

## CHANGING DYNAMICS OF THE KASHMIR DISPUTE

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Even after the passage of 59 years, the Kashmir dispute still continues to occupy a paramount position in Indo-Pak relations and it has abundantly become clearer that without its resolution, peace in south Asia would continue to remain an illusive commodity. Pakistan's frustration stems from its inability to influence India to hold the UN approved plebiscite in the past and the future does not hold much promise in this regard either. India has become extremely sensitive over any reference to the Kashmir dispute as such references depict an ugly picture of broken promises and unfulfilled pledges which, in turn, hurt their pride. An injured Indian pride often reacts strangely and sometimes even contemplates punitive measures. Aware of its weak case, India patiently and with meticulous care evolved a shrewd Kashmir policy that enabled it to hold on to a major portion of the state as well as maintain claims over areas that form Azad Kashmir

To comprehend properly the undesired lack of progress on the core issue, one needs to understand all shades of the ongoing Kashmir dispute- more specifically how the dispute originated, what are the claims of the involved parties, what developments have taken place so far which reflect the changing dynamics. The paper initially discusses the origin and nature of the Kashmir dispute along with highlighting the carefully contrived policies of the both countries followed by a discussion on the internationalization of the dispute. Only then the paper begins to focus on the changing dynamics and the new developments that have impacted upon the dispute.

### I

**The Arguments:** In the complex of conflicts between India and Pakistan that were the legacy of the hasty and surgical partition, the Jammu and Kashmir issue has survived as the main cause, as well as the symbol, of their mutual animosity and intransigence. Most Pakistanis, 59 years after the partition, have perhaps now

forgotten what happened to Junagadh, or even to Hyderabad; to the never delivered military stores, and to the financial assets which India withheld for several months in 1947-48. While some of the issues that were the product of unimaginative partition such as the sharing of waters and evacuee property were resolved, the deadlock over Jammu and Kashmir (hereafter referred to as Kashmir) has remained almost where it was in its initial stages, this, being the view held by Pakistan although India would want the world community to believe that the dispute no longer exists. Poles apart while their respective positions are, the complexity of the dispute has enabled both sides to back their stands with long lists of arguments and counterarguments, with each believing that her case is absolutely irrefutable and fair.

The seeds of the Kashmir dispute were sown at the time of the partition of the subcontinent into Pakistan and India and British Viceroy Louis Mountbatten's role in securing accession of most of the princely States to India, disregarding, when necessary, the principles he himself had laid down governing the processes of partition. Technically the fundamental principle of accession was that power to accede to one or the other of the new dominions was vested in the personal decision of the ruler but it was also recognized that the decision of the ruler should be governed by considerations of geographic contiguity to one of the dominions, composition of the population and above all by the wishes of the people. The Indians claim that since Maharaja had acceded to India and later the Constituent Assembly of Kashmir ratified the accession, therefore Kashmir had become an integral part of Indian Union.<sup>1</sup> Much later, the Indians claim that a resolution was passed by their parliament recognizing Kashmir as an integral part of the Indian Union.

India insisted upon grabbing Junagadh and Hyderabad, because of the Hindu majority population in these states, despite the fact that the ruler of Junagadh opted for Pakistan and the ruler of Hyderabad preferred independent status. By this criterion, Kashmir should have automatically joined Pakistan. But, in the case of Kashmir, India applied a different criterion by maneuvering to obtain territorial contiguity with the State and securing the consent

of the Maharajah to join India. Once the Maharajah had supposedly signed the instrument of accession, India relegated the principles of self-determination and geographic contiguity to a secondary position and pushed the legalistic approach to the forefront.

Pakistan claims that her stand on Kashmir is not motivated by any considerations of territorial ambition, and that she asked for nothing more than the extension to Kashmir of the principles that were enunciated by Lord Mountbatten in his address to the gathering of the rulers of states. The principles included the considerations for geographic proximity and the aspiration of the people of the state. Further, pointing out that India had justified her annexation of both Junagadh and Hyderabad on the ground that their inhabitants desired to join the Indian Union, Pakistan demands that India should permit the people of Kashmir to decide their future through an internationally-supervised plebiscite. To the holding of such a plebiscite, Pakistan argues, India is officially committed through the Indian Government's repeated pledges to Pakistan as well as the United Nations.

On January 1, 1948, under Article 35 of the UN Charter (Pacific Settlement of Disputes), India took the case before the Security Council charging Pakistan with assisting the tribesmen and other invaders to violate her sovereignty. Interestingly India did not file the case under UN articles dealing with acts of aggression but insisted in the ensuing debate that Pakistan be declared as an aggressor which UN refuse to do. Pakistan lodged a counter complaint accusing India of the organized genocide of Muslims in East Punjab, Delhi and other places in India, the forcible occupation of Junagadh, and the well-planned action taken by India to secure the accession of Kashmir by fraud and violence.

The UN Security Council, having heard both parties at length, passed two resolutions, one on 17th January 1948 asking parties involved not to aggravate the situation but to do everything to improve it, and the second on 20th January 1948, which established a mediatory Commission eventually to be known as the United Nations Commission on India and Pakistan (UNCIP). The UNCIP went to the area and after lengthy consultations with both

India and Pakistan passed two resolutions - the resolution of 13 August 1948 and 5 January 1949. These resolutions were accepted by both India and Pakistan and endorsed by the Security Council.<sup>2</sup>

While recognizing that a vast majority of Kashmiri people are the followers of Islam, India justifies her possession of Kashmir on the basis of the Maharaja's instrument of accession, of which the legality and validity cannot be questioned, least of all by Pakistan, since she, India emphasizes, had shown no hesitation to accept the accession of the Nawab of Junagadh whose more than eighty per cent subjects were Hindus. As regards her undertaking to ascertain the Kashmiris' will through a plebiscite, India claims that she promised to do so "long before" the dispute was referred to the Security Council. Hence it was a promise "to the people of Jammu and Kashmir and not to Pakistan or United Nations and as such it does not involve any international commitment as far as the validity of accession is concerned". Still, although India was prepared to fulfill her promise to the people of Kashmir, the holding of a plebiscite was constantly obstructed by Pakistan's refusal to withdraw her troops from such parts of the State as were under her occupation. In the circumstances, India had no alternative but to let the Kashmiris decide their future through a "duly elected representative body", the, Constituent Assembly, which, meeting on 17 November 1956, confirmed the States permanent accession to India. This being its people's voluntary verdict, Kashmir's accession to India is therefore final, complete, perfect and irrevocable".<sup>3</sup> Since then the Kashmiris have been expressing their desire through regularly held elections.

Pakistan of course does not accept the arguments advanced by India, and most other members of the United Nations thereon generally share her attitude. The Maharaja, it is pointed out, was in no legal position to execute the instrument of accession on 26 October, 1947, because two days previously his subjects had successfully ousted him from Kashmir, when they established the Azad (Free) Kashmir on 24 October. His decision to join India was therefore of a doubtful validity and as such could not be compared to the accession to Pakistan of the Nawab of Junagadh, who had signed the documents of accession as both the de-facto and de-jure

ruler of his state. Furthermore, the Maharaja's accession to India violated the standstill agreement between Kashmir and Pakistan whereby; Pakistan was made responsible for Kashmir communications, as well as defense and foreign affairs.<sup>4</sup> This agreement, Pakistan claims, had never been repudiated and therefore was a bar to the subsequent accession of the State to India.

Thus pleading the invalidity of the Maharaja's accession, Pakistan maintains that the dispute should only be resolved through an impartial plebiscite because the said accession was meant to be "purely provisional and temporary until such time as the will of the people could be ascertained through a referendum"<sup>5</sup>. This was reiterated by the Government of India vide their White Paper of 1948, along with a special proviso to the Instrument of Accession in which the promise to hold a referendum was addressed, in Mr. Nehru's own words, "not only to the people of Kashmir but to the world".<sup>6</sup> The promise was emphatically repeated from national and international platforms and was successively renewed in the Indian Prime Minister's communications on Kashmir with the Prime Minister of Pakistan.<sup>7</sup> Thus India, the Pakistanis stress, is wrong in suggesting that she never gave any international commitment regarding the holding of a plebiscite.

As regards the Indian allegations that the holding of plebiscite was made impossible by Pakistan's refusal to withdraw her troops from Azad Kashmir, the Pakistanis point out that they have always advocated a mutual withdrawal or reduction of troops on both sides of the then cease-fire and now LOC (Line of Control).<sup>8</sup> An obvious *sine qua non*-for a genuinely impartial plebiscite, the Pakistani stand on the matter was indeed endorsed by the various United Nations mediators on Kashmir.<sup>9</sup>

Pakistan was not alone in dismissing India's claim that she has already redeemed her promise to the people of Kashmir who were allowed to express their opinion through an elected Assembly. For it is generally recognized that the Kashmiris will could not be reliably ascertained in a 'controlled' election in which 75 seats were contested by 75 candidates, all nominated by the ruling Jammu and Kashmir National Conference, which was openly pro-India. Not

surprisingly' in a resolution on 30 March' 1951, -the Security Council affirmed that the convening of this Assembly and any action that the Assembly might take to determine the future of the entire State or any part thereto would not be in accordance with the principles already agreed upon-namely, that the will of the people was to be expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations. It was further confirmed by the UN Security Council resolution of 24<sup>th</sup> Jan. 1957 that 'the final disposition of the state will be in accordance with the will of the people expressed through the democratic method of free and impartial plebiscite conducted under the auspices of the United Nations.'<sup>10</sup>

Cognizant of the dangerous consequences of free plebiscite, India began to inject all kinds of hurdles with the objective of delaying the holding of the plebiscite. Contiguous to Pakistan geographically, socially and ethnically, Kashmir had, at the time, a Muslim majority of nearly eighty per cent. It was expected that the people of Kashmir would opt for Pakistan. Hence India's determination not to allow the holding of the plebiscite.

Apart from her fear of its more or less predictable outcome, plebiscite was and still is also unacceptable to India for a number of other reasons. To allow Kashmir to secede could prove to be the first fatal step towards the 'Balkanisation' of India. It would serve as a remarkable morale-booster for many other freedom movements including the Naga and the Mizo people, who would fully exploit the precedent of Kashmir to strengthen their own aspirations for separation from the Indian Union. Again, solely attributable to the presence of a large Muslim preponderance in the State, plebiscite would inevitably inflame the communal situation in the rest of India, where millions of innocent and peaceful Muslims would find themselves exposed to serious suffering and victimization. Such a revival of the Hindu-Muslim antagonism India could not tolerate in the interest of her secularism, which, the Indians emphasise, was the only viable system for their country.

Many Pakistanis do not accept the argument that Kashmir's secession would endanger India's solidarity and secularism. Unlike

the Kashmiris who can rely on Pakistan's continued support of their cause, the Nagas and the Mizos cannot hope to get any tangible, help from outside. Not to speak of actually assisting them in their struggle for their rights, few governments have bothered even to comment on their sufferings, which they have repeatedly experienced as a result of India's ruthless punitive operations. It is therefore highly doubtful that Kashmir's separation from India would bring the Naga and the Mizo aspirations any closer to realization. As regards the contention that the holding of a plebiscite in Kashmir would revive the Hindu Muslim animosity and rioting in India, one cannot but dismiss it with indignation. The communal riots with Muslims as their prime victims have already become a regular feature in the post-partition India. The latest communal riots took place in the state of Gujarat in 2002 in which reportedly more than 2000 Muslims were killed. Incredible though it may sound, the Indian Muslims only respite from riots came during the 1965 India-Pakistan War over Kashmir.<sup>11</sup>

As regards the argument that accession of Kashmir was essential for the preservation of India's secular character, many Pakistanis curtly dismiss this argument on the grounds that heavy reliance on the retention of Kashmir makes the concept of secularism look extremely weak which, they believe, is not at all true. Many Indians proudly claim that their country is secular which derives its strength from the constitutional articles rather than from the forcible retention of Kashmir.<sup>12</sup> Admittedly the word secular was inserted in the preamble of the Indian constitution after the 42<sup>nd</sup> amendment in 1976, the concept in fact derived support from many of the constitutional articles which were part of the constitution right from its birth.

## II

**Internationalization of the Dispute:** Compared to India, Pakistan has been extremely consistent in its Kashmir Policy. With the passage of time and with the advent of developments of even lesser significance, India has changed its tactics. For both sides Kashmir dispute is a complex issue that has exercised overwhelming influence over their policies since partition. For India Kashmir is a

Muslim majority state whose ruler opted to accede to India. India does not apply the same principle to Junagadh whose ruler opted to accede to Pakistan but India forcibly occupied the state. The current intensity of freedom struggle of the Kashmiris is termed as Pakistani inspired pursuit rather than acknowledging it as a genuine expression of Kashmiris desire for self-determination. For Pakistan Kashmir has become a symbol of Indian highhandedness and broken pledges. All Pakistan wants and insists is that Kashmiris are allowed to exercise their right of self determination under a UN supervised plebiscite in accordance with the resolutions of August 13, 1948 and January 5, 1949. The present uprising is viewed as the expression of extreme discontentment of the Kashmiris and renewed assertion to secure their legitimate right of self-determination. Pakistan's main emphasis is to ascertain the wishes of the Kashmiris.

Indian interpretation of the current intensification of freedom struggle is that it has been externally fuelled - more specifically they tend to place the blame on Pakistan. It is intriguing that most Pakistanis and Azad Kashmiri leaders accuse the Pakistani leadership, for not doing even the basic minimum in the area of supplying weapons or even providing the training whereas the Indians tend to over credit the Pakistanis. Apart from few groups based in Pakistan which do not enjoy any electoral support, neither the Government nor the political parties are indulging in this type of pursuits. However it is encouraging and it needs to be mentioned here that almost all political parties are unanimous in extending their political, diplomatic and moral support to Kashmiris freedom struggle.

Compared to India, which has systematically eroded the special status, it gave to the State of J&K under Article 370 of the Indian Constitution, Pakistan did not absorb either the Northern Areas or the Azad Kashmir despite the fact that Supreme Court of Pakistan in its verdict of May 1999 stressed that Northern area must be fully integrated into Pakistan.<sup>13</sup> Determined not to allow Kashmir's possible accession to Pakistan and to retain it as a part of the Indian Union, India undertook series of well calculated moves to initially erode the special status of J&K and then merge the state completely into the Indian Union.<sup>14</sup> British surrender of their



impartial role in partition processes facilitated the Indians to gain the necessary foothold, initially.

Over the last 16 years Pakistan has successfully managed to internationalize the Kashmir dispute. A three pronged approach adopted by Pakistan facilitated the process of internationalization. To begin with, Pakistan allowed the local as well as the international press including the Indian media to cover the consequences of the crisis on this side of the LOC. All interested visitors and human right activists are allowed to visit AJK and talk to the unfortunate victims of the crisis. The second aspect of this approach consisted of Pakistani government's efforts to place the dispute before a number of international organizations including NAM, OIC, UNCHR etc. The third aspect was to send delegations consisting of parliamentarians and journalists to various countries with a view to educate those governments. The establishment of Kashmir Committee was another development, which did contribute enormously towards Pakistan's Kashmir Policy.

Five other factors somewhat inadvertently facilitated the process of internationalization of the dispute. First, many research organizations, foundations, institutes and universities all over the world began to hold seminars and conferences on the Kashmir crisis. Second, many Kashmiris living outside South Asia began to step up their efforts to educate the public in those countries. Third, many marches were organized to cross the LOC over the last 16 years which, in turn, accelerated the process of internationalization. Fourth, the negative attitude of the Indians government with regard to open Kashmir for international journalists and representatives of various human rights groups further facilitated the process of internationalization of the dispute. Five and perhaps the important was inadvertent internationalization of the dispute by the acquisition of nuclear weapon status by both Indian and Pakistan.

Compared to Pakistan's successful pursuit of internationalization of the dispute, India tried to paint Pakistani pursuits as efforts directed to highlight the Islamic character of the dispute. Indeed these were crude attempts to divert the attention from the real issues. The employment of terms like international

Islamic Mujahideen tended to generate the impression that some kind of Islamic conspiracy exists which is continuously working against the established order.

There exist two sets of approaches. One consists of military and political approaches and the other entails bilateral and multilateral routes. The Kashmir dispute is essentially a political dispute requiring a political approach if the parties involved are genuinely interested in resolving it. Until the advent of current peace process India opted to employ a military approach. While the freedom fighters claim that they have been compelled to take up arms by the state government's and India's policies, the Indian government opted for military approach right from the outset of the crisis. Not only Kashmir had remained under Governor's/President's rule for quite sometimes, half hearted attempts to introduce political approach were made periodically. Whenever Indian efforts to employ political approach failed, they immediately accused Pakistan rather than looking inward.

The government of Pakistan frequently expressed its willingness for a dialogue focused on Kashmir exclusively, the Kashmiri umbrella organization APHC also repeatedly expressed its willingness to talk to the Indian government but India's negativism effectively impeded any progress in this direction so far.

### III

**Prelude to the Peace Process:** The thaw in attitudes began to be registered when the Hizb-ul-Mujahideen offered to observe cease-fire in July 2001.<sup>15</sup> Although the cease fire offer was soon withdrawn because of lack of positive response from India, but many in Pakistan were expecting that India would respond in some manner at a time of its own choosing. The Ramadan cease-fire offer by Vajpayee confirmed what many in Pakistan had already anticipated. The quick and positive response by Pakistan began to strengthen the perceived thaw in relationships. From then onwards many positive moves created an atmosphere that enabled the Indian Prime Minister to extend an invitation to Pakistani leader to visit India.

In response to Vajpayee's offer to observe ceasefire during the holy month of Ramadhan, the government of Pakistan announced maximum restraint.<sup>16</sup> Following Pakistani good gesture, Vajpayee extended the ceasefire which was followed by a Pakistani announcement to withdraw some troops from the LOC. These positive gestures eventually led to Indian invitation to President Musharraf for Agra Summit in July 2001. It would not be too far fetched to assume that a combination of external pressures and internal dynamics must have influenced the Indian leadership to extend the invitation. From a total disregard for the incumbent Pakistani regime to inviting Gen. Musharraf to visit India in order to discuss all the outstanding disputes and issues indeed reflected a major policy shift which ended two years freeze in high level contacts.

While most of the debates revolved around inconclusive end of the Summit, it is somewhat imperative to recognize that the Agra Summit enabled both parties to fully comprehend each others sensitivities and limitations.<sup>17</sup> If a Summit were to be judged from its lack of joint statement or communiqué or declaration, then this Summit would indeed fall into the category of failed Summits. However it raised many pertinent questions for future. Would the recently initiated dialogue continue? Would the Indian Prime Minister go to Pakistan soon? Would the expected Summit in Pakistan produce an agreement? Would there be a new framework for dialogue? Would the two leaders pick up the thread from where they left at Agra? Was Agra another of India's delaying tactics?

Another way to assess the Summit is to examine the statement of the main actors involved. Both the leaders and their foreign ministers had expressed statements generating the impression that talks were discontinued only to be resumed at the next round. They seemed to be engaged in highlighting the consensus aspect and underplayed the impediments. Not only they had refused to accept it as a failed Summit but also expressed hopes and determination that talks would soon be continued. One factor lending strong support is that during the Agra talks the Pakistan President extended invitation to the India Prime Minister

to visit Pakistan and the invitation was promptly accepted. In addition, the Indian Prime Minister had not only expressed his determination to go to Pakistan but had also managed to win support from his own cabinet and other political parties for this trip. In addition, the leadership appeared to be conscious of the fact that the international community is watching closely and expects that the talks would keep moving forward.

The period following the inconclusive Agra Summit saw rapid deterioration of relations. On 13<sup>th</sup> Dec. 2001, an attack on Indian Parliament took place.<sup>18</sup> The Indian government blamed the Pakistan based groups for launching this attack.<sup>19</sup> While the attack on the Indian Parliament was condemned in no uncertain words by the Pakistani President, the Indian leadership quickly not only decided in their own wisdom to put the blame on Pakistani based groups but also issued a demarche demanding to freeze their assets, halt their activities and arrests their leaders. In response Pakistan merely asked for evidence and suggested joint inquiry. The Indians not only rejected the idea of joint inquiry but also to refused to provide any piece of evidence which, for obvious reasons invoked strong suspicions about Indian intentions.

No one in Pakistan had really justified an attack on the Indian parliament. Almost every one condemned the attack. Even those who were blamed for this act vehemently denied the accusation. Compared to Pakistani sane and rational responses, the Indians decided to opt for an irrational approach and began to churn out irresponsible and provocative statements. Perhaps the most ludicrous statement was in which it was claimed that the attack was meant to eliminate the entire leadership of India. What would Pakistan gain from such an act? Why should Pakistan indulge in such a reprehensible act?

Following the tragic event of Dec.13, all that Pakistan has asked from India is to provide evidence.<sup>20</sup> India refused to do so. One can understand the compulsions influencing the Indian decision makers not to provide evidence to the Pakistanis, but they could provide the evidence to UK or US or to some other impartial entity. Instead the Indian began to raise the tension by making

belligerent speeches. The Pakistanis also advanced a proposal for Joint probe which India rejected.<sup>21</sup> The offer of allowing FBI to conduct inquiry of the incident was curtly rejected by the Indians. However the Indian response to this attack was to move massive number of troops to Pakistan's border. The Pakistanis also responded in somewhat similar manners. The situation of troop's confrontation continued till Oct 2002. In Oct India decided to withdraw troops from borders which were quickly followed by Pakistani withdrawal.

On April 18, 2003 Prime Minister Vajpayee made his offer to talk to Pakistan in Srinagar.<sup>22</sup> Vajpayee's latest offer of a dialogue with Pakistan was not only generally welcomed by almost all the peace lovers but had also raised hopes of early resumption of dialogue between India and Pakistan. However many Pakistanis could not just overlook the irresponsible and somewhat provocative statements made by some BJP cabinet members intermittently. In fact such statements began to inject doubts in their minds. Nevertheless the majority remained optimistic and began to look forward towards anticipated positive moves from both sides.

This offer was followed by appointing High Commissioners by both India and Pakistan as the High Commissioners were recalled during the period of tension (2001-2002). Later an offer was made thereafter to increase the staff strength in the respective High Commissions. The next major step revolved around how to restore transportation and communication links. After intense negotiations the two sides managed to restore air, rail and bus links. The process of normalization was facilitated by the visits of many delegations from both sides which included parliamentarians, journalists, academics, women, labor leaders, students, businessmen etc. These steps not only succeeded in recreating the situation that existed before the attack on the Indian Parliament and the border confrontation crisis but also generated enormous goodwill. The atmosphere rapidly improved. Apart from minor setbacks, the normalization process continued to make impressive strides

It needs to be mentioned here that Prime Minister Jamali's proposal in November 2003 to establish a ceasefire along the LOC, and his banning of three militant outfits in Pakistan further

strengthened the peace process.<sup>23</sup> The ceasefire was further extended to the Siachen glacier which is still holding up. Not only transportation and communication links were restored, but sports teams began to visit each other's country. The cricket matches played by the Indian team in Pakistan were of special significance because they led to a large flow of ordinary citizens from India to witness them and established warm personal ties between the citizens of both countries.

The CBM proposals made by both India and Pakistan must be viewed against this backdrop of steadily improving bilateral relations despite occasional backsliding. These proposals and counter-proposals could be divided into three subsets. First, those that, being unexceptional, could be implemented forthwith like restoration of sporting ties, establishment of hotlines, allowing old people to cross the border on foot; these have been implemented. Second, those requiring further negotiations to work out the technical issues involved, like suggestions to establish and expand road and rail links, ferry services and more visas issuing centers that are currently under discussion. And, third, others designed to facilitate the other party by providing advanced information such as missile tests notification.

The dialogue on CBMs was further encouraged by both countries agreeing, during the SAARC Summit held in Islamabad in January 2004, to commence the process of the composite dialogue that will lead to peaceful settlement of all bilateral issues, including Jammu and Kashmir to the satisfaction of both sides. The year 2004 started with two momentous developments; the successful conclusion of 12<sup>th</sup> SAARC and a Joint statement by President Musharraf and Prime Minister Vajpayee.

The 12<sup>th</sup> SAARC summit opened in an atmosphere of amity and cordiality in Jan.2004. The Summit approved and heads of government agreed to sign agreements on Social Charter, South Asian Free Trade Area (SAFTA) and Additional Protocol to the Convention of the Suppression of terrorism.<sup>24</sup> According to the principle included in the Social Charter, the state parties agree to place the people at the center of development and direct their economies to meet human needs more effectively. SAFTA is an

initial step in the evolution of SAARC trade bloc and economic union. Removal of strong trade barriers to intra-regional trade would lead to expansion of intra-regional trade. SAFTA could also help in evolving horizontal specialization across the region to enable the most optimal utilization of the synergies

Protocol on Terrorism mainly focused on plugging the financial sources. Funding terrorist organization or terrorist was made a punishable offence.

According to Joint Statement both leaders welcomed the recent steps towards normalization of relations between the two countries and expressed the hope that the positive trends set by the CBMs would be consolidated. Prime Minister Vajpayee said that in order to forward and sustains the dialogue process, violence, hostility and terrorism must be prevented.<sup>25</sup> President Musharraf reassured Prime Minister Vajpayee that he would not permit any territory under Pakistan's control to be used to support terrorism in any manner. President Musharraf emphasized that a sustained and productive dialogue addressing all issues would lead to positive results'. Both agreed to the holding of composite dialogue in Feb.2004.

**Peace Process: The First Round:** Leaders of both countries expressed strong support for the process that began with 12<sup>th</sup> SAARC Summit. Vajpayee expressed at Hyderabad that he saw a new Chapter in Indo-Pak relations. Jamali anticipated a major breakthrough because of the encouraging and positive developments. In a subsequent meeting held in February 2004 between the two Foreign Secretaries it was agreed that the composite dialogue, that traces its ancestry back to 1997, would be resumed at various official levels in May/June 2004.

Given the significance of nuclear related issues and Foreign Secretary meeting in Feb. 2004 decided the procedural aspects of the composite dialogue.<sup>26</sup> Cognizant of approaching Indian elections the initiation of a dialogue was postponed till after the elections. The Indian elections produced unexpected results which brought Congress coalition government in power. This of course implied that

new team has to be installed. Because of the change in government the initial dates for meeting were slightly advanced.

In June Indo-Pak meeting on nuclear related issues was successfully held. Although the seven point communiqué included some points that were already agreed upon in Lahore MoU such as continuation of bilateral consultations on security and non-proliferations issues, the agreed clauses could be divided into three broad categories.<sup>27</sup> The first category can be described as consultative and discussion orientated measures. The expression on intent to have a continuous dialogue on nuclear and security related issues indicate the determination of the two sides to maintain the much-desired continuity of dialogue.

Both countries agreed for regular working level meetings to be held among all the nuclear powers to discuss issues of common concern.

The second group of announced measures can be termed as communication measures. The announcement to upgrade the existing hotline between the two Director-Generals of Military Operations (DGMOs) along with the introduction of another hotline between the Foreign Secretaries was indeed a very welcome development. The third set of announced measures included working towards an agreement with technical parameters on pre-notification of flight testing of missiles and reaffirming the moratorium on conducting further nuclear explosions.

Undoubtedly the most important aspect of the composite dialogue revolves around the ongoing Kashmir dispute. A detailed exchange of views on the ongoing Kashmir dispute took place on June 27-28 (2004) and the two foreign secretaries agreed to continue with their 'sustained and serious' dialogue to find a feasible and final solution.<sup>28</sup> Not only the talks were held in a very constructive and positive atmosphere but also both sides expressed their satisfaction with the progress of the dialogue process. This was the first time since Jan.1994 that the Kashmir dispute was subjected to a serious dialogue.



Reportedly the Indians proposed that the Line of Control (LOC) be converted into a line of peace and tranquility and the ceasefire that has been in place for the last seven months be further strengthened. Pakistan, on the other hand, stressed the need for a plebiscite in Kashmir. In addition, not only the Pakistanis referred to the incumbent tranquility that has been in place especially along the LOC for quite sometimes but they also referred to the fencing of large portion of LOC as 'illegal'. The Indian team's reference to the existence of training camps for terrorists on Pakistani territory was politely dismissed.

The next round of talks focused on Tulbul Navigation Project or Wullar Barrage: an issue that in fact has already been settled if viewed within the context of Indus Waters treaty.<sup>29</sup> Pakistan believes that the project is a violation of the Indus Treaty whereas the Indians think otherwise. While India wants to release the water from the barrage in winter when Pakistan is short of water whereas the Pakistan wants day to day water releases which is its right under the existing Indus Water Treaty. Pakistan also reiterated its position that no increase should be made in the height of dam and it should remain at the point at which it was suspended in 1987. While the two sides were unable to reach an agreement over the 20 years old dispute but the joint statement that was issued at the end of talks stressed that the talks were held in a cordial and constructive atmosphere and both sides not just reaffirmed their commitments to the Indus Waters Treaty but also expressed agreement to continue the dialogue in the next round.

The talks on Water were followed by the meeting of culture secretaries of India and Pakistan with a view to explore possibilities to improve and encourage people to people contacts.<sup>30</sup> Many constructive proposals dealing with relaxing visa policies, increasing cultural exchanges, release civilian prisoners and fishermen, increasing the number of visitor to religious places, promoting tourism and starting group tours, removing ban on TV channels, cooperation among libraries, participating in book fairs, holding joint seminars, closer interactions between the educational institutions, collaboration in archaeological field, promoting film festivals etc. were tabled and discussed.

The joint statement that was issued at the end of meeting of the culture secretaries expressed complete satisfaction over the outcomes of the talks. While proposals dealing with exchanges and cooperation in the field of art, culture, education, archaeology, science, technology, youth affairs, sports, media, tourism were tabled but details of cooperative mechanism was not worked out at the time. As is often said that the demon is in the details, it may not be all that easy to work out smoothly a detailed implementation mechanism. However since both sides demonstrated much interest in increasing people to people contacts and if they maintain this level of interests that even the devil in details may not be able to impede the process effectively.

The talks on Siachin and Sir Creek were held on fifth and sixth August. In regard to the Siachen dispute, for instance, a withdrawal of troops from their forward positions was agreed in 1989 but it was not implemented because of the likely political cost. The issue in contention was whether the current position of the Indian and Pakistani troops should be recorded in maps and or on the ground before their withdrawal is effected. India argues that, unless the ground situation is demarcated, this territory could be seized by Pakistan, whereas the latter holds that demarcation would legitimize India's 'illegal' seizure of this territory in violation of the Simla Agreement. Although the defense secretaries wrapped up talks on Siachin with the resolve to pursue an agreement over Siachin glacier but the first round could not produce an agreed formula.<sup>31</sup>

The talks over Sir Creek were also held on the same dates as were the Siachin talks. The talks on Sir Creek quickly flopped and failed to yield any concrete results. Both sides continued to maintain and argue for their respective positions. India says that the boundary lies in the middle of the 60 kilometers estuary whereas Pakistan stressed that boundary lies on the eastern bank of the creek. Not only the area is considered strategically important and involves lot of area in term of maritime boundaries but it is also believed to have large deposits of oil and gas. However the two sides agreed to continue their discussions.

The talks on drugs and terrorism were held on 10<sup>th</sup> and 11<sup>th</sup> August. The fate of these talks was not radically different than those of earlier talks. While there were no major differences on how to check drugs trafficking, the issue of terrorism defied an agreement on definitional aspect of terrorism. Not only both sides assessed the meeting as positive but also expressed their determination to combat terrorism and emphasized the need to complete erosion of this menace.

However it needs to be mentioned the Indian sides did not miss the opportunity to once again allege the increase in cross border terrorism in Indian held Kashmir. They stated that Pakistan was not taking long term measures for its complete elimination. Pakistan of course categorically denied and stressed that not only a strict policy was formulated at the top but the government has insured that no one is allowed or able to cross LOC. The Indians were also reminded that their own military commanders had publicly stated that infiltration had gone down substantially.

Finally the trade talks were held on 11<sup>th</sup> and 12<sup>th</sup> August. Reportedly the official sources indicated that both sides discussed a wide range of proposals on promotion of bilateral trade, economic and commercial cooperation. Indian also once again reiterated that Pakistan should accord it the most favored nation status (MFN). To which Pakistan responded that it is willing to consider MFN status for India if good progress is made on broader front of conflict resolution talks between the two countries.<sup>32</sup> At the end of meeting it was once again stated that the discussions were held in a frank and cordial atmosphere.

In the foreign ministers meeting on Sept 5-6 the two sides once again reiterated that they are ready to discuss all issues and good relations are in the interest of both countries.<sup>33</sup> A joint statement stressed that the two ministers reviewed the recommendation of the foreign secretaries and assessed the positively the results of the first round of composite dialogue. While differing sharply on issues of Kashmir and cross border infiltration, they agreed on nine relatively less important points.

The 59<sup>th</sup> UN General Assembly saw both Indian and Pakistani leaders scrupulously avoiding posturing and hurling accusations. Both reflected a very high level of maturity.

The two leaders met on 24<sup>th</sup> Sept. 2004 and discussed issues in a constructive and frank spirit. The two leaders reiterated their commitment to continue the bilateral dialogue to restore normalcy and cooperation between India and Pakistan.<sup>34</sup> They agreed to implement the CBMs keeping in mind the practical possibilities. They also addressed Kashmir dispute and agreed that possible options for peaceful, negotiated settlement is the issue that should be explored in a sincere and purposeful manner. The discussion also touched on a proposed 3.5 billion dollar pipeline designed to transfer gas from Iran to India through Pakistan.

In Oct. 2004 President Musharraf suggested a formula with a view to have a debate on Kashmir's options initiated. This was not the first time that the President had talked about the Kashmir dispute. In fact he has been very consistent in putting ideas with the specific aim to secure a solution of the most complex dispute confronting India and Pakistan.

The Musharrafs proposal reflected both a desire to end the sufferings of the people of Kashmir and to secure a solution along with demonstrating the political will to support a process aimed to find an acceptable solution. His earlier four point formula contained four stages; the recognition of Kashmir as a dispute, the initiation of a dialogue, shedding of unacceptable solutions and securing a win-win situation.<sup>35</sup> The first two stages of his formula have already been attained and the current focus is on the third stage which is probably the most complex and difficult one. According to the Musharraf formula there are seven regions of Kashmir, two of which are in Pakistan and five are in India. What the formula stressed was to identify the region, to seek demilitarization of identified region and to change the status. Perhaps the most important aspect of the President's speech was that a debate regarding the possible solution must begin within Pakistan. His address appeared to have been aimed at attaining some form of consensus through a debate in order to enable Pakistan to move forward.

The initial reaction to the formula appeared to be fairly positive. Many Kashmiri leaders including leaders from the APHC extended both open but cautious support. However the Indian response to President Musharraf's proposed formula was somewhat cool. According to the official spokesman of the Indian External Affairs ministry that ideas on Kashmir should not come through media. Since Kashmir is one of the subjects of comprehensive dialogue process, such ideas should be mooted through official channels.

A subsequent statement by the Prime Minister Manmohan Singh that he was opposed to any redrawing of the Kashmir map tended to dampen all efforts. He had proposed to consider pre 1953 autonomy. Following the Prime Ministers statement, the Indian Foreign Minister stressed that regional autonomy could be a solution to the Kashmir dispute. Not only this stance did not seem all too far away from the standard Indian position but it had already been repeatedly rejected by the Kashmiri themselves. Besides this was not the first time that the autonomy offer had been made and promptly rejected. Prior to the intensification of the freedom struggle during the late eighties and early nineties, autonomy offer was made frequently but the Kashmiris repeatedly rejected it.

All these signals clearly reflected Indian intransigence. The argument became even stronger when the Indian position was assessed in conjunction with Pakistan's position. The Pakistani President, Prime Minister and other leaders have categorically and consistently rejected the LOC (Line of Control) as the permanent border. While Pakistan has repeatedly demonstrated flexibility in terms of approaches and solutions, the Indians stance appear to make the entire exercise as futile and its extremely negative attitude merely reflects hardened intransigent.

Ostensibly the Indian leadership has been demonstrating its desire to resolve the Kashmir dispute in statements that are periodically issued but when it comes to suggesting new feasible solutions, the Indians so far have offered nothing. All their suggestions are designed either to refashion the internal governance

of Indian occupied Kashmir or to maintain the status quo in one form or the other.

Prime Minister Shaukat Aziz visited India in his capacity as the Chairman of SAARC and during his visit he had detailed discussions with not just the Indian leaders but also with the Kashmiri leaderships. While emphasizing that he wanted progress on all issues, he specifically highlighted the significance and importance of Kashmir's resolution. He made it clear that while he wanted good and friendly relations with India, but not at the cost of core dispute of Jammu and Kashmir.

**Peace Process, the Second Round:** The second round of the peace process also started with talks on nuclear related matters but this time the talks ended without any tangible outcome despite exhaustive negotiations on formalizing an agreement on pre-notification of missile flight testing. Apparently India wanted the agreement to be confined only to ballistic surface to surface missiles whereas Pakistan wanted to include all types of missiles including the cruise missile. Another point of difference that had been reported in the media was the number of days for advance notification. However later negotiations did produced an agreement covering the ballistic missiles in Oct 2005.

As far as the other contentious issues were concerned, not much progress was witnessed. On Sir Creek issue both India and Pakistan agreed to conduct a joint survey of the boundary pillars and submit a joint report. Similarly the negotiations on Siachin also did not produce any result. Despite the advent of the peace process and vastly improved atmosphere the trade still continues to remain at unimpressive level. Admittedly ever since the peace process started the trading interaction increased but it still continues to be far way from a satisfactory level.

The two Foreign Secretaries once again met in late December 2004 and reviewed the whole process. The talks ended without any breakthrough but the two sides stated that they had narrowed down the differences on missile tests notification and agreed upon rough agenda for next round of composite dialogue.

The two sides remained poles apart on the Kashmir dispute. Thus a year that started with optimism when SAARC's 12<sup>th</sup> Summit was successfully held with agreements on Social Charter, SAFTA and Additional Protocol on Terrorism and a Joint Statement issued by the leaders, ended on a pessimistic note as no progress was reported on the core issue of Jammu and Kashmir.

Four other significant developments which were not part of negotiation baskets but they have direct bearing Indo-Pak relations and the situation in Kashmir needs to be mentioned here. Among them are issues of Baglihar dam, the bus service between Srinagar and Muzafferabad, the pipeline diplomacy and the sale of F-16. The construction on the Baglihar dam project on the river Chenab started in 1999 though it was conceived and approved much earlier. In order to quickly complete the project the Indians have currently employed several hundreds of engineers and the laborers. The reports indicated that they have hired the services of many more individuals to speed up the construction work with ostensible aim of confronting Pakistan with a fait accompli. Following the failure of talks, the case was referred to World Bank. The Bank appointed an experts who had visited the area and have listened to both sides. It is expected that he would soon give his verdict.

Compared to Foreign Secretaries meeting, Foreign Minister's meeting in Feb. 2005 was far more encouraging when they announced agreement to allow travel between Srinagar and Muzaffarabad by bus. The passenger would be crossing the LOC with entry permits.

The two countries also agreed that those traveling by this route would only be Kashmiris, Pakistanis and Indians and no third country's citizen could use this bus service. The two countries agreed to start a bus service between Srinagar and Muzaferrabad from 7<sup>th</sup> April after having long periods of discussions.

To meet increasing energy requirements, both India and Pakistan are engaged in procuring more and more sources of energy. A \$4 billion dollar project is being seriously considered to bring Iranian gas to India via Pakistan. As the pipeline has to pass through

the Pakistani territories, India was concerned about the security and the uninterrupted flow of the gas and therefore sought guarantees from the Iranians. Not only the negotiations to remove Indian apprehensions and to maintain uninterrupted flow from Iran is being discussed but reports also indicate that significant progress has been made.

Another issue that created some kind of fervor was the Washington's nod to sell F-16 to Pakistan. The Indian authorities expressed disappointment over American decision. The main source of disappointment was the ambiguous attitude of the American official over the issue of F-16's supply to Pakistan. The impression generated was that the supply of few F-16 to Pakistan was somewhat linked with a nod from India. However latter the American administers announced its decision to sell the F-16 to Pakistan. It needs to be mentioned that simultaneously the Americans also announced to sell F-16 to India as well.

With each round of talks the atmosphere has been constantly improving. These talks were held and incorporated discussions on peace and security, including confidence-building measures and Kashmir. At the end of each round a cautiously worded communiqués is issued describing these talks were as "friendly," "frank and candid," held in a "cordial and constructive atmosphere," and "in the spirit of goodwill and cooperation". However, the important fact is that the people on both sides appeared to be extremely enthusiastic to sustain this dialogue process, negotiate these disputes and emplace CBMs.

#### IV

**Recent Developments:** Since the initiation of the ongoing peace process, hopes were raised for early resolution of the complex Kashmir dispute. It was expected that both sides move beyond the strategies that they have pursued for the last so many decades. It appears that the Pakistanis have moved away from the past policy pursuits but India seemed to have stuck to its policy of zero sum game.



In the month of June 2005 the APHC leaders visited both AJK and Pakistan. During their two weeks visit they had opportunities to exchange views with leadership both in AJK and Pakistan. They also conferred with Hizb-ul Mujahideen leader Syed Salahuddin.<sup>36</sup> While the visit was generally seen as a great confidence building measure, the Indian Prime Minister did not hesitate to accuse Pakistan of violating an understanding by allowing Kashmiri leaders to travel beyond AJK.<sup>37</sup> However the Pakistanis on the other hand denied that there was any such understanding.<sup>38</sup> Since the Pakistani leadership had extended the invitation, it was only logical to assume that the APHC leadership would visit Pakistan.

The visit highlighted the need to involve the Kashmiris in future talks over the Kashmir dispute. The Pakistani leadership once again stressed that Kashmiris have to be inducted in the parleys, Mirwaiz Omar Farooq put forward the idea of triangular talks if tripartite parleys were not acceptable to India.<sup>39</sup> However India continued to claim that Kashmir is a bilateral issue between India and Pakistan and refused to acknowledge the Kashmiris as a party to the dispute. For obvious reason, the recognition of the Kashmiris as a party would effect Indian claim over Kashmir as an integral part of India. It is willing to talk to the Kashmiris but within the framework of Indian constitution. Both the Pakistani and APHC leadership appears to have 'interpreted the Kashmiri leaders visit in terms of Indian acceptance of Kashmiris as party to the dispute and Kashmir as a disputed territory'.<sup>40</sup>

During the APHC leaders visit of AJK and Pakistan three ideas surfaced and were discussed openly. Among them were the concept of an independent Kashmir, the United States of Kashmir and a self governing Kashmir. As far as independent Kashmir is concerned one need not to go into details as it is only popular among certain section of the Kashmiris whereas neither India nor Pakistan favors it. The idea of United States of Kashmir was highlighted by APHC leader Omar Farooq identifying various regions with distinct identities and stressing that he would like to be a citizen of United States of Kashmir.<sup>41</sup> Speaking to journalists the Pakistani President referred to his vision of self governance for Kashmir.<sup>42</sup>

On return to Srinagar, the APHC leaders declared that they were ready for talks with the New Delhi but it was up to the Indian government to decide when to talk to them. The APHC leaders had already held two meetings with the Indian government in 2004 but the talks stalled when the Congress party won the election in 2004. They acknowledged the existence of positive signs reflecting the desires of both India and Pakistan to carry forward the peace process and resolving the disputes.<sup>43</sup> However it needs to be mentioned here that while the APHC leaders were hopeful that APHC might find a place in Indo-Pak dialogue, the Indian minister of state for Home affairs categorically stressed that Hurriyat has no place in India-Pakistan dialogue process.<sup>44</sup>

In early September the APHC leaders met the Indian Prime Minister. This was the first high level meeting of the APHC leadership with the Congress Prime Minister. Although great importance was attached to the meeting but most Kashmiris were not very optimistic about the likely outcome. The Kashmiri wanted a cease fire by Indian forces, troop's withdrawal, release of political prisoners and an end to continuous human rights violations. Cognizance of ground situation the security authorities had made it quite clear that cease fire was not possible. Not only they had also 'ruled out withdrawal of troops to barracks but also stressed that security forces would need disturbed areas act, armed forces special powers act and other related laws to deal with what they called the extra-ordinary situation'.<sup>45</sup>

After the meeting a statement was issued by the prime minister's office stating that India will cut troop level in Kashmir if violence and infiltration stops.<sup>46</sup> The statement also stressed that it would review the 'cases of all those held under special preventive detention in Kashmir and take steps to safeguard against human rights violation'.<sup>47</sup>

Undoubtedly the most far reaching pledge was to withdraw troops from Kashmir. Most Kashmiri leaders have repeatedly expressed their anger in one form or the other over the continuous presence of such large number of Indian troops. The Indian government on the other hand have been consistently say that the

cession of violence and an end to infiltration would create conditions conducive to the reduction of troops in Kashmir. In an interview Mir Waiz Omar Farooq with a New Delhi based television station NDTV not only stated that 'there seems to be realization in Delhi that we need to have a solution in Kashmir, an honorable solution' but also stressed that 'it was definitely a very good beginning'.<sup>48</sup>

In the meantime the Indian Council of World Affairs and Panther Party organized 'Heart to Heart Talks' at New Delhi enabling the Kashmiri leaders from both sides of the LOC to meet and discuss ways and means to find a solution of the ongoing Kashmir dispute. The event was regarded as historic in which the leaders from AJK and IHK participated. At the end of two days conference, a Joint Statement was issued recommending review of Kashmiri prisoners who were detained for reason or the other particularly those who associated with freedom movement in Kashmir. It also urged Pakistan and India to reduce the level of deployment of military and paramilitary forces on both sides of Kashmir. In addition the Joint Statement urged all official and non official institution to extend cooperation in efforts designed to promote greater understanding and help the peace process to reach its logical conclusion.<sup>49</sup> Talks among the Kashmiri leaders were aimed to understand each others thinking. The main objective was to not just to facilitate the Indo-Pak dialogue to move forward but also to remove irritants and obstacles impeding the ongoing dialogue. The participants viewed the peace process as a very positive development and urged the both governments to seize the fleeting moment to resolve the vexed issue of Kashmir.

On 8<sup>th</sup> Oct. an earthquake of 7.6 magnitude struck South Asia. The devastating impact of the earthquake has opened the floodgates of humanitarian feelings not just among the Pakistanis but also in many countries including India. The earthquake devastated parts of frontier province in Pakistan and major portion of AJK along with parts of IHK. Almost every segment of South Asian societies was deeply moved and tried to make some contributions towards rescue and relief efforts with a view to console and ameliorate the situation for the victims. Undoubtedly those who had

lost their loved ones would require sometimes to reconcile with their losses but the demonstration of brotherly sympathetic feelings on such a high scale was certainly encouraging and a source of great satisfaction.

Four humanitarian suggestions, with a view to ameliorate the situation in AJK, were advanced. These suggestions included the request for helicopters, allowing the operation of direct phones, opening of LOC and opening of more routes. In view of the ongoing peace process between India and Pakistan, it is not surprising that humanitarian proposals were put forward especially in the wake of earthquake disaster. However each side appeared to be still constrained by its own considerations that are the product of past behavior.

The positive gesture of the opening of LOC was generally welcomed by all concerned. Both the Indian as well as the Pakistani governments expressed their willingness to open the LOC but both were cautious to work out modalities in such a way that their interests were well safeguarded. Admittedly the bus service from Muzafferabad to Srinagar had already established a good link between the people of AJK and IHK but given the desperate situation caused by the advent of the earthquake and the accumulated anxiety among the Kashmiris, the opening of LOC was viewed as a panacea that could lessen the sufferings of the Kashmiris.

The earthquake ostensibly seemed to have invoked strong sympathetic responses on both sides of the LOC which is also indicative of the closeness the people of Kashmir have for each other. It has also been highlighted frequently by both the Kashmiri leadership as well as the Pakistanis that under no circumstances the LOC would be acceptable as the international border. The quest for the welfare of the Kashmiris on both sides of the LOC clearly reflected their desire to live together. In some strange way this massive tragedy has also provided a chance to both countries to further strengthen their cooperation in terms of working jointly towards lessening the miseries of the Kashmiris.<sup>50</sup> After having thoroughly deliberated, both India and Pakistan agreed to open LOC

at five different points in order to help the quake victims and provide opportunities to divided families to find out about their plight. Both countries quickly worked a mechanism in which these five points were made operative.

Another development of far reaching consequence that took place was based in an idea that has been recently put forward once again by the Pakistani President who suggested the demilitarization of Kashmir. While the idea has been welcomed by many, the Indian response was not all that encouraging. Besides, an AJK based political party also opposed demilitarization on the grounds that it would hurt all those who had sacrificed so much for their right of self determination. Objectively speaking this is an idea worth exploring as this was real hurdle when the all the UN representatives on Kashmir (Dixon, Graham and Jarring) failed to secure agreement between India and Pakistan. While so much has happened, it seems an appropriate time to once again subject this idea to pave the way for eventual solution of the ongoing Kashmir dispute but Indians appear to have opted for a negative approach towards this proposal.<sup>51</sup>

Perhaps the most important idea that has surfaced recently is the notion of self governance. Speaking to journalists in Canberra President Musharraf referred to his vision of self governance for Kashmir. Recently the notion resurfaced along with the proposal for demilitarization. Reports published in newspapers indicated that self governance implies maximum autonomy for the people of Kashmir. In fact the Kashmiris are expected to enjoy similar kind of autonomy which they had enjoyed prior to 1953. The Indian government initially rejected the proposal on the grounds that the people of Kashmir are already enjoying the autonomy and democratic rights but recent reports indicate that the idea is seriously being discussed among the concerned officials as well as the non officials at the Track II level.<sup>52</sup>

Among the new ideas that have been surfacing recently, one has been put forward Mir Waiz Omar Farooq the Chairman of APHC who suggested the establishment of the United States of Kashmir which would involve all provinces of the disputed region.

Initially he talked about this idea when he was in Karachi during APHC leaders Pakistan visit. However he spelled out the idea in detail during a seminar organized by an Indian newspaper recently. Along with this idea he supported demilitarization and triangular dialogue. He also deplored the attempts to link the Kashmiris struggle to Islamic fundamentalism and stressed that the insurgency preceded the advent of what he called Afghan Arabs involvement.

The latest proposal that has been advanced in an interview to CNN-IBN new channel by President Musharraf revolves around what is called Joint Management Plan for the disputed region of Kashmir. The proposal, if implemented, could leave both India and Pakistan with reduced sovereignty over the territories they control at the moment.

While explaining the notion of joint management, the President reportedly stated that 'it would involve bringing both sides of the disputed region under a joint management scheme. This would guarantee self governance for Kashmir'. 'Joint management would be a solution which we need to go into', he further stressed. 'We need to have a system where the Kashmiris, the Pakistanis, the Indians are involved in monitoring the self governance that we evolve. There have to be subjects which are devolved, there have to be some subjects retained for joint management'.<sup>53</sup>

## V

### **Concluding Remarks:**

Four significant developments appeared to have transformed the attitudes of both the Indian and the Pakistanis from idealism to realism. Among these the most important development is the realization by both the Indians and the Pakistanis that they cannot militarily resolve the ongoing Kashmir dispute. Not only the global environment has radically changed but both India and Pakistan have acquired nuclear weapon capabilities. Both realize that neither can afford to embark upon military adventurism as it could lead to a total disaster. This, of course, implies that the only way out is to negotiate the dispute realistically.

Linked with this development is the increased interest demonstrated by the international community to reduce India-Pakistan tension. This is the second major development. The international community played a constructive role in preventing the anticipated India-Pakistan war during the period of troop's confrontation in 2002. The world leaders have been encouraging both India and Pakistan to continue the dialogue and resolve the thorny and complex Kashmir dispute. Similarly both India and Pakistan are fully cognizant of the vigilance maintained by the international community which in turn, is influencing both to not only continue the dialogue but also to make progress.

The third significant development is the incumbent ascendancy of economic forces. A military approach towards the conflict resolution could effectively hamper the envisaged economic progress. Both have realized that their people are not doomed to live in misery. Both economies are making steady progress. With the advent of WTO it is all the more imperative that tensions are reduced and a cooperative atmosphere is created.

The fourth important development is the initiation of a peace process between the two countries. Admittedly the progress so far witnessed falls far short of expectations of the Pakistanis and the Indians but one cannot afford to ignore the fact that both sides are making concerted efforts to reach the logical conclusion and a steady progress is being witnessed. To further strengthen the peace process the principles of flexibility and reciprocity needs to be given utmost importance.

It has been repeatedly stated by President Musharraf that in order to find an acceptable solution, the involved parties will have to move away from their rigid and hardened positions and opt for a flexible approach. Rigidity could only perpetuate the stalemate but flexibility could enable us to explore new options. However it needs to be stressed here that unilateral flexibility can only be demonstrated up to an extent and then it hits the stone wall if there is no positive response from the other side. The only thing which can sustain its course is reciprocity. Without reciprocity, unilateral flexibility would soon evaporate enabling rigidity to step in.

However even the flexibility demands that in order to start the process, an idea is floated which should be subjected to a debate. While one fully recognizes the merits of negotiations from a hardened position as one feels secure and safe, but to narrow the gap between the two hardened stances and to secure a desired solution one needs repeated injections of flexibility along with continuous demonstration of political will by the leaders.

The curt and quick rejection of any fresh idea without subjecting it to a thorough discussion not only reflects an unrealistic approach but also dampens efforts made towards the overall amelioration of the atmosphere. It is quite understandable that being a weak coalition government, the Indian ruling groups have to assess the implications of all those moves that emanate from Pakistani sources but quick rejection implies that the moves are not even subjected to discussions aimed at proper assessments. Admittedly some of these moves are not entirely new but there is no doubt that all of them deserve serious considerations.

Undoubtedly the changed environment appears to be conducive to the resolution of the Kashmir dispute but one should not overlook that all complex disputes require concerted and sincere efforts. All opportunities that have been produced of the new environment need to be explored and cashed upon in order to make South Asia a region of peace and tranquility.

#### **End Notes**

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1. Both scholars and officials in various parts of the world have frequently questioned the issue of legal position of accession and raised many intriguing questions that require academic investigation. Was Kashmir invaded before the signing of accession instrument? Did Maharaja put off the signing and permitted a reference to the instrument of accession? Did Maharaja ever sign the instrument of accession? For detailed discussion see Alastair Lamb *Birth of a Tragedy: Kashmir 1947* (Hertingfordbury, Hertfordshire, U.K.:Roxford Books, 1994) pp.81-103



2. See G.W. Chaudhury, *Pakistan's Relations with India 1947-1966* (London: Pall Mall Press, 1966), pp.68-75. Also see S.M. Burke, *Pakistan's Foreign Policy: An Historical Analysis* (Karachi: Oxford University Press, 1973)
3. Chauhan, B.R.; *Kashmir: its place in the Indian Union*. Distributed by the Indian High Commission, London, and p. 13. No Date.
4. Khan, M.M.R.: *The United Nations and Kashmir* (Djakarata: J.B. Walters'. Groningen, 1955), p. 84.
5. Sheikh Abdullah - "Kashmir, India and Pakistan" in *International Affairs* (R.I.I.A), April 1965, p. 529.
6. See the Indian Prime Minister's broadcast to the nation, (All India Radio, 2nd November, 1947).
7. See *India's Solemn Pledges on Kashmir*, Department of Film and Publication, Government, of Pakistan, 1965
8. The latest offer for mutual withdrawal of troops has been made by President Musharraf in the wake of the earthquake that hit both IJK and Azad Kashmir. For details see 'LOC opening and demilitarization' by Pervaiz Iqbal Cheema in *The Post*, Nov.8, 2005.
9. For details see Joseph Korbel: *Danger in Kashmir* (Princeton: Princeton University Press, 1966).
10. See Appendix VIII in *Kashmir Dispute: An International Law Perspective* by Ijaz Hussain, (Quaid-I-Azam University, Islamabad, 1998), p.263.
11. Myrdal, G.: *Asian Drama*, Vol. 1, (London: The Penguin Press, 1968), p. 256.
12. See 'The erosion of Indian secularism' in *The News*, March 17, 2002.
13. See the editorial of *Daily Times*, Dec.27, 2005. Also see 'Northern Areas, neither fish nor fowl' by Khalid Hasan <http://www.khalidhasan.net/fridaytimes/2004-12-03.htm>
14. For detailed analysis of moves directed to absorb Kashmir into the Indian Union see chapter entitled 'India's Kashmir Policy' by Pervaiz Iqbal Cheema in *Perspectives on Kashmir* edited by Dr.K.F. Yousaf (Islamabad: Pakistan Forum, 1994) pp.97-118
15. *The Economist*, July 29, 2000, p.29.
16. *The Economist*, Nov.25,2000, p.40
17. For a detailed analyses see 'Rendezvous at Agra' by Pervaiz Iqbal Cheema, in *The News*, July 22, 2001. Also see 'Agra Summit not a failure, say analysts' and 'All is not lost yet, says Jaswant, Sattar' *The Times of India*, July 17, 2001.
18. *The Economist*, Dec.15, 2001, p.25.
19. The Indian government put the blame on Pakistan based groups with implicit accusation Pakistan was encouraging these groups. What is interesting about the attack on the Indian parliament is that in its immediate reaction and perhaps because of the force of habit, it pointed finger at Pakistan but one year after the attack the Indian courts awarded the capital punishment to three Indians. It was then explained these people had masterminded the attack with help from Pakistan based militant groups. It would be rather difficult to accept that these Indian conspirators had so much influence that they

managed to employ militants from Pakistan to carry out their plan to attack Indian parliament. See *The Indian Express*, December 17 and 18, 2002.

20. *The Nation*, Dec.21, 2005
21. *The Nations*, Dec.20, 2001
22. See 'The deceptive hand of friendship', in *The Economist*, April 26, 2003, pp.21-22.
23. *Dawn*, Nov.24, 2003
24. *Daily Times*, Jan.4-5, 2004. Also see *Dawn*, Jan. 4-7, 2007
25. See 'Towards Amity' by John Cherian, 'A deal for peace' by Muralidhar reddy and 'Looking ahead' by John Cherian in *Frontline*, Jan. 17-30, pp 4-8, 8-12, 12-14
26. 'Talking it over' in *The Economist*, Feb.21, 2004, pp.30-31.
27. *The Nation*, June 20-21, 2004. Also see *Daily Times*, June 20-21, 2004. *Dawn*, June 21, 2004.
28. *The Nation*, June 29, 2004.
29. *Dawn*, July 30, 2004. Also see *Daily Times*, July 31, 2004
30. *Dawn*, Aug.4, 2004
31. *Daily Times*, Aug.7, 2004
32. *Dawn*, Aug.13, 2004. Also see *Daily Times*, Aug.12, 2004. *The nation*, Aug.13, 2004
33. *Dawn*, Aug.21, 2004
34. *Dawn*, Sept.25, 2004. Also see *Daily Times*, Sept. 26, 2004.
35. See 'Kashmir: A way forward' by Pervaiz Iqbal Cheema in *Prospect of Peace, Stability and Prosperity in South Asia*, Institute of Regional Studies, Islamabad, 2005, pp.85-107
36. *The Nation*, June 18, 2005.
37. See *The Nation*, June 22, 2005
38. *The Nation*, June 23, 2005
39. *The Nation*, June 18, 2005
40. See 'Kashmiri leaders visit in retrospect' by Ijaz Hussain in *Daily Times*, June 22, 2005
41. See 'Kashmir: a new perspective' by Afzaal Mahmood in *Dawn*, June 27, 2005
42. See the editorial in *The Nation*, June 16, 2005
43. *Dawn*, June 17, 2005
44. *Daily Times*, June 21, 2005. Also see *The Nation*, June 22, 2005.
45. *The Nation*, Sept.6, 2005.
46. *Daily Times*, Sept.6, 2005
47. *The New York Times*, Sept.6, 2005.
48. <http://www.nytimes.com/2005/09/06/international/asia/06kashmir.html>
49. *ibid.*
49. *The Nation*, Sept.23, 2005
50. President Musharraf stressed that earthquake provided an opportunity to both India and Pakistan to reach a final solution on their dispute over Kashmir. See *The Nation*, Nov. 17, 2005.

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- <sup>51.</sup> *Dawn*, Jan.8, 2006
- <sup>52.</sup> See *The Nation*, Dec.29, 2005. Also see a detailed analysis of this idea see 'Anatomizing self governance' by Pervaiz Iqbal Cheema in *The Post*, Jan.1, 2006.
- <sup>53.</sup> For a detailed analysis of this idea see 'Jointly managing Kashmir' by Pervaiz Iqbal Cheema in *The Post*, Jan.15, 2006.

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