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The Status Quo in Kashmir?

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The Kashmir dispute has led to three wars between India and Pakistan, a dangerous standoff between nuclear armed adversaries in 2002, and the spread of terrorism in both Kashmir and India. It is as old as the creation of the two successor states of India and Pakistan after the end of the British Empire in the subcontinent. To understand the seemingly intractable nature of the dispute and how it now might be solved, it is important to see its historical origins in the botched partition of British India, the twists and turns over the succeeding half a century in the Indo-Pak relationship, as well as the missed opportunities for a settlement in the aftermath of the Bangladesh war in 1971. This immediately follows. The next part of the chapter shows how a combination of Saudi-financed fundamentalism and the ham-fisted attempt to control the domestic politics of Kashmir by Indira Gandhi and her son Rajiv in the 1980s led to a "nationalist" insurrection, aided and abetted by both local Islamists and fundamentalist terrorists who infiltrated Kashmir and India. The final part of the chapter discusses how with the changed geopolitical situation in Central Asia and Afghanistan a solution might finally be found to the dispute.

THE HISTORY OF KASHMIR

With the opening of the British archives for the period covered by the transfer of power to the newly created dominions of India and Pakistan in 1947, a clear picture has emerged of the events which led to the Kashmir dispute.¹ In discussing these, certain aspects of the strategic importance of Kashmir and its unique culture need to be borne in mind.

In 1945 Lord Archibald Wavell produced a "breakdown plan" which proposed that "if an interim government could not be formed, the British should abandon the Congress-dominated provinces and move British government and personnel to the Muslim-dominated ones in the north east and north west of the country."⁵ A variant of this Wavell plan, which required close military links with Pakistan, was the only one available after a unitary India proved impossible to maintain. "With the empire gone, Britain's interests in the neighborhood centered around the protection of its sphere of influence from Egypt to Iran. That coincided with the incipient American desire to create a 'cordon sanitaire' around the Soviet Union, which flowered into the pacts of encirclement signed by the USA in the early fifties. But the achievement of both these goals required bolstering Pakistan and absorbing Kashmir into the dominion. Kashmir was to have been the eastern end of a crescent that stretched from NATO to the roof of the Himalayas."⁶

By contrast, once India was partitioned, the shield provided by the Himalayas for the earlier Indian empires became irrelevant. This shield had already been breached with the creation of Pakistan. The enemy now was well within the gates. It was the Indo-Pak border which became the first and last line of strategic defense. This explains why India, and in particular the powerful Indian home minister Sardar Patel, was at best lukewarm about the accession of Kashmir to India. It was no longer strategically important for India. Nor was India itself seen as being of strategic importance by the West, particularly when it veered towards a deepening military and economic relationship with the Soviet Union.

Pakistan, by contrast, was seen as an essential strategic ally by the West in providing the bases for the exertion of air power in the region to contain Soviet Russia, as well as to protect the vital oil supplies of the Middle East. This explains why with Pakistan's 1955 signing of the Baghdad Pact, allowing the Peshawar airbase for U2 espionage flights, as well as a base to dislodge the Soviet Union from Afghanistan in exchange for military and economic aid, Pakistan has been of much greater strategic importance to the West than has India, a factor reinforced both by Nehru's admiration for the forced industrialization of the Soviet Union and by the West's subsequent close relationship with the enemy of its enemy.

In this tangled story, the big mistake made by Nehru was to take Mountbatten's advice, and that of Noel-Baker, the British Secretary of the Commonwealth Relations Office, to raise the issue of the Pakistani invasion at the United Nations in January 1948. After the military stalemate on the ground in Kashmir in the winter of 1947, India wanted to extend the war directly to the Pakistani heartland by crossing the international border in Punjab, where with its military superiority it could easily have defeated the "aggressor." Given Mountbatten's desire to prevent an inter-dominion conflict, in which British officers commanding the rival armies would have been involved, he

suggested that, instead, the Indians should take their case to the United Nations. Here the UN decided to treat the countries on a par, and resolved that once the Pakistani raiders had vacated the one-third of Kashmir they had occupied, a plebiscite should be held to ascertain the people's will about accession. Because the occupied territory was never vacated, India has argued that there can be no plebiscite. This mistake in taking the issue to the UN has meant that, subsequently, India has refused any attempt to internationalize the dispute.

DE FACTO DIVISION

The most important long-term outcome of the first Indo-Pak war was that the cease-fire line established on January 1, 1949, has subsequently held for over fifty years as the de facto border in Kashmir, through subsequent periods of war and peace. This de facto extension of its borders has been of strategic importance for Pakistan. If the whole of Kashmir had gone to India, the essential rail and road link between its two major cities of Lahore and Rawalpindi would have been under threat. Also, with undivided Kashmir having a border contiguous with Afghanistan to the north, India could have intervened to prevent Pakistan from pacifying the tribes in the always unruly North-West Frontier Province. But Pakistan has not been satisfied with these strategic gains. Its domestic politics have pressed it to continue attempts to secure the Kashmir valley. With the West's strategic interest in propping up Pakistan, India has been unable to settle the dispute by force of arms, a route further blocked once the two countries became nuclear powers in the 1990s. Nor has the West, until recently, been willing to put pressure on Pakistan to settle the dispute, by recognizing the 1949 cease-fire line as both the de facto as well as de jure border between the two countries. This may now be changing. Meanwhile, given its past experience with the United Nations, India has continued to resist any international mediation in the dispute.

There was, however, one moment in the last fifty years when India could have in effect converted this de facto into a de jure border, putting an end to the issue. This occurred after the Bangladesh war fought by India and Pakistan in 1971. At the conclusion of the war, and with the Indian detachment from Pakistan of its eastern province into the new state of Bangladesh, India had captured a large number of Pakistani soldiers and also territory across the international border. Zulfikar Bhutto, who had become President of Pakistan, met Indira Gandhi in Simla to conclude an agreement and to settle the issue of Pakistani prisoners of war, as well as the territory India had acquired in the now truncated Pakistan. In exchange for the POWs and Pakistani territory, India could have insisted on the cease-fire line becoming the international border. But Indira Gandhi let Bhutto off the hook, and the Simla Agreement

which she concluded with Bhutto merely converted the cease-fire line into what is called today the "line of control" (LOC). India returned the Pakistani POWs and Pakistani territory, and both countries agreed to deal with Kashmir on a bilateral basis.

This agreement has puzzled many. But we now know what transpired, from a two-part article published in *The Times of India* in April 1995 by Mrs. Gandhi's economic advisor, and subsequently the head of the Prime Minister's Office, Prof. P. N. Dhar, who was present at the Simla meeting. The full account is now set out in his memoirs.⁷ The Indians sought and got Bhutto to agree, after a near breakdown to the talks, that "the Indian proposal [to settle the Kashmir dispute] was the only feasible one."⁸ "The transformation of the cease-fire line into the line of control was the core of the Indian solution to the Kashmir problem. The de facto line of control was meant to be upgraded to the level of a de jure border."⁹ But Bhutto was adamant that he could not agree to incorporate this into the written Simla Agreement because of the imperatives of domestic Pakistani politics. Dhar writes:

Bhutto was personally inclined to accept the status quo as a permanent solution of the Kashmir problem. However he had several constraints in this regard which he spelt out as follows: (a) His political enemies at home, especially the army bosses, would denounce him for surrendering what many in Pakistan considered their vital national interest. This would endanger the democratic set-up which had emerged after fourteen years of army rule. In this context, Bhutto repeatedly talked about his fear of what he called the Lahore lobby, though he never clearly explained what it was. (b) He was anxious to obtain the support of all political elements in Pakistan in favor of any agreement that might emerge at Simla.¹⁰

The Indian side, in particular the then head of the PMO, P. N. Haksar, was sympathetic to Bhutto's claim that a formal acceptance of the status quo would nurture a revanchist ideology in Pakistan, and as with the Versailles Treaty would be looked upon as the imposition of harsh terms by the victors which could lead to another war. "Mrs. Gandhi herself was worried that a formal withdrawal of the Indian claim on Pakistan-occupied Kashmir could create political trouble for her. She agreed that the solution should not be recorded in the agreement for the reasons advanced by Bhutto, but it should be implemented gradually, as he had suggested."¹¹

That this account of the secret verbal agreement is true is shown by a report filed by the *New York Times* correspondent James P. Sterba within hours of the signing of the Simla Agreement. Sterba, who was close to the Pakistani delegation and was briefed by them, wrote:

President Bhutto, Pakistan's first civilian leader in fourteen years, came to Simla ready to compromise. According to sources close to him, he was willing to forsake

the Indian-held two-thirds of Kashmir that contains four-fifths of the population and the prized valley called the "Vale," and agree that a ceasefire line to be negotiated would gradually become the border between the two countries. The key word is "gradually." . . . President Bhutto wants a softening of the ceasefire line with trade and travel across it and a secret agreement with Mrs. Gandhi that a formally recognized border would emerge after a few years, during which he would condition his people to it without riots and an overthrow of his government.¹²

When Dhar revealed the secret verbal agreement in 1995, there was a furious Pakistani response. "About the only person in authority who did not respond was Pakistan's Prime Minister, Benazir Bhutto." She was with her father in Simla and must have known about the text.

But this secret agreement depended upon both the protagonists remaining in power. Bhutto was deposed by his army chief Zia-ul-Haq (who subsequently hanged him), while Mrs. Gandhi lost the election which ended the Emergency in 1977. Thus the foolish Indian gamble on settling the dispute with the unwritten part of the Simla Agreement failed. But it still offers the only viable solution to the long-standing and continuing Kashmir dispute.

DOMESTIC POLITICS

Domestic politics in both Kashmir and Pakistan were to complicate the picture even further in the 1980s, laying the ground for the bloody insurrection aided and abetted by army-backed infiltrators from Pakistan (as in 1947). It began in Kashmir in 1989, and still engulfs the state, while raising the danger of a nuclear war between India and Pakistan. Central to this is the story of Sheikh Abdullah, as well as one of the consequences of the OPEC coup in raising oil prices in 1973.

In his accession agreement Maharaja Hari Singh had inserted a clause which in effect gave Kashmir considerable autonomy. It was to be governed by the Jammu and Kashmir Act of 1939, with Delhi's jurisdiction extending only to external affairs, defense, and communications. Sheikh Abdullah had agreed that Kashmir should continue to be ruled by its own laws, but these should be devised by a new Kashmiri Constituent Assembly. The special status of Kashmir, granting it considerable autonomy within the Indian Union, was confirmed by Article 370 of the Constitution of India. This special status for Kashmir had been a bone of contention with the Hindu nationalist part of the Jan Sangh, and its descendant, the current Bhartiya Janata Party (BJP).

By 1949, after meeting various Western ambassadors, Sheikh Abdullah formed the impression that the West would support an independent Kashmir. He then began a tussle with New Delhi, wanting it to stick by the strict terms of the letter of accession, against the Indian desire to integrate Kashmir

further into its secular democracy. In July 1953 he made a speech advocating independence for Kashmir. This was too much for Nehru, who put his old friend in jail. In January 1957 Kashmir approved its own Constitution, which among other things ratified the accession of Kashmir to India, and as far as India was concerned ended all discussions about the plebiscite that India had offered in the past. But Abdullah claimed that the Kashmiri Constituent Assembly no longer represented the will of the people. Thus the demand for a plebiscite was even more justified. Freed in 1964, he began to toy with the idea of a confederation between India, Pakistan, and an independent Kashmir. Nehru seemed to be attracted by the proposal, but Pakistan would have nothing to do with it. After Nehru's death, Abdullah was reported to have met Chou En-lai to further his plan for Kashmiri independence. The outcry caused by this hobnobbing with India's enemy, China, which had inflicted a humiliating defeat in 1962, led Nehru's successor Shastri to arrest Abdullah once again in 1965. He was to remain in jail till the end of the Bangladesh war in 1971. The Indian victory convinced Abdullah that he could no longer get much joy from Pakistan. He gave up his demand for a plebiscite and accepted the ratification of the accession by the Kashmir Constituent Assembly. In the subsequent elections in 1977, notable for being free and fair, he won handsomely against the Congress and the extremist Hindu and Muslim parties. But by 1982 he was dead.

The politics of Kashmir in the 1980s is one of rigged elections, with the Congress party attempting to gain control over the State, splits within the National Conference, corruption, and misgovernment. But there was a darker cloud which had been gathering on the horizon since the OPEC oil price coup of 1973. The massive rise in oil prices brought untold wealth to Saudi Arabia—the home of the virulent Islam of the Wahhabis. They began spending part of their newfound wealth on promoting their version of Islam. A fundamentalist Islamic group “the Jamat-I-Islami” was able to set up about 600 madrasas (religious schools) in Kashmir with the help of Saudi and Gulf money. These new institutions were staffed with trained cadres of the Jamat from U.P. and Bihar, whose goal was to produce a new generation of Kashmiri Muslims who would forsake the more tolerant version of their forefathers' religion and minimize attachment to a Kashmir identity. Sure of the success of his efforts, the Amir of the Jamat-I-Islami of Kashmir told an Indian journalist in 1973: “we will produce a generation of New Muslims in Kashmir in fifteen years.”¹³ And they did.

GROWTH OF ISLAMIC MILITANCY

The strength of the growing Islamic militants, who demanded the separation of an “Islamic” Kashmir from a “Hindu” India, was shown in May 1989, when

their call for a boycott was widely obeyed. The inroads they had made into Kashmir were further shown by the massive implicit endorsement of the militants in the elections of November 1989, which they asked the electorate to boycott. Only 5 percent voted. After having capitulated to the demands of the militants who had kidnapped the daughter of the Indian home minister, Mufti Mohammed Sayeed, the most powerful Kashmiri Muslim in independent India's history, the Indian government decided that it was time to get tough with the militants. On the night of January 18, 1990, Indian paramilitary forces began the most intense house-to-house search seen in Srinagar. Till then support for the separatists demanding independence was implicit not explicit. The heavy-handed searches ordered by the new Governor of Kashmir, Jagmohan, changed that.

First, frightened, and then discovering the courage of desperation, the people began pouring out into the streets that day. The most startling presence was that of women, old, middle-aged, young. The administration got completely unnerved and gave orders to fire. The number is disputed, but there is no doubt that paramilitary bullets left more than fifty dead. . . . 19 January became the catalyst which propelled [the demand for independence] into a mass upsurge. Young men from hundreds of homes crossed over into Pak-occupied Kashmir to receive training in insurrection. Benazir Bhutto, her support base wiped out by malfeasance and misrule, desperate to save herself, whipped out the Kashmir card. . . . Pakistan came out in open support of secession, and for the first time did not need to involve its regular troops in the confrontation. In Srinagar, each mosque became a citadel of fervour; the khutba became a sermon in secession.¹⁴

A long period of protest, violence, repression, and curfew followed, with the nationalist fire being fueled by cross-border Islamist terrorists, for whom Kashmir had become as much an Islamic cause as Bosnia, Chechnya, and Afghanistan. The terrorism, much of it masterminded and funded by the Pakistani intelligence services, spilled over into India, with the most audacious of the terrorist attacks being the failed attempt to wipe out virtually the entire Indian political class in the attack on the Indian parliament in December 1991. This led to the tense confrontation between the two countries with full mobilization of their forces on the borders, which only came to an end after some nuclear saber-rattling in June 2002.

TOWARD A SETTLEMENT?

The subsequent state elections in Kashmir held in 2003 were the fairest and cleanest after 1975. The large turnout despite the militants' demands for a boycott showed that perhaps the militant tide had turned. The elections returned the same Mufti Mohammed Sayeed as Chief Minister, whose daughter's

kidnapping had led to the series of events which caused the 1989 insurrection. He won on a platform of reconciliation. Together, with the announcement of talks between India's Hindu hard-line BJP Home Minister, L. K. Advani, and the various moderate secessionist groups in the valley gathered in the umbrella party the Hurriyat, there is some hope that the Indian government will be able to find a political solution to pacify the valley.

Furthermore, the cease-fire recently announced along the LOC by the two countries, following Prime Minister Vajpayee's reopening of the peace process with Pakistan, suggests that there might also be some hope for a settlement of the long-standing Kashmir dispute.

What form is a solution likely to take? Some alternatives can be ruled out. Both India and Pakistan have denied independence for Kashmir, if for no other reason that this would strengthen the demands from other secessionist movements in their multiethnic countries. Nor is it conceivable that either side would agree to the territory occupied by the other to be ceded to the other. Domestic politics in both countries would not countenance such an outcome, given the enduring passions that the dispute has engendered from the time both countries gained their independence. With both sides armed with nuclear weapons, an armed conflict to settle the dispute is also ruled out. As the last confrontation in 2002 showed, the balance of terror provided by nuclear weapons has endured. As nuclear powers, the two countries which had fought three previous wars have not since converted their continuing cold war into a hot one. The only remaining alternatives are a formal recognition of the Line of Control as the international border, or a continuing stalemate, with an armed truce, broken ever so often, along what has been the de facto border since 1949.

There are some straws in the wind which suggest that the stalemate along the LOC might be converted into a final agreement making its status de jure. The crucial changes are the demise of the Soviet Union, and geostrategic developments since 9/11. As we have seen, the strategic importance of Pakistan to the West was in providing bases against the "evil empire." This ended with the collapse of the Soviet Union. A relative decline of Western interest in Pakistan followed, which had the unfortunate effect of allowing it to deteriorate both economically and politically. With the "war on terror" launched after 9/11, the U.S. can now project its power in Central Asia and the Middle East from bases in Afghanistan and Central Asia. But with General Musharaff's joining the "war on terror" in the American Afghan campaign against Osama bin Laden, for the time being the U.S. and its allies need whatever help the general can give. But can they force him to call off the Pakistani-sponsored terrorists who have entered Kashmir and India since the 1990s, and reach a settlement by converting the LOC into the de jure border?

Selig Harrison has reported that both the U.S. and China put pressure on General Musharaff to stop Pakistani-sponsored insurgent groups based in

Kashmir and Afghanistan from providing training and help to the regrouping Taliban in Afghanistan and the Uighur separatists fighting Chinese rule in Sinkiang (Xinjiang). This was why he declared a unilateral cease-fire along the LOC in response to the Indian government's peace proposals in October.¹⁵ Similarly Russia too is threatened by Islamist terrorists, many of whom trained in the Wahhabi madrasas in Pakistan. With this pressure from the major powers in the region, there is some hope that beginning with the cease-fire, a final settlement between the two countries will be possible to convert the LOC into the de jure border.

But this would mean that Pakistan would finally have to abandon its claim to the Kashmir valley. This poses a danger to the general given the spread of Islamists in Pakistan, since President Zia after the loss of Bangladesh exploded the "two-nation" theory on which Pakistani identity was based, and sought to find an alternative identity as an Islamic country. The Islamists look upon the liberation of Kashmir as part of their jihad. The general could contemplate an agreement to recognize the LOC as the de jure border only if he turned his back on domestic jihadis. But if Pakistan wishes to move back from the danger of becoming a failed state, controlling the jihadis and ultimately recognizing the LOC are logical steps. Whether the general has the will and means to do so remains an open question.

The *Financial Times* recently reported:

Gen. Musharaff has given increasingly clear signs that he understands the connection between the jihadi groups that operate in Kashmir, and which are still allegedly sponsored by the Pakistan army, and his growing domestic problem with Islamist violence—not least the attempts on his life. Yet US officials believe Gen Musharaff still shows some reluctance to tackle the Islamist groups head-on in spite of the most recent crackdown, launched in November 2003. Likewise US officials continue to praise Pakistan's co-operation with the US in the war on terror in the border areas with Afghanistan. But many privately doubt whether it is whole-hearted. "Gen. Musharaff is riding two horses at once and shows no inclination to dismount either," says one former ambassador to Islamabad. "But the US cannot contemplate a breach with Gen. Musharaff—that would leave everybody in a miserable situation, including us."¹⁶

This does not augur well for the future.

Selig Harrison observes that the United States retains great leverage over Pakistan through economic and military aid. However, "it would be the ultimate folly to pour new military hardware into Pakistan if it continues to support the Kashmir insurgency, risking another war with India that could all too easily go nuclear."¹⁷

Settling the Kashmir dispute will also meet resistance from the Pakistani army as it removes one of the prime justifications the military has used for its enormous budgets. But against this is the 9/11 precedent: when placed

between a rock and a hard place, the general wisely chose the U.S. against the jihadis. Perhaps if U.S. (and Chinese) pressure continues, he and his military may be willing to swallow the bitter pill, move decisively against his jihadis, and accept the LOC as the final settlement of the Kashmir dispute.

Meanwhile, India has to complete the process it has begun of talking to the moderate insurgent groups in the umbrella Hurriyat in Kashmir, offering them greater autonomy and the prospect of prosperity in the large and growing common market of the Indian Union. That it is willing to accept the LOC as the final border is shown by the Indians' building a 304-mile fence to block infiltration along a crucial part of the LOC on the mountain passes. It has proceeded slowly in the face of occasional Pakistani artillery barrages. The cease-fire along the LOC should allow this \$2.4 billion project to proceed more swiftly, while the ending of the cover that the artillery shelling by the Pakistanis gave to the infiltrators should also make their entry into Kashmir more difficult.

CONCLUSIONS

India and Pakistan are recent converts to economic globalization, and their nuclear standoff facilitates agreement on other issues. Meanwhile, Islamist rejectors of globalization incubate in Pakistan and on the frontiers of Afghanistan. As the "war on terror" proceeds, however, governments are impelled to act to end strife on their frontiers and to contain terrorist Islamic movements. In conclusion, an important by-product of the "war on terror" might thus be that the long-standing Indo-Pak dispute over Kashmir is resolved with a compromise on all three sides, by accepting the LOC as the international border between India and Pakistan. The LOC might become like the line dividing East and West Berlin. Sustained by nuclear deterrence on both sides, it could not be modified short of a complete collapse of one party or the other. Such a collapse is unlikely. If such a compromise is not reached, there will be a continuing stalemate which could—particularly if there is an Islamist takeover in Pakistan—produce a nuclear crisis on the subcontinent.

NOTES

1. The best accounts of this are provided by C. Dasgupta, *War and Diplomacy in Kashmir, 1947–48* (New Delhi: Sage Publications, 2002), and P. S. Jha, *Kashmir 1947—Rival Versions of History* (Oxford: Oxford University Press, 1995).

2. M. K. Akhbar, *Kashmir—Behind the Vale* (New Delhi: Roli Books, 2002), 6.

3. Dasgupta. 9. Colonel Akbar Khan, the director of weapons and equipment in the Pakistani army, was put in charge of the operation, and has left a valuable

account (A. Khan, *Raiders in Kashmir—the Story of the Kashmir War, 1947–48* (Karachi: Pak Publishers, 1970) of the role played by senior military officers supervised by Pakistani politicians in this "invasion."

4. Jha, 85–86.

5. Ibid.

6. Jha, 87.

7. P. N. Dhar, *Indira Gandhi, the 'Emergency', and Indian Democracy* (Oxford: Oxford University Press, 2000).

8. Quoted in Dhar, 193.

9. Dhar, 192.

10. Dhar, 190.

11. Dhar, 194.

12. James Sterba, "The Simla Agreement—Behind the Progress Reports There Is the Possibility of a Secret Agreement," *New York Times* (July 3, 1972).

13. Dhar, 220–21.

14. Akhbar, 218–19.

15. See Selig Harrison, "Shoring Up the Kashmir Truce," *Financial Times*, Dec. 10, 2003.

16. "Nuclear neighbours take the initiative to tackle problems as region drops down US agenda," *Financial Times*, Dec. 17, 2003, p. 10.

17. Ibid.