

## THE NEED OF CONFLICT RESOLUTION IN SOUTH ASIA: A CASE STUDY OF KASHMIR DISPUTE BETWEEN INDIA AND PAKISTAN

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### Abstract

*For the last sixty years or so, India-Pakistan relations have marked by both hope and despair. Although several efforts of conflict resolution have been made between the two neighboring countries, the south Asian region is still far away from witnessing long-lasting peace. The long-standing dispute on Kashmir has actually impeded the process of conflict resolution between the two countries. This paper examines the need of conflict resolution between India and Pakistan, particularly on the issue of Kashmir, by looking at the genesis of the dispute, various efforts to resolve the dispute, the nature of the Kashmir dispute and devising a new approach for its resolution. It is argued that over a period of time the nature of the Kashmir dispute has been changed. It is neither a territorial nor a religious dispute between India and Pakistan, but a dispute of the denial of the right of self-determination to the people of Kashmir. After the 9/11 incident, the dynamics of domestic, regional and international politics have changed. Therefore, it is high time that both India and Pakistan adopt a forward looking approach to bridge the trust-deficit and reach a consensus on the resolution of the Kashmir dispute.*

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## Introduction

The existence of conflict in this world of 'power realism' is a common phenomenon. The long-cherished dream of man to establish peace in the world is yet to be materialized. However, one may observe, there are some regions, such as, Europe, which have succeeded in resolving inter-state conflicts, and are currently witnessing peace. On the other hand, region like South Asia is still far away from enjoying the fruits of peace. The two major countries of South Asia, India and Pakistan, have been locked into several conflicts, which have engulfed most of the resources of the region. The longstanding rivalry between India and Pakistan, particularly on Kashmir, has diminished the prospects for peace in the region.

More than sixty years have passed since the independence of India and Pakistan from the imperial tutelage, no serious attempt has been made by India and Pakistan to resolve the Kashmir dispute, which has not only "impeded the normalization of Indo-Pak relations since their birth"<sup>1</sup>, but has also become the nuclear flashpoint, making the whole region, in particular, and the world, in general, vulnerable.

The paper examines the need for conflict resolution, particularly on Kashmir, between India and Pakistan. The paper is divided into four parts. The first part discusses the historical background of the Kashmir dispute. The second part examines various efforts made by India and Pakistan to resolve the Kashmir dispute. The third part analyzes the nature of Kashmir dispute and its relations with the conflict resolution. The last part embarks upon searching a new approach for the conflict resolution between India and Pakistan.

## The Issue of Kashmir: An Historical Background

The partition of the Indian Sub-Continent was undertaken under the principle of 'communal majority', i.e, the contiguous Muslim majority areas were included in Pakistan, whereas the contiguous Hindu majority areas became the part of India. Legally, the Partition Plan did not apply on the princely states, which enjoyed semi-autonomous status under the British rule. At the time of partition there were around 600 princely states in the Indian Sub-Continent. The British Government was responsible only for their foreign and defence affairs. With the lapse of the British rule, "the states became completely independent and were under no obligation to join India or Pakistan."<sup>2</sup> They were also free to decide about their future. But, the British Government did not give this option to them. Rather, they were pressured to join either India or Pakistan. According to S.M. Burke,

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<sup>1</sup> P.R. Chari, "The Need for Confidence-Building Measures", in Monique Mekenkamp *et al* (eds.), *Searching for Peace in Central and South Asia: An Overview of Conflict Prevention and Peace building Activities* (Colorado: Lynne Rienner Publishers, Inc, 2002), p. 242.

<sup>2</sup> S.M. Burke, *Pakistan's Foreign Policy: An Historical Analysis* (Karachi: Oxford University Press, 1973), p.16.

...what the British Government had given with one hand, they took away with the other. In the House of Lords, Lord Listowel, Secretary of State for India, plainly announced: 'We do not, of course, propose to recognize any states as separate international entities.' This was equivalent to telling the princes: 'As the British Government will not recognize your independence, no one else will. You have no choice but to opt for either India or Pakistan.'<sup>3</sup>

Kashmir has been the bone of contention between India and Pakistan since the time of the partition in 1947, when the unjust demarcation of boundaries involved the two neighboring countries in a perpetual state of war in the following years. Kashmir, a Muslim majority state but ruled by a Hindu Maharaja Hari Singh, was the largest among them with an area of 84,471 square miles. The Muslims comprised 78 per cent of the total population of Kashmir, while in the Vale of Kashmir, they numbered 93 per cent.<sup>4</sup>

Geographically, Kashmir has been closely linked with West Pakistan. Quoted by Burke, according to N.C. Chatterjee, a member of the Indian Parliament:

The geographical situation of the State was such that it would be bounded on all sides by the new Dominion of Pakistan. Its only access to the outside world by road lay through the Jhelum Valley road which ran through Pakistan, via Rawalpindi. The only rail line connecting the State with the outside world lay through Sialkot in Pakistan. The State was dependent for all its imported supplies like salt, sugar, petrol and other necessities of life on their safe and continued transit through areas that would form part of Pakistan.<sup>5</sup>

However, the last moment change in the Partition Plan of June 1947 deprived Pakistan of the territory of Kashmir. When faced with the tribal invasion in October 1947, the Maharaja "invited the Indian army to repel the invaders – but India first demanded his accession, which he provided."<sup>6</sup> Maharaja Hari Singh signed 'Instrument of Accession' and acceded to India without taking into account the wishes of the majority of the Kashmiris. The existence of the document is still doubtful.<sup>7</sup>

India took the matter into the United Nations on January 1, 1948, and formally complained against Pakistan being the 'aggressor'. The Indian petition in the UN Security Council was filed under Section 35 of Chapter VI, which deals with the 'Pacific Settlement of Disputes', while Chapter VII relate to the 'acts of aggression'.<sup>8</sup> Interestingly, "the UN [had] never pronounced Pakistan an aggressor."<sup>9</sup>

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<sup>3</sup> Ibid.

<sup>4</sup> Ibid., p. 18.

<sup>5</sup> Ibid., pp. 18-19.

<sup>6</sup> Stephen Cohen, *The Idea of Pakistan* (New Delhi: Oxford University Press, 2005), p. 51.

<sup>7</sup> Naeem Ahmed, "India's Changing Policy on Kashmir", *Pakistan Horizon* (Karachi), Vol. 53, No. 4, (October 2000), p. 31.

<sup>8</sup> S.M. Burke, op.cit., p. 28.

<sup>9</sup> Ibid., p. 21.

The UN Security Council passed two resolutions on 17<sup>th</sup> and 20<sup>th</sup> January 1948. The first resolution restricted the conflicting parties to refrain from aggravating the situation, and to immediately inform the Council of any 'material change' in the situation. The 20<sup>th</sup> January resolution established the United Nations Commission on India and Pakistan (UNCIP), a mediatory commission comprising five members.

The UNCIP had passed several resolutions, but the resolutions which were passed on August 13, 1948 and January 5, 1949 dealt with the holding of impartial plebiscite under the auspices of the UN. The August 13, 1948 Resolution also required that all Pakistani troops should withdraw from 'Kashmir, and that would be followed by the bulk of the Indian forces. Once this process is completed, then the plebiscite would be held in 'Kashmir'.<sup>10</sup>

In March 1950, the UN Security Council disbanded the UNCIP and replaced it by a UN Representative to help towards demilitarization. Sir Owen Dixon, an Australian High Court Judge, was appointed as a Special UN Representative to negotiate with both the governments of India and Pakistan. The Dixon Plan proposed the demilitarization of whole of Kashmir, including the Azad Kashmir. However, India rejected any such proposal and persistently demanded that Pakistan be declared an aggressor.

After the failure of Dixon Plan, the UN appointed another representative, Dr. Frank P. Graham, a former U.S. Senator, who came to the Sub-Continent in June 1951. From October 1951 to March 1958, Dr. Graham presented six reports. But India did not agree with his proposals, particularly related to "the number and character of forces to be left on either side of the ceasefire line after demilitarization."<sup>11</sup>

At the internal level, an important development, which changed the nature of the Kashmir dispute, took place in 1953, when Sheikh Abdullah's continued demand for the complete autonomy of Kashmir resulted in his arrest and the imposition Governor's rule there. Similarly, in 1957 a special status was accorded to Kashmir under the Article 370 in the Indian Constitution.<sup>12</sup> This also rejected the validity of the UN resolutions, which called for plebiscite, and diminished the prospects of any resolution of the Kashmir dispute.

Although several plans to resolve the Kashmir dispute have been discussed between the two countries under Track-I and Track-II diplomacy, the different and opposite approaches on Kashmir have not only complicated the situation between India and Pakistan, but have also diminished the prospects of the resolution of the dispute.

### **Conflict Resolution efforts and their failure**

An historical analysis of the Kashmir dispute reveals that India and Pakistan have negotiated several times and come up with new strategies to resolve the dispute, but their

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<sup>10</sup> For details see Ibid., pp. 32-33.

<sup>11</sup> Ibid., p. 37.

<sup>12</sup> See the Indian Constitution. <http://lawmin.nic.in/coi/coiason29july08.pdf> (accessed on January 30, 2012).

traditional stances restricted them to give any concession to the other party, although in the last few years Islamabad has initiated some new proposals for its resolution.

Having failed to seek the resolution of Kashmir through the UN, both India and Pakistan also tried bilateral approach. Jawhararlal Nehru, then Indian Prime Minister, visited Pakistan in July 1953, and met Muhammad Ali Bogra, Pakistani Prime Minister. After the meeting both the prime ministers were very optimistic regarding the solution of Kashmir issue. In a joint communiqué, the two leaders agreed that “the most feasible solution of the dispute was to hold the promised plebiscite.”<sup>13</sup> However, Pakistan’s entry into the U.S. sponsored military alliances, SEATO and Cento, caused a great uproar in India. Nehru considered that the military pacts would cause Cold War super power rivalry into South Asia, and the weapons which Pakistan would receive from the U.S. could be used against India. As a result, Nehru immediately demanded the withdrawal of American personnel of the UN observers in Kashmir.

With all these developments the two countries did not cease the process of negotiations. Six rounds of talk were held between Zulfikar Ali Bhutto, Pakistan’s Foreign Minister, and his Indian counterpart Sardar Swaran Singh from December 1962 to May 1963. But the talks failed because of difference in their stances. India wanted the existing ceasefire line be recognized as the international border, which Pakistan rejected. On the other hand, Pakistan proposed an impartial international agency to control the valley for fifteen months and then conduct the plebiscite. This was unacceptable to India.<sup>14</sup>

The 1965 war between India and Pakistan further complicated the situation. Although both the countries agreed to withdraw their troops to the pre-war position, the Tashkent Declaration did not create a favorable condition to the resolution of the Kashmir dispute.<sup>15</sup> The Simla Agreement in 1972 changed the nature of Kashmir dispute. Pakistan accepted that the ceasefire line in Kashmir be changed into the Line of Actual Control, and both the governments would discuss their disputes, including Kashmir, bilaterally without reference to an outside agency.<sup>16</sup>

After the death of Sheikh Abdullah in 1982, a political vacuum was created in the politics of Kashmir. The situation became further complicated when the Central government once again imposed Governor’s rule in Kashmir. In 1987, the Indian government announced state assembly elections in Kashmir. A large-scale rigging in the elections brought the National Conference, now led by Farooq Abdullah, into power. This also resulted in the widespread armed uprising in Kashmir. Thousands of Jihadis moved to this new theater in order to satisfy their Jihadi sentiments which got strengthened during the Afghan War. Although Pakistan insisted that it only supported the movement on moral and diplomatic

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<sup>13</sup> Chaudhri Muhammad Ali, *The Emergence of Pakistan* (New York: Colombia University Press, 1967), pp.123-124.

<sup>14</sup> For details see S.M. Burke, op.cit., pp. 279-280.

<sup>15</sup> Naeem Ahmed, “60 Years of Unresolved Kashmir Dispute: Hopes for Future?”. *The News International* (Karachi), August 14, 2007.

<sup>16</sup> For details see Naeem Ahmed, “India’s Changing Policy on Kashmir”, op.cit., p. 31.

grounds, it is now an open secret that Islamabad provided material support to those Jihadis.

In 1990, the Indian Central government declared emergency in Kashmir, dissolved the Parliament and once again imposed the Governor's rule. During this time, the Indian government started sending large contingents of troops into Kashmir. Since then, Kashmir has been a battleground between the Indian Army and the militant Jihadis.

The decade of 1990s not only witnessed a large-scale violence in Kashmir, but also some efforts of Islamabad and New Delhi to resolve the conflict. In 1997, both the governments agreed to form a Kashmir Working Committee. But it was not materialized. Similarly, in 1997 I.K. Gujral, then Indian Prime Minister, also presented his proposals, which, in a way, favored the third option. Several meetings between him and then Pakistani Prime Minister Nawaz Sharif took place. But again the talks did not bring any concrete results.<sup>17</sup>

In February 1999, the region saw the prospects of peace when the Indian Prime Minister Atal Bihari Vajpayee visited Pakistan on the inaugural run of the Delhi-Lahore bus service. On February 21, 1999, the Pakistani Prime Minister Nawaz Sharif and Mr. Vajpayee signed the historic 'Lahore Declaration', which said: 'the respective governments shall intensify their efforts to resolve all issues including the issue of Jammu and Kashmir.' But the prospects of peace died down when Kargil incident occurred after couple of months of the Lahore Declaration. The Kargil conflict set a future course of India-Pakistan relations, where Pakistan lost its credibility and trust vis-à-vis India.

According to Achin Vanaik:

Kargil has served an unambiguous warning that there can be war time situation in the future when nuclear weapons are in place and when the possibility of their use is real and frightening despite irresponsible assurances on both sides.<sup>18</sup>

Islamabad and New Delhi missed another opportunity to improve their relations when Pakistan's President General Pervez Musharraf visited Agra in July 2001. Although both Musharraf and Vajpayee agreed to the basic fundamentals of the draft agreement<sup>19</sup>, it was sabotaged by the hard-line mindset of the Indian hawks. The man responsible for obstructing the agreement was then Deputy Prime Minister, L.K. Advani. One of the Indian journals, quoted by Pakistan's former Foreign Minister, Abdul Sattar in his book,

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<sup>17</sup> For details see Ibid., pp. 32-33.

<sup>18</sup> Achin Vanaik, "The Warning from Kargil", *The Hindu* (New Delhi), July 1, 1999.

<sup>19</sup> According to the Draft Agreement of Agra Declaration, "the two sides will resume a sustained dialogue at the political level on: (a) Jammu and Kashmir; (b) peace and security, including both conventional and nuclear CBMs; (c) Terrorism and Drug Trafficking." (See the text of the Agra Declaration 2001 Draft Agreement, July 15-16, 2001).

dubbed Mr. Advani “the saboteur of Agra.”<sup>20</sup> Musharraf also “blamed Advani for the failure of the [Agra] Summit.”<sup>21</sup> Later on, Advani himself admitted “he had torpedoed the Summit.”<sup>22</sup>

Similarly, the December 13, 2001, attack on the Indian Parliament further deteriorated the relations between the two countries. India accused Pakistan that Pakistan-backed Lashkar-e-Taiba (LeT) was involved in that incident. As a result, India took severe measures against Pakistan:

- a) It massed its troops on the borders threatening an invasion across the Line of Control (LoC) in Kashmir or across the international borders;
- b) It demanded to hand over 30 people who were allegedly involved in terrorist activities in India;
- c) It reduced the diplomatic representation in Pakistan; and
- d) It cut off rail, road and air links.<sup>23</sup>

Moreover, India also demanded Pakistan to ban Jihadi organizations which were involved in that attack. Realizing the tense situation on the borders, Musharraf in his historical address to the nation on January 12, 2002, vowed to take severe action against the Islamic extremist organizations. He clearly said, “No organization will be allowed to indulge in terrorism in the name of Kashmir. We condemn the terrorist acts of September 11, October and December 13. Anyone found involved in any terrorist act would be dealt with sternly. Strict action will be taken against any Pakistani individual, group or organization found involved in terrorism within or outside the country.”<sup>24</sup>

A ray of hope could be seen in April 2003 when in his address in Srinagar Vajpayee, in a reconciliatory tone, pledged to start negotiations with Pakistan on all issues, including Kashmir. He said, “As Prime Minister of the country I wanted to have friendly relations with our neighbors and I went to Lahore, but it was returned with Kargil. We still continued and invited General Pervez Musharraf to Agra but again failed... We are again extending a hand of friendship but hands should be extended from both the sides. Both sides should decide to live together. We have everything which makes us to have good relations... No guns but only brotherhood can resolve the problems.”<sup>25</sup> Pakistan, on the other hand, also welcomed this Indian offer. Mir Zafarullah Khan Jamali, then Pakistani Prime Minister, said, “We welcome it, we appreciate it [and] Pakistan has always said talks are the only way to resolve issues, including the Kashmir dispute... On the main

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<sup>20</sup> Abdul Sattar, *Pakistan's Foreign Policy 1947-2009: A Concise History*, (Karachi: Oxford University Press, 2010), p. 264.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Naeem Ahmed, “India-Pakistan Relations after September 11” in Moonis Ahmar (ed.), *The World after September 11: Challenges and Opportunities* (Karachi: BCC&T, 2003), p. 176.

<sup>24</sup> See President Pervez Musharraf's address to the nation on January 12, 2002. Reproduced from: [www.presidentofpakistan.gov.pk](http://www.presidentofpakistan.gov.pk) (last accessed: April 15, 2007).

<sup>25</sup> Quoted in Shujaat Bukhari, “PM extends hand of friendship to Pakistan”, *The Hindu* (New Delhi), April 19, 2003. [<http://www.hindu.com/thehindu/2003/04/19/stories/2003041905500100.htm>] last accessed: April 29, 2011.

issue (of Kashmir) Pakistan's stand remains the same. But once talks start there could be flexibility from both sides.”<sup>26</sup> To reciprocate the Indian offer, Pakistan also announced a ceasefire on the LoC and lifted the ban on the air service.

In February 2004, both the countries started Composite Dialogue process to promote progress towards establishment of peace, security and economic development. It was hoped that the composite dialogue would lead to peaceful settlement of all bilateral issues including Jammu and Kashmir to the satisfaction of both sides. The Composite Dialogue consisted of eight baskets, which included: Kashmir, Peace and Security, Siachen, Wullar barrage, Sir Creek, Terrorism and Drug Trafficking, Economic Cooperation, and Promotion of friendly Exchanges.<sup>27</sup> By July 2008, four rounds of talks were held between the two foreign secretaries, who discussed Confidence Building Measures (CBMs), bilateral disputes and normalization issues. Some major agreements, related to the CBMs, reached between the two countries by July 2008 were: the establishment of hot lines between foreign secretaries; an advance notification of missile tests; memorandum on not conducting nuclear tests, except under extra-ordinary circumstances; reducing risks from nuclear accidents; pre-notification of ballistic missile tests; beginning of Amritsar-Lahore, Lahore-Nankana Sahib and Muzaffarabad-Srinagar bus services; operationalization of Khokhrapar-Munabhaio rail service; release of prisoners who had completed their sentences; opening of Sialkot-Jammu route and five other additional crossing points on the LoC; and agreement on trade between Pakistan- and India-held Kashmir.<sup>28</sup>

In 2005, Pakistan surfaced some new proposals for the resolution of the Kashmir dispute. These included: the joint management of the territory; demilitarization of three areas—Srinagar, Kupwara and Baramulla—so that the two countries could jointly combat the menace of terrorism; self-governance of Kashmir; opening of LoC for the Kashmiris of both sides; and division of Kashmir into seven parts. In an interview to an American TV Channel on April 21, 2005, Musharraf emphasized upon the out-of-box approach. He floated an idea for the resolution of the Kashmir dispute. He said, “The parts of Kashmir held by Pakistan and India separately can be divided geographically into seven parts.”<sup>29</sup> He further said, “Either any specific portion of the Kashmir or its entire area could be declared non-military zone and later changing it statues afterwards.”<sup>30</sup>

These proposals also enjoyed the consent of the All Parties Hurriyat Council (APHC). The basic reason behind the new ideas was to exhibit that Pakistan was flexible and sincere enough to resolve the Kashmir dispute at any cost. Unfortunately, the Indian response was termed as inflexible. India rejected the proposals of Pakistan's President

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<sup>26</sup> Ibid.

<sup>27</sup> Pervaiz Iqbal Cheema, “Analyzing the Pakistan-India Peace Process”, *Pakistan Horizon* (Karachi), Vol. 60, No. 2, April 2007, p. 26.

<sup>28</sup> Abdul Sttar, op.cit., p. 314.

<sup>29</sup> “Kashmir can be divided into seven parts: Musharraf”, *The News International*, April 22, 2005.

<sup>30</sup> Ibid.



and ruled out any process of demilitarization. It insisted that the Indian controlled Kashmir already enjoyed autonomy and self-governance.<sup>31</sup>

Despite all such ups and downs, the peace process between India and Pakistan continued until it suffered a severe setback and was completely disrupted when the Mumbai carnage took place in November 2008. India attributed the attack to Pakistan-based militant Jihadi group, LeT, for perpetrating the terrorist activity. However, Pakistan initially denied the Indian claim, but later on, "India's position was vindicated when the Pakistani government later acknowledged that 'part' of the conspiracy to attack Mumbai did take place on its soil, and that Lashkar had been involved."<sup>32</sup> India also demanded to handover the LeT Amir Hafiz Saeed, for masterminding the attack. Although Government of Pakistan detained Mr. Saeed under the Maintenance of Public Order (MPO) Law, no criminal charges were brought against him.<sup>33</sup> The Lahore High Court released Mr. Saeed in June 2009, mentioning lack of evidence against him.<sup>34</sup> As a result, the enhanced mistrust diminished the prospects of resumption of the Composite Dialogue between the two countries.

The Sharm Al-Sheikh meeting between Manmohan Singh and Yousuf Raza Gilani, in July 2009, brightened the chances of the resumption of the Composite Dialogue. Although both the prime ministers pledged to resume the Dialogue process, the Secretary level talks in February 2010 could not recommence because of the different stances of the two countries on its resumption. Whereas Pakistan wanted to resume the whole process of the suspended Dialogue, the Indian side was very stubborn and emphasized on that Pakistan should first tackle the issue of terrorism by taking action against the LeT and its leader Hafiz Saeed.<sup>35</sup>

The region witnessed another opportunity of bringing India and Pakistan on the negotiating table when both the prime ministers once again met in Thimphu, Bhutan, during the sixteenth SAARC Summit conference in April 2010. Although the two leaders did not commit to the resumption of talks under the Composite Dialogue umbrella, they pledged to restore peace process. This was evidenced when addressing the press conference after the prime ministers' meeting, the Indian Foreign Secretary, Nirupama Rao, made it clear that the dialogue process would not be under the 'Composite Dialogue'. She said, "We don't have to be stuck with nomenclatures. This does the relationship no good. Dialogue is the only way forward to open channels of communications and restore trust and confidence."<sup>36</sup> However, the positive sign of the Thimphu Summit was that it paved the way for the high-level dialogue process. As a result, in July 2010, foreign ministers of the two countries met in Islamabad. But

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<sup>31</sup> For details see <http://www.irs.org.pk/images/Regional%20Brief/0701%20IRSRegionalBrief.pdf> (accessed on January 30, 2012).

<sup>32</sup> M. Ilyas Khan, "Hafiz Saeed: A Profile", *BBC News*, June 2, 2009.  
[http://news.bbc.co.uk/2/hi/south\\_asia/6067694.stm](http://news.bbc.co.uk/2/hi/south_asia/6067694.stm) [last accessed: April 5, 2010].

<sup>33</sup> Ibid.

<sup>34</sup> "LHC orders release of Hafiz Saeed", *The News International*, June 3, 2009.

<sup>35</sup> Naeem Ahmed, "Rise of Terrorism in Pakistan: Reasons, Implications and Countering Strategies", *Journal of South Asian and Middle Eastern Studies* (Villanova), Vol. XXXIII, No. 4, Summer 2010, pp. 31-32.

<sup>36</sup> <http://www.thehindu.com/todays-paper/article758673.ece> (accessed on April 30, 2010).

unfortunately the talks could not move forward as the Indian claim of Pakistan's spy agency orchestrated the 2008 terrorist attack on Mumbai."<sup>37</sup> India's this claim came immediately after it was disclosed during the interrogation of David Coleman Headly, A Pakistani American, who was arrested in Chicago in 2009. This led to the further trust deficit between the two nuclear-armed countries of South Asia.

The need for dialogue was once again realized between the two countries when Manmohan Singh in his address in March 2011 at a university in Jammu and Kashmir offered peace talks to Pakistan. He said, "We wish to resolve all outstanding issues between the two countries through friendly dialogue and constructive and purposeful negotiations. This includes the issue of Jammu and Kashmir."<sup>38</sup> This resulted in the resumption of Secretary level talks, led to the signing of an agreement in March 2011 on the "sharing of real time intelligence to prevent terrorist attacks"<sup>39</sup> between the two interior secretaries. Similarly, the Commerce Secretaries of both the countries in their meeting on April 28, 2011, agreed to form various groups of experts to examine the feasibility of trading electricity and petroleum products, promotion of travel facilities and reducing customs duties on products of export interest of both countries.<sup>40</sup> Pakistan has also agreed to grant India the Most Favored Nation (MFN) status.

In July 2011, Pakistan's Foreign Minister Hina Rabbani Khar, and the Indian Minister for External Affairs, SM Krishna, met in New Delhi. The two ministers agreed to continue the dialogue process on all issues including Kashmir. In a joint press conference both the ministers "announced a number of measures to increase people-to-people contacts, confidence building measures, and opening more points for trade across the Line of Control for frequent movement between the two parts of Kashmir and in order to increase trade and economic activities."<sup>41</sup>

Although the resumption of the talks between India and Pakistan was a dire need particularly after the Mumbai incident, the element of mistrust has not yet lessened. New Delhi still doubts that Islamabad is not doing enough to crackdown on the militant Jihadi groups, which are involved in cross-border terrorism. The Indian stance is that the dialogue process with Pakistan will not go forward until the latter ends its support to the militant Jihadi groups,<sup>42</sup> which justify their struggle on strategic and religious grounds. Strategically, they pursue the interests of Pakistan to keep India engaged in a low-intensity war in Kashmir in order to avoid any major war between the two countries. In order to give it a legitimacy and uninterrupted supply of fresh recruits, the militants call it

<sup>37</sup> <http://online.wsj.com/article/SB10001424052748704682604575369131316429498.html> (accessed on May 25, 2011).

<sup>38</sup> "India to discuss Kashmir in open Pakistan talks", *Dawn*, March 4, 2011.

<sup>39</sup> "Pakistan, India to share real time intelligence", *Dawn*, March 30, 2011.

<sup>40</sup> "Pakistan offers MFN status to India", *Dawn*, April 29, 2011.

<sup>41</sup> "Pakistan, India to enhance trade, ease visa regime Vow to resolve all outstanding issues, including Kashmir", *The News International* (Karachi), July 28, 2011. An online version <http://thenews.com.pk/TodaysPrintDetail.aspx?ID=7700&Cat=13&dt=7/28/2011> (accessed on January 28, 2012).

<sup>42</sup> Naeem Ahmed, "Rise of Terrorism in Pakistan: Reasons, Implications and Countering Strategies", op.cit., p.32.

a Jihad (Holy War) against the Hindus. This has changed the very nature of the Kashmir issue and hindered the resolution of the conflict.

### **Nature of Kashmir Dispute and Conflict Resolution**

It must be noted here that the major hurdle in the resolution of Kashmir dispute is the perception of India and Pakistan about it. As a result, in the course of time, the nature of Kashmir dispute has changed. The dispute started as an unfinished agenda of the Partition Plan of June 3, 1947. The Kashmiri Maharaja's accession to India without the consent of the Kashmiri people, majority of them were the Muslims, actually had sown the seeds of conflict between India and Pakistan.

India referred the Kashmir dispute to the UN, which passed various resolutions for its solution. However, later on, it backed out of the UN resolutions. Over a time, both have developed different principled stances on Kashmir. For Pakistan, Kashmir is the lifeline, while India considers it as its integral part. Moreover, one may also see the difference on the methodology to resolve the dispute: whereas India emphasizes on the bilateral negotiations between the two countries and rejects any third party mediation,<sup>43</sup> Pakistan insists on the resolution of the dispute according to the UN resolutions, which call for the holding of plebiscite in Kashmir.

During the last sixty years or so, the occurrence of various wars on Kashmir between India and Pakistan has developed an impression it is a territorial dispute between them. Moreover, Pakistan, in order to pursue the policy of engaging India in a low-intensity conflict, has been covertly supporting the militant Jihadi groups, which are busy in waging holy war in Kashmir. On the other hand, India terms it terrorism and links it with the Al-Qaeda sponsored global wave of Islamic terrorism. The erosion of secular movement in Kashmir has changed the dynamics of the dispute. The Jihadi groups consider the struggle as a pan-Islamic and extra-territorial.

However, in actual terms, Kashmir is neither a territorial dispute between India and Pakistan, nor a religious dispute, but a dispute of the denial of right of self-determination, which is a secular concept, to the Kashmiris.<sup>44</sup> This right has also been recognized by the UN. Article 1(2) of the UN Charter recognizes the right of self-determination of the peoples. It emphasizes upon the "respect for the principle of equal rights and self-determination of the peoples..."<sup>45</sup>

An objective analysis of the contemporary international politics reveals that any armed struggle for the right of self-determination with the touch of religion by non-state actor is not acceptable to the international community. Instead it is termed as 'terrorism'.

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<sup>43</sup> Under Simla Agreement (July 1972), both India and Pakistan had agreed to resolve the Kashmir dispute through bilateral negotiations.

<sup>44</sup> Naeem Ahmed, "Conflict Analysis: A step Towards Conflict Resolution" in Moonis Ahmar, *et al* (eds.), *The Challenges of Conflict Resolution and Security in 21<sup>st</sup> Century: Problems and Prospects* (Karachi: Department of International Relations, University of Karachi, 2001), p. 15.

<sup>45</sup> [www.un.org](http://www.un.org) (accessed June 15, 2008).

Therefore, it is imperative for both India and Pakistan to search for new avenues of conflict resolution on Kashmir, which is the central issue between the two countries.

### **Searching A New Approach for Conflict Resolution**

A simple analysis is that Kashmir is a very complex issue which may take long time to resolve. Therefore, both India and Pakistan need to behave in a rational manner by recognizing that there is no military solution of the Kashmir dispute. The hawkish mindset in both India and Pakistan is only interested in sabotaging the whole peace process between the two countries. Although a basic groundwork had been done on Sir Creek and Siachen and the two sides had almost reached an agreement during Musharraf's period, the severe opposition from the Indian Army and political turmoil in Pakistan averted the historical breakthrough.<sup>46</sup>

The tense stalemate between the two countries will only strengthen the extremist forces, while at the same time it will marginalize the moderate and liberal forces in both India and Pakistan. In fact, it is not in the interest of India that Pakistan should go down to fundamentalist road. If it happens, it will go beyond the Pakistani borders and will affect the secular Indian polity as well.

In order to avoid past failures to resolve conflicts, a new approach for conflict resolution is required. This approach needs to be in accordance with the new trends and realities of today's world of economic cooperation and interdependence in order to ensure a win-win discourse. A step-by-step approach is required to reach the consensus on the resolution of the Kashmir dispute. Below are some recommendations for searching a new approach to resolve the longstanding dispute of Kashmir between India and Pakistan.

First, it is a fact that the rigid mistrust between India and Pakistan has impeded resolution of political disputes between the two countries. Therefore, for the beginning of constructive dialogue both India and Pakistan need to remove the element of mistrust.

Second, both India and Pakistan need to come out of their 'pigeon holes' and to show some flexibility for the commencement of dialogue process. Since Pakistan has been emphasizing upon to discuss the core issue of Kashmir first and then the peripheral issues, the Indian position is somewhat different. India, on the other hand, "favors a multipronged approach in which the Kashmir issue finds inclusion within a broad agenda pertaining to other bilateral contentions."<sup>47</sup> This rigidity on both sides of the border is the major hurdle to start meaningful negotiations. Therefore, the need is to discuss both the core and peripheral issues together. Since the core issue may take a longer time to

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<sup>46</sup> In 1989 also, then Indian and Pakistani prime ministers, Mr. Rajiv Gandhi and Ms. Benazir Bhutto respectively, came closer to an agreement on Siachen, but the deal could not materialize because of the Indian Army's resistance to the settlement. According to the US confidential diplomatic cables, the Indian Army was held responsible for the on-going deadlock with Pakistan over the Siachen dispute. (Quoted in "Wikileaks: Indian Army poses an obstacle to Siachen solution", *The Express Tribune* (Karachi), June 2, 2011).

<sup>47</sup> P.R. Chari, "The Need for Confidence-Building Measures", op.cit., p. 242.

resolve, it is necessary to simultaneously negotiate on peripheral issues, which may easily be resolved.

Third, since both India and Pakistan have failed to resolve the Kashmir dispute bilaterally, they need to seek the help of the third party mediator. After the 9/11 incident, the US has become an active regional actor in South Asia with an objective to eliminate the terrorist infrastructure of Al-Qaeda and other associated groups, which are involved in regional and global terrorism. Since terrorism is terribly affecting both the countries, it is a high time to seek the help of the US, which For the success of the Global War on Terror (GWOT), the US cannot afford a perpetual state of rivalry between the two nuclear-weapon states of South Asia. The US must understand that the success of the GWOT largely depends on the joint cooperation of India and Pakistan. Therefore, it is imperative for the US to play the role of a third party mediator between India and Pakistan.

Fourth, it has been observed that Kashmir has now become a bilateral dispute between India and Pakistan, and the aggrieved party, i.e., the Kashmiris, has no role in deciding their future. Therefore, it is pertinent to invite the actual representatives of the Kashmiris in the future talks on Kashmir between India and Pakistan.

Fifth, the South Asian Association for Regional Cooperation (SAARC) needs a special attention of both India and Pakistan, whose rivalry has actually overshadowed the function of SAARC as a vibrant regional economic organization. For an effective conflict resolution, both the countries need to enhance economic cooperation. For this purpose, SAARC member countries need to form an effective regional framework on economic cooperation under the auspices of the SAARC. In January 2004, the SAARC member countries had agreed to work out a mechanism of regional trade and economic cooperation by establishing South Asian Free Trade Area (SAFTA), with an objective to begin free trade in the SAARC region by reducing the tariff rates and bringing them down to the zero level in a phased structure.

Finally, it must be noted that the most pressing problem faced by the whole region and the world at large is the menace of terrorism, which has been equally affecting both India and Pakistan. In case of Pakistan, the growing terrorism has deeply shattered the fabrics of the society. The militant Jihadi groups, which were previously nurtured by the Pakistani state, have become too powerful to control. The blowback of the policy of using the Salafi/Jihadi groups in Afghanistan and Kashmir could be seen in the form of sectarian violence in Pakistan. Therefore, Pakistan needs to de-link itself from the militant Jihadi groups. Being a powerful state, both militarily and economically, India also needs to show a greater flexibility and to start negotiations with Pakistan without any preconditions.

India needs to believe that a weak Pakistan is not in its interest. Being a big regional power, India needs to play a leadership role by de-emphasizing upon its hegemonic designs in the region. If India wants a long lasting peace in the region, it needs to alter its attitude towards its smaller neighbors, particularly Pakistan. This is a fact that a nuclear

Pakistan cannot accept bullying from India, and New Delhi needs not to outstare Islamabad.

### **Conclusion**

It is true that South Asia is the most vulnerable region of the world because of the longstanding rivalry between the two nuclear-armed states – India and Pakistan. For the last sixty years or so, they have been locked into the Kashmir dispute, which has now become a nuclear flashpoint. The hitherto unsettled Kashmir dispute has compelled both India and Pakistan to spend billions of dollars on armament. As a result, the people of the two countries have been facing rampant poverty, unemployment, illiteracy, economic fragility, political instability and of course lack of peace and security. The continued brinksmanship between India and Pakistan has also caused insecurity for the other South Asian countries, which have become the hostage of inter-state rivalry between these two countries.

It is now high time for both India and Pakistan to adopt forward looking approach to reach a consensus on the resolution of the Kashmir dispute, so that the region should also witness peace and development. There is a need to promote the politics of cooperation instead of the politics of hatred and animosity. For this, establishing the peace constituency, which could overcome the forces of hatred, narrow nationalism and extremism, is the need of hour.

The application of the successful conflict resolution model, based upon new ground realities, between India and Pakistan is the need of time. Both the countries need to realize that no state can destroy the other. However, the aim to destroy the other may create an environment of hatred, mistrust and economic deprivation in South Asia.