlement in the contemporary

geo-strategic environment and the resolution options available to finally settle the issue. It is laid out in following four parts: (1) background to the dispute, (2) genesis of the politico – military uprising, (3) significance of early resolution and (4) the resolution options.

Background to the Dispute

Geographical and Demographic Facts

Kashmir is located at the confluence of the Himalayan Range with the Hindukush and Central Asia. It has an area of 86,000 square miles and its irregular borders rest for about 600 miles in the north and east with Sinkiang and Tibet provinces of China and, in the south and west for about 600 miles with Pakistan. Some 30 miles wide Wakhan Salient separates Kashmir from Tajikistan and the Pamir Plateau. At the extreme end, a narrow strip forms a common border with India, providing some legitimacy to its claim of territorial contiguity with the state. The entire region, with the exception of a narrow strip of the plains along its southern borders with Pakistan, is mountainous, comprising precipices, snow – covered peaks and glaciers, which are cut across by torrents and mighty rivers.

In the north - east of Kashmir, China holds a section of uninhabited land since 1950, the Aksai Chin, through which it has constructed a road linking Tibet to Sinkiang, The boundary between the Indian and Chinese held positions is not delimited and is called the Line of Actual Control (LOAC).¹⁴ A small part of Kashmir, called the Shaksgam or Trans-Karakoram Tract, along the northeastern border of the Gilget - Baltistan was ceded by Pakistan to China as a result of Sino – Pakistan Border Agreement of 02 March, 1963. It now forms part of China's Uygur autonomous region of Xinjiang.¹⁵

The population of the Kashmir was around four million in 1941, when the last census was held in undivided India. Then the state had an overall Muslim majority of 76%, while the Hindus made up 21%, the Sikh 1.6 % and the remaining were the Buddhist.¹⁶ The part of Kashmir under Indian control (now called “the State of Jammu and Kashmir” by India), comprises the Jammu Province, the Valley of Kashmir and the frontier region bordering Pakistan and China, known as Laddakh. Currently, the Muslims predominate in the Valley of Kashmir, the most populous and relatively more prosperous part of the state, as well as in the District Poonch of Jammu Province. Hindus are in majority in the eastern districts of Jammu province; however, overall, the Muslims constitute 61 % of the total population of the province. Laddakh region is mainly inhabited by Buddhists, however, its Kargil District has predominant Muslim population. In nutshell, if 10.1 million population of Indian - held Kashmir is taken as whole in the light of India's Census of 2001, the Muslims are in predominant majority i.e. 67% - Figure 2.¹⁷ The Pakistani portion of Kashmir, comprising the northern territories of Gilgit- Baltistan (formerly known as Northern Areas) and Azad Kashmir, has about five million inhabitants; massive majority of which is Muslim.¹⁸

Modern History

The state of Kashmir was ruled by the Muslims from 1320 to 1819; the period includes 67 years rule by Ahmed Shah Abdali, the Afghan ruler.¹⁹ The Sikh ruler Ranjit Singh defeated the Afghans in 1819 and governed it till the demise of his rule at the hands of British in 1846.²⁰ The British, in a bid to retain Kashmir as a buffer between their Indian Empire and China / Russia, sold it to the Dogra Hindu Maharaja Ghulab Singh in 1846 under the terms of “The Treaty of Amritsar” for a petty amount of seven and a half million rupees in cash plus a nominal tribute to signify British paramountcy.²¹



Figure 2. (Courtesy of the University of Texas Libraries, The University of Texas at Austin.)

The State remained under Dogra rule, marked by perpetration of injustice and discriminatory policies towards Muslims, till the partition of the Indian Sub-Continent in August 1947.²²

Genesis of the Dispute

The rules of British India's partition were generally clear for the provinces. A commission was, however, instituted under the British jurist Sir Cyril Redcliff to precisely demarcate the boundaries of the two parts of Punjab on the basis of ascertaining the contiguous majority areas of Muslims and non-Muslim.²³ The Commission, somehow, ended up recommending the award of seven Muslim - majority Tehsils (Counties) of Gurdaspur, Batala, Ajnala, Jullundur, Nakodar, Ferozepur and Zira alongwith part of Kasur to India, whereas none of the non-Muslim majority (Hindu or Sikh) was awarded to Pakistan.²⁴ As an overall result of the partition, Muslim majority provinces of West Punjab, Sindh, NWFP, Balochistan and East Bengal (now Bangladesh) formed Pakistan, and the rest of the provinces went to India. With regard to the future of 563 princely states (like Kashmir, Junagarh and Hyderabad etcetera), existing within the British India, option was given to their rulers to accede to either India or Pakistan primarily on the basis of the will of their majority population and geographical contiguity.²⁵ Based on this formula i.e. Muslim majority factor as well as the geographical contiguity (all existing land routes linking Sub-continent with Kashmir originating from Pakistan) and the trade cum economic dependence, Kashmir was clearly perceived to be part of Pakistan.²⁶ Maharaja Hari Singh, the ruler of Kashmir, however, waived in making the decision before August 1947 in a bid to retain an independent status for his state.²⁷ To urge him timely decide on accession after

ascertaining the wishes of his subjects, the last British Viceroy of India, Lord Mountbatten had to visit him Kashmir in June 1947, but to no avail.²⁸ This gesture notwithstanding, the fateful injustice perpetrated by the Redcliff Commission's Award under Lord Mounbatten's influence had already set the conditions for Kashmir's accession with India, wherein the Muslim – majority Tehsils of District Gurdaspur, in principle destined to be part of Pakistan, were awarded to India.²⁹ This was done, obviously, in a bid to provide India a land access to Kashmir in future.³⁰

At the time of partition, the top Kashmiri politicians, Sheikh Abdullah and Ghulam Abbas, leaders of the National Conference and the Muslim Conference respectively, were in the prison of Maharaja on charges of initiating the "Quit Kashmir Movement" and asking the British to annul the agreement of the "Sale of Kashmir" to Dogras in 1846.³¹ This opportunity gave the Maharaja a free hand to decide the destiny of the people of Kashmir in contravention of the basic principles of partition. In the ensuing tension, the Muslims revolted following an order by the Maharaja to surrender their arms.³² The Maharaja unleashed a wave of terror and embarked upon cleansing of Muslims in the Jammu region. In the process, the entire 500,000 Muslim population of Jammu was targeted by the Hindus and Sikhs; some 200, 000 were killed and the rest fled to Pakistan.³³ The Muslims of Kashmir revolted against Maharaja and soon liberated Poonch (an area heavily inhabited by recently demobilized soldiers from the British Indian Army), Muzaffarabad, Baramula, Bhimber and Kotli as well as Gilget - Baltistan, proclaiming the formation of a provisional Azad (free) Jammu and Kashmir Government in Rawalpindi, Pakistan, on 03 October 1947.³⁴ Outraged by massacre of

the Muslims by the Maharaja's forces, many Pashtun tribesmen from Pakistan's NWFP and FATA region also joined the war in support of their Muslim brethren.³⁵

Seeing the situation completely slipping out of his hands, the Maharaja fled from Srinagar and allegedly appealed to the Indian Government for military help on 26 October 1947. The Government of India, led by Lord Mountbatten (then performing as India's Governor General), declared that Indian troops could be sent to Kashmir only if the Maharaja first announced accession to India. Hence, the Maharaja complied under pressure.³⁶ The doubtful veracity of this account of accession notwithstanding, the legality of the "Instrument of Accession" signed by the Maharaja and its acceptance by Lord Mountbatten before dispatching the Indian forces to Kashmir remains shrouded by serious controversy, based on the analysis of the timelines of various events.³⁷ The fact that Indian government has never produced the alleged "original document of accession", also casts serious doubts about its accuracy, credibility and validity.³⁸

Pursuant to the alleged accession of Kashmir by the Maharaja with India, the Indian Army troops landed in Srinagar and reacted expeditiously to save the entire Valley from falling to the indigenous Kashmiri fighters and the tribesmen.³⁹ The alleged "Instrument of Accession" had, nonetheless, made it abundantly clear that "the Hindu ruler of Kashmir", and not "the people of Kashmir", had acceded to India, since their wishes had not been incorporated while making the decision of their destiny.

The Government of Pakistan rejected the accession, saying that it was fraudulent and did not represent the will of the population.⁴⁰ Moreover, Pakistan maintained that the Maharaja of Kashmir had already executed "The Standstill Agreement" with Pakistan on 15 August 1947, which debarred him from entering into any kind of

agreement / accession with India.⁴¹ In the meanwhile, responding to the Indian military interference and suspected mal-intentions, Pakistani Government also ordered immediate dispatch of troops to Kashmir, which, however, was not implemented by the British General Douglas D. Gracey (serving as Pakistani C-in-C at that time).⁴²

Three historic statements are worth examining here. The first is the letter of Lord Mountbatten addressed to Maharaja dated 27 October 1947, in response to accepting the alleged Instrument of Accession. In this, Lord Mountbatten clearly stated:⁴³

In consistence with the policy that in the case of any (native) state where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the state, it is my government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invaders, the question of the State's accession should be settled by a reference to the people.

On 27 October 1947, the day Indian Army was sent to Kashmir, Indian Prime Minister Jawaharlal Nehru sent the following telegram to his Pakistani counterpart.⁴⁴

I should like to make it clear that the question of aiding Kashmir in this emergency is not designed in any way to influence the State to accede to India. Our view, which we have repeatedly made public, is that the question of accession in any disputed territory or State must be decided in accordance with the wishes of people and we adhere to this view.

Four days later, Prime Minister Nehru declared again to Pakistani Government.⁴⁵

...Our assurance that we shall withdraw our troops from Kashmir as soon peace and order are restored and leave the decision regarding the future of the State to the people is not merely a pledge to your Government but also to the people of Kashmir and the World.

Subsequently, in a speech on All-India Radio on 02 November 1947, Prime Minister Jawaharlal Nehru affirmed:⁴⁶

We have declared that the fate of Kashmir is ultimately to be decided by the people. The pledge we have given, and the Maharaja has supported it, not only to the people of Jammu and Kashmir, but also to the World. We will not and cannot back out of (that pledge). We are prepared when

peace and law have been established to have a referendum held under international auspices like the United Nations. We want it to be fair and just reference to the people and we shall accept their verdict.

These and some subsequent statements of Indian Prime Minister made it abundantly clear that at the time of genesis of the Kashmir Dispute, Indian Government clearly considered that the Maharaja's accession to India was not only provisional but also required subsequent ratification by the people of Kashmir.⁴⁷

The UN interference into the dispute was sought by India on 01 January 1948 in the form of a complaint against Pakistan.⁴⁸ In the letter addressed to UNSC, India, re-affirming its previous stance, promised to hold a plebiscite / referendum to determine the future of Kashmir once the normalcy was restored.⁴⁹ The UNSC Resolution S/654,⁵⁰ asking for establishing The UN Commission on India and Pakistan (UNCIP), with the mandate to visit Kashmir for investigation of the facts and to exercise a mediatory influence, was adopted on 20 January 1948.⁵¹ Later, sequel to very heated debates, the UNSC unanimously adopted the historic resolution S/726, granting the right of self-determination to the people of Kashmir through a plebiscite. It also asked the UNCIP to proceed to Kashmir to make arrangements for the plebiscite and authorized the establishment of The UN military Observers Group for India and Pakistan (UNMOGIP) on 21 April 1948.⁵²

On 7 May 1948, India voiced objections to the UNSC's resolution; thus, commencing to drag its feet from an agreed stance. Subsequently, with the end of winters and roads being no longer snow-bound in Kashmir, it was seen preparing for a large - scale military offensive to capture Muzaffarbad and other parts of Azad Kashmir. As a safeguard, Pakistan Army moved a force comprising three brigades into Azad Kashmir asking it to initially take positions behind the local forces and not get involved in

the battle unless the Indian Army broke through.⁵³ On 18 May, the Indian Army launched the offensive, marking the initiation of the first war between India and Pakistan. However, in the face of stiff resistance offered by indigenous Kashmiri and Pakistan Army troops, coupled with treacherous nature of terrain, Indian offensive soon reached the culminating point - remaining unable to attain the intended objectives.

Amidst this crisis, the UNCIP was rushed to the Sub-continent by the UNSC under US Admiral Chester W. Nimitz; the newly appointed Plebiscite Administrator. However, by the time the UNCIP reached the region, the prevailing political and military situation in Kashmir was much changed from what the UNSC had thought it to be while adopting the resolution.⁵⁴ The peace plan proposed by the UNCIP's resolution of 13 August 1948, agreed to by both India and Pakistan in December 1948, recommended a three - stage solution for settlement; first, ceasefire, second, truce (synchronized withdrawals of forces on both sides) and, third, the conduct of a plebiscite.⁵⁵ The ceasefire took effect on 01 January 1949, although its timings were considered 'untimely' by Pakistan, as these unjustly suited the Indian forces the most.⁵⁶ The Ceasefire Line (CFL) Agreement (formally known as The Karachi Agreement) was signed between India and Pakistan under the auspices of the UNCIP on 27 July 1949, affirming the territorial status in Kashmir i.e. the areas freed by the tribesmen and Kashmir Muslims from Maharaja's forces in Kashmir, called Azad Kashmir and Gilget – Baltistan, remaining under Pakistan's control, while India continuing to hold the rest of Kashmir.

The UNCIP submitted its arbitration proposals to India and Pakistan on 26 August 1949, which were rejected by both sides for different reasons. Subsequently,

the acceptance of demilitarization and plebiscite proposals prepared by General A. G. L. McNaughton (Ret), the President of UNSC, was sought from India and Pakistan on 22 December 1949, however; no agreement could be reached due to India's reservations. Due to lack of any worthwhile progress, the UNSC replaced the UNCIP with a "Special Representative of the UN for India and Pakistan" on 14 March 1950. Sir Owen Dixon, an Australian jurist, became the first appointee for the slot. However, his proposals (partition and regional plebiscite)⁵⁷ also failed to achieve an agreement by both the sides. The UNMOGIP was deployed on both sides of LOC for monitoring of ceasefire in the light of the UNSC resolution of 30 March, 1951.⁵⁸ It, being the second oldest mission of the UN, remains deployed on the Pakistani side even today, but no longer plays any significant role in the light of Indian position.⁵⁹

Dr. Frank P. Graham was appointed the UN Special Representative on Kashmir in April 1951, whose efforts to achieve consensus of India and Pakistan on new proposals also proved futile from December 1951 - February 1953. Reinvigorating the efforts, UNSC authorized its President, Mr. Gunnar Jarring, to hold talks with India and Pakistan on proposals of demilitarization, arbitration and plebiscite. On 29 April 1957, Mr. Gunar presented his report to the UNSC; India rejected the arbitration proposal, whereas Pakistan consented in entirety. Faced with the dilemma, the UNSC, in the last – ditch effort, again asked Dr. Frank P. Graham to renew the mediation efforts on 02 December 1957. Unfortunately, India once again rejected his proposals on 28 March 1958; hitting the final blow to UN's efforts for the conduct of plebiscite to resolve the Dispute.⁶⁰

An objective appraisal of the reasons of non - implementation of the proposals forwarded by various UN officials highlights the fact that the conduct of plebiscite could not materialize mainly due to the implicit fear in India that given the demographic and other ground realities, its results will be unfavorable to India. Indian blame - game i.e. holding Pakistan responsible for not timely de-inducting its forces from the Valley was basically a cover – up to retract from its declared commitments.⁶¹

Using the casus belli of Pakistan's joining the CENTO and SEATO in 1954 - 55, the angered Indian Prime Minister Nehru started overtly showing signs of backing out from his promises of holding plebiscite in Kashmir.⁶² However, logically, the linkage drawn by him was flawed.⁶³ Concurrently, he was quietly proposing a status quo solution (conversion of CFL into international border), which was outrightly rejected by Pakistan. Subsequently, he embarked upon the efforts for ratification of the controversial accession of Kashmir with India through the puppet Legislative Assembly / Government of Kashmir and succeeded in this venture in 1954.⁶⁴ This move was, however, protested by the people of Kashmir and strongly rejected by Pakistan. The UNSC Resolution of January 1957 also declared it "invalid" and affirmed the principles that the final disposition of the State of Jammu and Kashmir should be made in accordance with the will of the people.⁶⁵

The next major development, reflecting persistent disregard to the UN resolutions and the aspirations of the people of Kashmir, was the decision of the Indian Government to extend Articles 357 and 365 of the Indian Constitution to Kashmir in January 1965. This further eroded the special status of Kashmir accorded under Article 370 of the Indian Constitution.⁶⁶ In March 1965, the Jammu and Kashmir Legislative

Assembly adopted the constitutional amendment bill, known as the Sixth Amendment. It abolished the office of the Elected Sadar-i-Riyast (President of the State), replacing it with Governor appointed by the President of India, and that of Wazir-e-Azam (Prime Minister), substituting it with Chief Minister; thus equating Kashmir with other states of the India.⁶⁷ This amendment, ending the special autonomous status granted to Kashmir in the Indian Constitution, added fuel to the already simmering unrest in the Valley evoked on 27 December 1963, when a sacred hair of the Holy Prophet Mohammad was stolen from the Hazrat Bal Mosque.⁶⁸ This led to prolonged rioting; the ‘Civil Disobedience Movement’ was launched by the people of Kashmir on 5 January 1965, which was subjected to brutal oppression by the Indian administration. India blamed Pakistan for the growing unrest. Amidst the mounting escalation, which was marked by Pakistan Army’s unsuccessful “Operation GIBRALTOR” to free Kashmir Valley from India, the war broke out between the two countries in early September 1965 across CFL as well as international borders.⁶⁹ The UN intervened to arrange a cease-fire which became effective on 23rd September 1965, ending the war in a stalemate.⁷⁰

The Tashkent Declaration was signed between the governments of India and Pakistan in January 1966 through the efforts of Soviet Prime Minister Kosygin.⁷¹ This declaration only perpetuated the status quo on the Kashmir Dispute.⁷² According to the Indian interpretation, the agreement in the Tashkent Declaration “not to interfere in the internal affairs of each other” barred Pakistan from raising objections to India’s possession of Kashmir. Pakistan’s contention remained that a disputed territory cannot be regarded as the internal affair of one of the claimants.⁷³

The Kashmir Dispute again came to the fore when India and Pakistan signed The Simla Accord in June 1972 in the wake of the Indo-Pakistan War of 1971. The war had resulted in dismemberment of Pakistan i.e. erstwhile East Pakistan becoming Bangladesh, sequel to an Indian – sponsored / supported insurgency preceding the war.⁷⁴ The Simla Accord converted the CFL into Line of Control (LOC) in Kashmir which, however, in principle, did not affect the status quo in Kashmir. The clause of the Accord relating to Kashmir reads:⁷⁵

The Line of Control resulting from the cease-fire of 17th December 1971 shall be respected by both sides without prejudice to the recognized position of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations.

It is, however, pertinent to note that in contravention to the Accord, India has been involved in unilaterally and radically altering the situation in the Kashmir by intruding into the Siachen Glacier (the region of Kashmir, where LOC was not delineated in 1949) in 1984.⁷⁶ India also defies the clause of the Accord, which draws a clear distinction between the international border and LOC; besides ignoring the clause which states that “the principles and purposes of the Charter of the UN shall govern the relations between the two countries”. This logically implies that India is required to fulfill its obligation and implement the UN resolutions relating to Kashmir.⁷⁷ Instead, India insists on the clause, which says that “the two countries are determined to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them”.

Hence, India contends that the Kashmir is a “bilateral dispute” and needs to be resolved directly by Pakistan and India, without any foreign / UN intervention.⁷⁸

However, when it comes to bilateral negotiations, India shies away from any concrete

discussion by rigidly anchoring itself to the stated position that Kashmir is its unbreakable / integral part. It further contends that the only issue relating to Kashmir meriting settlement is the Pakistani - administered part of Kashmir.⁷⁹ On the other hand, Pakistan assertively maintains the position that The Simla Accord in no way compromises its stance on the resolution of Kashmir Dispute and it seeks an active engagement of UN / international community for dispute resolution, which irks India.

Genesis of the Politico – Military Uprising

On the political front in India, it was generally thought that the 1975 Accord between Indian Prime Minister Indra Ghandhi and Kashmir's Chief Minister Sheikh Abdullah would mark a shift in centre - state relations in the context of Kashmir. The Indian Government had committed to review some of the important central laws and constitutional provisions applied to Kashmir from 1953 to 1975; a pledge which, however, was not honored.⁸⁰ While there was strong resentment and protest against the Accord in Kashmir, it was strongly denounced as a 'sell-out' in Pakistan.⁸¹ After the death of Sheikh Abdullah, whose relations with New Delhi had gradually become estranged with the Indian Government over the constitutional provisions relating to Kashmir, his son Dr. Farooq Abdullah assumed power as the new Chief Minister in September 1982. He was replaced by G.M. Shah, his brother-in-law, sequel to a revolt within his party in the state's Legislative Assembly in July 1984. However, following violent riots in Kashmir in February 1986, G.M. Shah - led Government had to resign, leading the way to suspension of the Legislative Assembly and the State being put under Governor's Rule. In September 1984, Governor's rule ultimately culminated into direct rule of the State from New Delhi. Dr. Farooq Abdullah was once again brought in as Chief Minister in November 1986; but was shortly dismissed by the Governor.⁸²

In March 1987, elections for the state's Legislative Assembly were held in the wake of the accord between Indian Prime Minister Rajiv Gandhi and Dr. Farooq Abdullah. These elections were massively rigged, resulting in the installation of Dr. Farooq Abdullah as the new Chief Minister.⁸³ This development ultimately led to widespread protests and uprising in Kashmir.⁸⁴ The rising graph of the disenchantment of the people of Kashmir from Indian rule culminated in the boycott call of the Indian Lok Sabha (lower house of the parliament) elections by Kashmiri political groups in 1989. The successful boycott (only 12 % turn out) led to mass alienation of the people of Kashmir from India, leading to extensive political protests. Indian security forces' high-handedness and brutal oppression subsequently led to conversion of the political movement into a violent struggle i.e. The Kashmir Freedom Movement.⁸⁵

In January 1990, with violent clashes between the freedom fighters and Indian security forces becoming a daily affair and with Kashmir's placement under the Governors Rule (following the dissolution of the State Assembly), the unrest spread to the entire state.⁸⁶ Frustrated by the rampant violence resulting from its own faulty policies and repressive strategy, India alleged Pakistan for supporting the militancy; the charge which was vehemently denied by Pakistani Government. This led to escalation of political and military tension between the two countries.⁸⁷ International fears of another Indo-Pakistan war increased. However, the US, other western powers and the erstwhile USSR intervened and dissuaded both the countries from an active military overture.⁸⁸

To coordinate the freedom struggle, major political parties of the Kashmir Valley formed an alliance known as 'All Parties Hurriyat Conference' (APHC) In April 1993.⁸⁹

An organization called “Dukhtaran-e-Millat”, headed by Asia Andarabi, also played a significant role in mobilizing the women in Kashmir. To suppress the political and militant activities by brute force, the number of Indian security forces, to include regular Army, paramilitary and police troops, reached the gigantic figure of 600,000 at one point of time in Kashmir.⁹⁰ In the reign of terror and brutality unleashed to crush the freedom movement, over 80,000 peoples have lost so far their lives as a result of deliberate and arbitrary killings.⁹¹ Besides this, countless horrendous acts of damages to property, torture and rapes have been committed by the Indian security forces; a fact highlighted by the US State Department in its reports, Amnesty International, UN Special Rapporteur on Torture and other global human rights organizations in their reports.⁹²

Amnesty International and other major global human rights watchdogs extensively covered the brutalities and gross human rights violations committed by the Indian security forces in Kashmir till the entire global focus suddenly shifted to terrorism issue in the aftermath of 9/11 incident in US. In retrospect, it can be inferred that 9/11 tragedy proved to be a watershed event for the Kashmir Freedom Movement as well; unfortunately, a legitimate resistance movement is now viewed analogous to terrorism.

The Kashmir Freedom Movement has strong indigenous base and motivation, disregarding Indian allegations of its Pakistani linkage.⁹³ Objectively seen, it is an accumulative result of the continuous denial of the right of self -determination, political failures of Indian Government, high-handed repressive policies of Indian security forces, discriminatory economic policies resulting in impoverishment of Kashmir vis-à-vis other states of India, disillusionment of the Kashmiris with the political system and rise of militant Hindu nationalism leading to marginalization of Muslims in India. The Iranian

Revolution under Ayotullah Khamenie and the defeat of the USSR at the hands of Mujahideen in Afghanistan (which resulted in disintegration of the USSR and independence of many countries in Central Asia and Eastern Europe) also served as an impetus to this movement in the early 1990s.⁹⁴

Despite Indian efforts to weaken the freedom movement through perpetration of brute repression, division of the Kashmiri political leadership by inducing and exploiting their internal differences and ensuring effective banning of Pakistani – based organizations (alleged by India of supporting militancy across LOC) through involvement of the US and UN, the situation in Kashmir remains far from satisfactory. The popular indigenous struggle continues unabated, unnerving the Indian Government, resulting in continuous heavy presence of security forces and virtual siege of the Valley. Much - echoed Indian allegations of Pakistan's involvement in cross border infiltration of militants and latter's declared diplomatic and moral support to the Kashmiris' cause have brought the issue on the fore-front of the hostile bilateral relations. However, a positive development has been, that while the LOC was violated (involving use of heavy weapons, including artillery) on a continual basis in the past, an official ceasefire exists along it since 2003, which is widely respected by both the sides.

Kashmir in the Aftermath of Kargil War and 9/11 Incident

In May - June 1999, the limited war between India and Pakistan (both newly declared nuclear powers) remaining confined to the Kargil region of Kashmir brought them to the verge of a potentially catastrophic conflict. The cease-fire could be brought into effect and a bigger crisis averted primarily owing to the personal efforts of the US President Bill Clinton.⁹⁵ This conflict, however, once again brought to fore the need of an

early resolution of Kashmir Dispute, with President Clinton remarking it as “nuclear flashpoint and the most dangerous place in the World”.⁹⁶

The relations between Pakistan and India worsened sharply in the aftermath of 9/11 terrorist attacks in US.⁹⁷ In an endeavor to exploit the growing US / global sentiments against terrorism to her advantage, India involved itself in vicious propaganda campaign against Pakistan’s alleged support to ongoing insurgency in Kashmir. It even commenced openly threatening Pakistan of undertaking “hot pursuit” of militants into Pakistani territory, emulating US offensive operations in Afghanistan.⁹⁸ Further fuel to this vicious environment was added by the terrorist attack on Indian Parliament in New Delhi on 12 December 2001, which India instantly linked to the Pakistani - based Kashmiri militant groups.⁹⁹ This incident provided a casus belli to India for politico – military coercion of Pakistan over its moral and diplomatic support to the just cause of the Kashmiri peoples, and resulted in a year - long large-scale military escalation marked by dangerous nuclear standoff.

The situation ultimately got de-escalated owing to the growing pressure of the US and other major powers.¹⁰⁰ The exorbitant cost of prolonged maintenance of forces in a state of operational deployment and India’s reckoning the fact that a war between two nuclear powers would be mutually destructive, and not help her achieve the politico - military objectives, also led to the de-escalation.¹⁰¹ This standoff, while again highlighting the importance of early resolution of the Kashmir Dispute, seriously diluted Pakistan’s efforts to effectively seal off its western borders to block the entry of Taliban and other foreign militants (fleeing from Afghanistan in the wake of ‘Operation ENDURING FREEDOM’) to take refuge and regroup / re-organize in the treacherous

region of FATA. The ill-effects of this fateful event adversely impacted the US – led coalition’s as well as Pakistan’s efforts in their fight against terrorism and paved the way to the complicated situation at hand now.¹⁰²

The bilateral Composite Dialogue Process, initiated in 2004 owing to the US’ encouragement and mutual realization, to resolve the conflictual issues (including the core issue of Kashmir), made substantial progress on confidence – building measures for easing tensions and promoting serious dialogue. Unfortunately, this process got derailed sequel to November 2008 terrorist attacks in Mumbai; allegedly master-minded by a banned Kashmiri militant group (Lashkar-e- Tayabah) based in Pakistan / Azad Kashmir. The incident once again sparked a military escalation, with India openly threatening military strikes inside Pakistani territory on alleged terrorist bases.¹⁰³ Coercing Pakistan militarily, India also exploited the situation on the diplomatic front to malign Pakistan through the US and UN.¹⁰⁴

Fearing a potentially catastrophic military showdown between the nuclear rivals and Pakistan’s likely pulling out of troops from the western borders for deployment against India, the US, other NATO countries, China and Saudi Arabia timely intervened and calmed the situation. Obviously, such a Pakistani move could have a highly adverse impact on coalition operations in Afghanistan. Nevertheless, the tension in the interstate relations over the Mumbai terrorist incident of November 2008, coupled with India’s growing anti - Pakistan activities using Afghanistan’s soil, continues at heightened level, resulting in stalling the Composite Dialogue Process and freezing of any development over Kashmir.¹⁰⁵

Significance of Early Resolution

Kashmir has held great strategic importance ever since the initiation of the 'Great Game' between Russia, Britain and China.¹⁰⁶ Indian Prime Minister Nehru stressed on the British Prime Minister Clement Attlee in a signal on the fact that Kashmir's borders were common to those of Afghanistan, China and the erstwhile USSR and thus possession of Kashmir was vital for the security of India.¹⁰⁷ The Government of Pakistan described the annexation of Kashmir by India as threat to the security of Pakistan.¹⁰⁸ In a cable message to Indian Prime Minister Nehru on 16 December 1947, the Pakistani Prime Minister Liaquat Ali Khan unambiguously observed that the security of Pakistan was bound up with Kashmir.

With the partition of the Sub - continent, Kashmir assumed a greater strategic value than in the imperial times. Its strategic relevance for both India and Pakistan obviously lies in its location and significance for each state's defensive posture. A US Task Force report titled 'After the Tests' prepared by The Brookings Institution and The Council on Foreign Relations mentioned Kashmir as "The most dangerous point of contention between India and Pakistan; an issue with the greatest potential to trigger a conventional or even a nuclear war".¹⁰⁹ The strategic significance of Kashmir for Pakistan and India from the analytical standpoint is as follows:

- For Pakistan, Kashmir holds vital strategic importance and is rightly termed as its "jugular vein", since all major rivers feeding Pakistan's agriculture originate from there. Additionally, operational viability of Pakistan's canal – based defense system would be seriously eroded, if the rivers of Pakistan are dried

up by India's illegal construction of dams on the rivers originating from Kashmir; a pursuit on which India is already engaged.¹¹⁰ Kashmir also assumes strategic significance for Pakistan's geographical contiguity and existence of vital road – link i.e. Kara - Karam Highway, with China. From the point of view of domestic politics, the issue has assumed great emotional significance and no government can survive in Pakistan, if it is perceived to compromise on the national aspirations attached to it. The status quo solution i.e. conversion of LOC into international boundary, can also not be acceptable to any regime in Pakistan for the same very reason.¹¹¹ Unfortunately, ex Pakistani President Pervez Musharraf's bold initiatives and offer of innovative proposals for resolution of the dispute in 2005, involving major shift from the stated national stance, failed in ceasing of the historic opportunity by India for the resolution of the bilateral core dispute.¹¹²

- India considers Kashmir of immense strategic importance as it provides her leverage not only against Pakistan but also against China. It is pertinent to note that an old territorial dispute exists between China and India over possession of Aksai Chine Region of Kashmir in Laddakh, over which they have fought a war in 1962.¹¹³ Kashmir also provides India the capability to manipulate with Pakistan's agro - based economy due to her control over waters of rivers irrigating Pakistan's farming lands. More importantly, India apprehends that a secession of Kashmir, setting precedence, could give fillip to other active insurgencies in India.¹¹⁴ Historically also, India finds itself in an embarrassing position to retract from the "state of denial", both at the

domestic as well as external front, by agreeing to the resolution of the dispute based on the UN resolutions – a proposal it has been rejecting for the last 60 years. Like Pakistan, the Issue is strongly attached to domestic polity in India as well - a turf where no political leader / party can afford to appear weak.¹¹⁵

Positions and Approaches of Various Stakeholders

- India officially claims the whole of Kashmir as its “integral and unbreakable part” based on the controversial “Instrument of Accession”. It contends that the UNSC resolutions on Kashmir have lost their validity, since Kashmir’s Legislative Assembly ratified the accession and the people of Kashmir have taken part in many state / national elections since partition; thus, in a way, accepting the accession of Kashmir with India.¹¹⁶ With regard to the ongoing freedom movement inside Kashmir, it maintains that Pakistan is responsible for giving fillip to it and brands it as “cross border / state - sponsored terrorism”.¹¹⁷ Considering Kashmir to be a bilateral issue, which can be resolved within the framework of The Simla Accord, it resists any foreign intervention or internationalization of the Dispute.¹¹⁸
- Pakistan considers Kashmir a disputed territory and terms Indian occupation of Kashmir, based on the alleged “Instrument of Accession”, to be fraudulent and illegal. It also proclaims that Kashmir’s final status is to be decided by giving its people the right of self-determination through a plebiscite in the light of pending UN resolutions.¹¹⁹ It feels morally and politically bound to support the cause of the people of Kashmir and considers the ongoing freedom movement in Kashmir as legitimate and indigenous in nature. It terms the

dispute as the 'core – issue'; a bottleneck for the resolution of half a dozen other bilateral disputes (like Siachin Glacier and Sir Creek, etcetera) and establishment of bilateral sustainable friendly relations.¹²⁰ Pakistan also contends that it faces existential threat to its survival from India mainly over the Kashmir Dispute, which seriously inhibits its desire to employ the optimal military capability on the Pakistan - Afghanistan border. It, therefore, considers that the resolution of Kashmir Dispute will have great impact on its capacity to defeat militancy in FATA, casting a favorable impact on ISAF's operations in Afghanistan.¹²¹ It seeks active UN, US and EU's role, albeit internationalization of the issue, for facilitation of the conflict - resolution in the face of Indian intransigent attitude in bilateral discussions.¹²²

- The people of Kashmir feel that Kashmir is not solely a "territorial' dispute between India and Pakistan; it is actually about 'them – the people of Kashmir", who are a party to the Dispute and need to be given the promised right to decide their future in the light of the UNSC resolutions - an assertion endorsed by Pakistan but denied by India.¹²³ Their political leadership is presently showing some signs of disunity. However, they unanimously consider Kashmir as an unfinished agenda of the partition of the Sub-continent and its Indian occupation as illegal. They earnestly desire to be involved in negotiations held between India and Pakistan over the future of Kashmir. Their immediate demands are withdrawal of Indian security forces from the Valley, end of the gross human rights' abuses and allowing the Kashmir's political leadership and people to freely move across the LOC.

- The UN, being a party to the dispute since 1948, seeks peaceful settlement of the conflict. It, however, does not press hard on the implementation of its multiple resolutions due to changed geo-strategic realities and policies / priorities of the UNSC's members. It, nevertheless, continues the 61 years old deployment of the UNGOMIP along LOC. Its resolutions with regard to Kashmir still remain valid and it regards Kashmir as a disputed territory whose future is yet to be decided.¹²⁴
- Historically, the successive US administrations have been involved in a variety of ways to help peacefully resolve the Kashmir Dispute since its inception and conducted very active diplomacy for the purpose.¹²⁵ The Truman Administration, joined by Britain and France, led the way for adoption of the UNSC resolutions in 1948 asking for the conduct of a plebiscite to determine the future of Kashmir.¹²⁶ During the Cold War era, India generally viewed the US' position on the status of Kashmir and its resolution supportive to Pakistani stance; a perception which changed during the conduct of the Kargil War between India and Pakistan in Kashmir in 1999.¹²⁷ Presently, the US policy on Kashmir tends towards pessimism (hands - off approach); laying emphasis on conflict -management rather than conflict - resolution.¹²⁸ It considers Kashmir as a disputed territory and overtly advocates a bilaterally - negotiated peaceful settlement of the dispute, discarding any meaningful role for itself in facilitating the resolution of the conflict.¹²⁹ However, realizing the sensitivity of the dispute in the context of nuclear capability of both adversaries and the US' interest to seek Pakistan's optimum cooperation in

support of its campaign in Afghanistan, President Barrack Obama initially hinted at undertaking active diplomacy (even declaring to nominate the ex President Bill Clinton as the Special Envoy) to facilitate the resolution of Kashmir Issue.¹³⁰ However, the “realist” approach i.e. India’s growing economic significance and the long-term US interests in regional hedging of the rising China, forced him to backtrack from this commitment.

Consequently, the US pursues a purely crisis – management approach to de-escalate the recurring tensions between India and Pakistan, giving India a free hand in putting the issue on back-burner and adopting an arrogant and rather belligerent posture towards Pakistan. Daniel Markey, Senior Fellow for South Asia at the Council on Foreign Relations, Washington DC is of the view that:¹³¹

There is little doubt that normalized relations between India and Pakistan, including a regionally acceptable settlement on Kashmir, would offer tremendous benefits to the United States. Indo-Pak tensions are especially dangerous because they bring two nuclear states toe-to-toe; they distract Islamabad from the urgent task of combating terrorists and militants on its own soil; and they contribute to Pakistani suspicions about India's activities in Afghanistan. Thus, the long-standing dispute over Kashmir is one part of a wider regional dynamic that has direct implications for Washington's ability to support a stable Afghan state and to address the threat posed by terrorist groups in South Asia.

- China remains the strategic partner of Pakistan and has remained supportive of its stance on Kashmir since the beginning of 1965. Though it sees India as its economic rival and regional military challenger, but, owing to the growing economic interests, it adopts a low profile as regards urging India to resolve the Kashmir Issue.¹³² It is likely to continue with this approach unless its own outstanding territorial disputes with India come into serious clash. However,

struck with a choice between supporting the Pakistani or Indian stance on Kashmir, it is likely to put its weight behind Pakistan, since it will also serve its own strategic interests.¹³³

- Historically supportive of Pakistan's stance over Kashmir in the past, the EU now finds it hard to urge India to seek an early and peaceful resolution of the Kashmir Dispute with Pakistan, primarily for safeguarding its economic interests in India. While it remains averse to any military showdown between the two nuclear rivals, it is not very keen to pursue any meaningful role for the conflict - resolution; emulating the current US approach, it also seeks bilateral dialogue for the conflict resolution.¹³⁴ It, nevertheless, views Indian oppressive policies and human rights violations in Kashmir with concern, periodically raising voice against the high-handedness of Indian security forces.¹³⁵
- Though supportive of Pakistan's principled stance over the Kashmir Dispute, Islamic countries resist any overt support of the Kashmir cause due to the growing Indian power potential.¹³⁶ Nonetheless, OIC's 'Kashmir Contact Group' meets periodically to assess the situation in Indian - held Kashmir.¹³⁷ Indian propaganda that it would be difficult to guarantee the safety of millions of Indian Muslims if Kashmir falls apart with India, does work as an effective deterrent for the major Islamic countries to meaningfully raise the issue internationally or exert pressure on India.¹³⁸
- For the people of Indian – held Kashmir, the conflict remains a tragedy and disaster in all dimensions; huge sacrifices in terms of human lives, gross human rights abuses, awesome loss of property, unending tyranny, major

displacement of population, economic impoverishment and severe psychological distress. They keenly seek an early resolution of the dispute to get their national identity and begin their normal lives in a peaceful environment.

The Rationale for Early Resolution

In the last two decades, the Kashmir Dispute has entered a new phase in its history and is distinguished by profoundly important sets of changes in the geopolitical context. First is the change in the internal political and military environment of Indian - held Kashmir with the emergence of a powerful and popular freedom movement amongst Kashmiri Muslims. The second set consists of changes in the regional political and military context with the transformation of India and Pakistan into nuclear powers. The third set of changes comprises the collapse of the USSR resulting into uni-polar US - led world and emergence of China and India as major economic powers. Yet, another set of changes has been introduced by the tragic incidents of 9/11, resulting in the US – led NATO involvement in war against terror and continued presence of their armed forces in Afghanistan. The changed geo-strategic environment, thus, indicates a paradigm shift in the context of India - Pakistan relations and the unfortunate labeling of the struggle of people of Indian – held Kashmir with terrorism.¹³⁹

The need of early resolution of the Kashmir Dispute has been considered important since its emergence for the establishment of peace and stability in South Asia. The prevailing geo-strategic environment, however, necessitates pursuing accelerated efforts for its peaceful and early settlement.¹⁴⁰ Important reasons alluding to this view are covered in the succeeding paragraphs.

The overt nuclearization of South Asia in May 1998 recaptured the attention of international community towards the Kashmir Dispute.¹⁴¹ In the aftermath of the Kargil Conflict, the defense analysts have openly started referring to it as the ‘potential nuclear flashpoint’.¹⁴² The military standoffs involving dangerous brinkmanship between India and Pakistan, sequel to terrorist attacks on Indian Parliament Building and in Mumbai (in December 2001 and November 2008 respectively), were potentially major catastrophes in the offing. These were fortunately averted by active engagement of the global community led by USA, but do keep reminding that situation could once again get out of control at short notice leading to a mutually devastating war between India and Pakistan with wider regional implications.¹⁴³ Logically, the possession of nuclear weapons and credible delivery means by both India and Pakistan has curtailed the prospects of a conventional war.¹⁴⁴ However, the strategically erroneous Indian conclusion that the “space still exists for a limited conventional war (employing the newly evolved Cold Start Doctrine) under the nuclear overhang”, as recently alluded to by Indian COAS, General Deepak Kapoor, is potentially destabilizing and dangerous.¹⁴⁵ It amply demonstrates the Indian belligerent mindset, dwarf of the strategic understanding of the risks involved in this adventurist gambit. Nevertheless, given the history of bad blood between India and Pakistan, the US and other major powers realize the sensitivity of the Kashmir Dispute and remain concerned that it can trigger nuclear conflagration in the region, with far – reaching devastating consequences.¹⁴⁶ This point makes the first case for the significance of early resolution of the Kashmir Dispute.

The second reason alluding to the significance of early resolution of the Kashmir Dispute is linked to the adverse effects of hostile nature of Indo - Pakistan relations on

the US - led NATO campaign to defeat Taliban and Al-Qaeda in Afghanistan. With the emergence of Northern Alliance - dominated / Karzai Government in 2001, India has embarked upon aggressively asserting itself in Afghanistan for advancing its strategic interests in the region. There is a growing global consensus on the Pakistani conviction that Indian activities in Afghanistan, especially along the Pakistan- Afghanistan border, are aimed at creating instability and promoting militancy inside Pakistan with a view to presenting Pakistan a “two fronts” challenge.¹⁴⁷ The role of Indian consulates as spying outfits and sources of aid to the insurgents in Pakistan’s province of Balochistan is also clearly discernible.¹⁴⁸ This fact, initially going unnoticed, has started drawing attention of the US / NATO military and political leadership, with General MacChrystal directly mentioning this in his recent assessment, and is being viewed as a stumbling block in the way of acquiring Pakistan’s optimum cooperation in support of coalition operations in Afghanistan.¹⁴⁹ Since Pakistan genuinely perceives existential threat to its security emanating from India, as recently manifested by unabated jingoistic statements of Indian politico- military leadership in the aftermath of the Mumbai terrorist attacks, it is unrealistic to expect Pakistan to employ its optimal military potential in fight against Taliban / Al Qaeda along its western frontier, ignoring the necessary conventional safeguards against India. During the recent escalation, Pakistan’s plan to shift some troops from FATA to strengthen its defenses in the face of looming Indian military threat amply highlights this point.¹⁵⁰ Had this plan been practically executed, the US - led and Pakistan Army’s operations against the militants in Afghanistan and FATA respectively would have been fatally affected.¹⁵¹

The third argument in support of an early resolution of the Kashmir Dispute is linked to its casting negative shadows on the efficacy of The South Asian Association for Regional Cooperation (SAARC). In an environment of acrimonious bilateral relations between two major members, it is unthinkable to meet the desired goals of economic development and prosperity for all member states of the Organization.¹⁵² Resultantly, SAARC has been left much behind in terms of its achievements vis-à-vis other regional organizations like ASEAN and EU.

The fourth argument highlighting the significance of early resolution of the Kashmir Dispute is linked to India's aspirations to emerge as a dominant power in the world, in keeping with her growing economic potential.¹⁵³ Till the time the dispute is amicably resolved, satisfying the people of Kashmir, the prospects of establishing harmonious relations between India and Pakistan will remain elusive. The "spoilers" or the hardliners on both sides of the border, who are averse to the establishment of peace between the two countries, will periodically continue to create situations to hamstring the progress made in the bilateral relations and thus destabilizing the region. India has to rise above the local issues to be reckoned as a responsible regional power and must create peace in its immediate neighborhood by resolving conflictual issues, like Kashmir. India's credentials to aspire for a permanent seat in the UNSC obviously get adversely affected on ethical grounds owing to its culpability of non-implementation of many long - pending resolutions of the UNSC over Kashmir.¹⁵⁴

The fifth rationale for the early resolution of the Kashmir Dispute, apparently more important from Pakistan's perspective in the immediate context but potentially of great pertinence for India as well, is intrinsically linked to the spread of domestic

violence, militancy and extremism. Indian high-handed approach in Kashmir to quell the freedom movement, resulting in increased miseries of Muslims, provides opportunity to the banned extremist religious groups in Pakistan to motivate the youth for participating in militant activities against Indian security forces. The spill-over effects of inclination towards militancy have the potential to give rise to domestic violence. In India as well, the non-resolution of the Kashmir Dispute tends to radicalize the youth, motivating them to resort to violent activities domestically. The reported involvement of the “Indian Mujahideen” in recent terrorist attack in Pune and the revelations of the involvement of Indian nationals in Mumbai terrorist attack in 2008 indicate the trend.¹⁵⁵ Terrorist incidents are detrimental to economic development of every country and create domestic instability. India must understand that it cannot remain insular to the developments next-door and that a stable Pakistan is in its greater interest.¹⁵⁶ Hence, it should seek early resolution of the Kashmir Dispute (the core issue giving rise to regional militancy) from a broader and futuristic perspective.

The sixth argument for an early resolution of the Kashmir Dispute is linked to the fact that bitter inter-state hostility emanating over this issue has negatively impacted the economic development and prosperity in both India and Pakistan. The tendency to spend disproportionately more on the defense preparedness has resulted into a perpetual arms race, including its costly nuclear dimension, which relegates the high priority areas of education, healthcare and infrastructure development in both countries. Pakistan’s economy, already in distress due to multiple security and financial challenges, can obviously not afford the growing defense expenditure to match the growing Indian military capabilities, but it is compelled to ignore this reality in the face of

increasing Indian threat to its security / existence. Similarly, India may have become an emerging economic power in terms of GDP; it is still confronted with serious challenges of poverty, education and health.¹⁵⁷ The acrimonious state of bilateral relations has, in fact, left both India and Pakistan much behind compared to other countries of Asia. A peaceful resolution of the Kashmir Dispute, resulting in lowering of the bilateral tensions, will therefore auger well from the standpoint of economic and human resource development and benefit the whole region.

The last but not the least argument for the early resolution of the Kashmir Dispute is that it is now more important than ever in the eyes of international community, especially from the US' perspective, disregarding Indian efforts to avoid its internationalization.¹⁵⁸ In the changed geo-strategic environment of 21st century's war on terrorism, relations between Islam and other religions and cultures take on a particular sensitivity. Opponents of the US point to its positive relations with both Israel and India: both states, which, in the eyes of Islamic World, are actively engaged in repressing Muslims.¹⁵⁹ The same phenomenon also contributes towards the growing Anti-Americanism in Pakistan.

Resolution Options

Historically, leadership on both sides resorts to rhetoric and publicly clings to the strongly entrenched stated positions (India terming Kashmir as "its unbreakable / integral part" and Pakistan referring to it as its "jugular vein"), primarily for political reasons. Complex nature of the issue, profound trust – deficit in the light of bitter past experiences, deep - seated mutual prejudices and, the most importantly, lack of any worthwhile effort on the part of leadership in moderating the diametrically - opposed perceptions of their domestic audience are the other major reasons leading to the

continuation of the impasse over Kashmir. Above in retrospect, the bilateral approach in conflict resolution has remained a zero sum game in the Indo - Pakistan context.¹⁶⁰ Nevertheless, through intermittent back - channel diplomacy, Pakistan and India have been discussing various options in the last decade to find out a solution to the Dispute, which is acceptable to all three parties to the conflict.¹⁶¹ Such a solution can possibly be found if, to start with, both parties manifest their sincerity, commitment and unflinching resolve to make a progress towards this end despite all odds. The options available for the dispute – resolution can be broadly categorized into plebiscite, settlement based on status quo, independence, territorial adjustments and greater autonomy. These options are briefly discussed in the succeeding paragraphs.

- Option 1 – Plebiscite under UN. This is the option based on the UNSC's resolution of 21 April, 1948.¹⁶² Both India and Pakistan initially accepted the provisions of the resolution and agreed to sincerely comply with them. However, implementation of the subject resolution has not materialized for a host of reasons –Indian reluctance and the subsequent change of mind,¹⁶³ as well as the UN's lack of resilience to ensure its implementation.¹⁶⁴ Pakistan consistently favors the adoption of this option to settle the Dispute in the light of the UNSC resolutions. Similarly, the Muslim population, constituting majority on both sides of LOC in Kashmir, is also keen for its adoption. On the contrary, India, foreseeing itself to be a loser in the light of demographic and political realities of Kashmir, is averse to this solution for the fear of domestic political backlash. In the face of ongoing insurgencies in the north - eastern states, it also fears that the secession of Kashmir could prove to be a catalyst

towards its 'balkanization'. In the light of evolving national interests and the changed geo - political and economic realities, the US and other major powers are also not keen to put their weight behind the UN to ensure implementation of this option. A variation of this option, proposed in 1950 by the UN Representative on Kashmir, Sir Owen Dickson, and seriously considered by both India and Pakistan at that time was the holding of 'Regional Plebiscites' in Kashmir.¹⁶⁵ This option was again deliberated upon during back-channel diplomacy between India and Pakistan in March - April 1999 in the wake of summit meeting held between the two prime ministers in Lahore in March 1999. However, India did not show interest in this option, alluding that "it had communal colors and was neither feasible nor acceptable".¹⁶⁶

- Option 2 – Territorial Adjustment (Partition of Kashmir along the Line of River Chenab). This option dictates partition of Kashmir between India and Pakistan along the line of the River Chenab (which originates from the Himalaya in Indian - held Kashmir and enters into Pakistan near Jammu / Sialkot – Figure 1). It involves cession of about 10% of the area of pre -1947 Kashmir i.e. Srinagar Valley and the districts of Jammu Division having Muslim majority population by India to Pakistan.¹⁶⁷ Significant progress on the acceptance of this option had been made in back - channel diplomacy between the two governments during 1998 – 1999, until it lost the impetus with the unfortunate outbreak of the Kargil War in May 1999.¹⁶⁸ Objectively viewing, such an end - state can be rationally acceptable to both the countries, as it would ensure the

division of Kashmir on the basis of religious and ethnic affinities i.e. closer to the partition plan of 1947. It would, however, require India's willingness to give up part of the territory under its control and Pakistan's consent to move away from its hardened stated position i.e. plebiscite. Both Muslims and Hindus of Kashmir would welcome this solution. The UN / international community would also accept it, if it is unanimously endorsed by all parties to the dispute. The political leadership in both countries, however, has to show greater resolve and flexibility, and accept the political risks, besides endeavoring to develop domestic consensus on this solution.

- Option 3 – Settlement Based on the Status Quo. This option implies leaving the existing one – third part of Kashmir with Pakistan and the rest two-third with India, while converting LOC into international border. Disregarding its hardened stated position i.e. entire Kashmir is its integral, India is inclined to accepting this option since 1950s.¹⁶⁹ Contrarily, Pakistan remains strongly averse to this solution, based on its principled stance over the issue since the partition of India in August 1947.¹⁷⁰ The political risk in acceding to this solution is too grave for any Pakistani Government in view of the likely domestic backlash. The people of Kashmir will also strongly reject this solution, being contradictory to the right of self-determination promised to them by the UN. International community will, however, welcome this solution since it does not involve redrawing of state boundaries and resultant displacement of population. The US administration's emphasis on restoration

of the LOC during the 1999 Kargil War in Kashmir clearly highlighted the contours of the US perceptions on the future of Kashmir.¹⁷¹

- Option 4 – Independence. The implication of adopting this option is that it requires both India and Pakistan to give up the part of Kashmir under their control. The idea of “Independent Kashmir” is not acceptable to both India and Pakistan, since it contradicts the spirit of the UNSC resolutions, the partition plan and their rigid stated positions of the past.¹⁷² Economic viability, political stability and even the security of the emerging land – locked state would also remain a suspect. The majority of Kashmiris, barring some minority factions, are also not keen to accept this solution and want decision of their destiny by granting them the right of self-determination through a plebiscite in the light of the UNSC’s resolutions.¹⁷³ An objective analysis of the option of ‘independence’ reveals that the ethnic and religious diversity of the people in the region cannot foster unity for a common cause, like existence as an independent nation. Obviously, the UN and international community would endorse such a proposal only if all parties to the dispute agree to this.
- Option 5 – Greater Autonomy. This option seeks maintenance of a status quo in the existing territorial controls, but involves softening of LOC (making it irrelevant) to allow free movement of people, goods and services, and grant of greater internal autonomy to both parts of Kashmir.¹⁷⁴ Public mood on both sides favors peace and softening of LOC would be acceptable to them as a minimal solution. Since this option does not involve any change in the status quo of boundaries and could result in win – win situation for all in the

short - term, both India and Pakistan would find it easy to convince their publics about the usefulness of this solution. In case, all parties to the dispute unanimously agree, the international community would also endorse it.¹⁷⁵

Display of strong political will, flexibility and mutual trust by political leaders to overcome the resistance from key stakeholders / spoilers within both countries is the pre-requisite to get this option through. However, this arrangement will neither be permanent nor frictionless, and would dictate an ultimate decision to settle the boundaries between India and Pakistan.

Conclusions

While the conflict - resolution remains the norm the world over in recent years for establishment of peace, South Asia remains perpetually locked into bitter hostility, trust - deficit, strategic instability and a virtual standoff between two nuclear states because of the Kashmir Dispute. Truly, this dispute is the most central and intractable of the problems that have bedeviled the bilateral relations of India and Pakistan since their independence.¹⁷⁶

Though the impetus of Kashmir Freedom Movement has slightly diluted in the last two years owing to internal dissensions in APHC, created and exploited by Indian Government and the repressive policies of Indian security forces; the overall situation still remains far from satisfactory as indicated by the recent political protests and militant incidents in the Valley.

It is concluded that, emboldened by her globally growing power stature and improving strategic relations with US, India is likely to continue her policy of coercing Pakistan for its support of the Kashmir cause, and will optimally capitalize upon the present anti-global terrorism campaign by maligning Pakistan; continuing to link

Kashmir freedom struggle with terrorism. It would, however, endeavor to seek Kashmir's solution on her own terms, most likely preferring a status quo in geographical terms, whenever it finds environment conducive for the purpose. On the other hand, Pakistan is cognizant of the reality that it can neither take Kashmir militarily from India, nor does it find international community's support forthcoming to help seek its resolution in the immediate term. However, while it is not likely to grossly budge from its principled position, it will endeavor to keep the issue in international limelight and would show flexibility to resolve it peacefully, whenever opportunity arises.

A bitter reality is that neither side can give up the part of Kashmir it controls today, yet neither side can acquire whole of it - there being no military solution to the problem based on the experience of the past wars and the current conventional cum strategic balance of power in South Asia.¹⁷⁷

Bilateralism has failed to make any worthwhile progress in resolving the issue in the past; mostly owing to India's intransigence. It is, therefore, concluded that there is an inescapable need of the US and other world powers to get involved in the dispute - resolution efforts in Kashmir in some meaningful way i.e. mediation or facilitation. Notwithstanding the persistent US inclination to avoid direct involvement in resolution of the Kashmir Dispute, the fact remains that the US is frequently compelled to conduct active diplomacy in the face of recurring military standoffs between the nuclear - armed sides for de-escalation of tensions. The question thus arises, that why should the US not seek final settlement of the issue which keeps worrying it persistently.

The prevailing geo-strategic environment necessitates an early resolution of the Kashmir Dispute for multi-faceted reasons, as alluded to in this paper. While there are

arduous challenges, the opportunities also exist for the peaceful resolution of this endemic issue, primarily due to deep involvement / interests of the US and other major powers in Afghanistan, and global recognition of the Issue as the “nuclear flashpoint”.

Both India and Pakistan have to ultimately realize that the resolution of this dispute is in the larger interests of their two countries, Kashmiri people and the SAARC Region as a whole, for which they need to show flexibility in their deeply – entrenched positions to facilitate the final settlement. They need to disprove the prevailing perception that “three key factors of politics, proximity and paranoia drive the inescapable reality that Kashmir will remain a nuclear flashpoint for the foreseeable future”.¹⁷⁸ First step in this direction would be the immediate resumption of the stalled Composite Dialogue Process and undertaking of major confidence – building measures to thwart the nefarious designs of spoilers on both sides.

The agreement on a resolution option is neither going to be easy, nor should one expect an overnight resolution in view of the complexity of the issue, mutual trust - deficit, chronic animosity and history of the domestic political culture in both countries. Nevertheless, achievement of a breakthrough in this quest may be difficult, but is not impossible.

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