

Pak-India Peace Process: An Appraisal

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Abstract

[The current composite dialogue between Pakistan and India, generally known as the peace process, started in January 2004 after a meeting of President of Pakistan General Pervez Musharraf and Indian Prime Minister Atal Behari Vajpayee in Islamabad. The meeting helped thaw the bitter relations and, after it, a joint statement was issued that covered Indian concerns about “cross-border infiltration” as well as Pakistan’s emphasis on the resolution of the Kashmir dispute.¹ The composite dialogue has continued since then despite several ups and downs. However, a brief review of the peace process suggests that both countries remain unable to seek out practical and sellable solutions for the unresolved issues. Even the less intractable problems, such as the Siachen and Sir Creek issues, are far from being settled. Whatever has transpired, so far, between Pakistan and India with reference to the Kashmir issue has little conformity with the peoples’ wishes and their sacrifices. The self governance and de facto recognition of Line of Control (LoC) as permanent border never had surfaced in the Kashmiris’ struggle for self determination. On the other hand, the Indians have not yet visualized any solution beyond its constitutional four walls. Pakistan’s shown flexibility could not bring any paradigm shift in New Delhi’s thinking. Nevertheless, it seems that an interim solution is around the corner which may widen the scope of people-to-people contacts, free trade and business opportunities across the LoC. This paper is an attempt to critically analyze the approach of the two countries for the settlement of disputes as well as to study the convergence of their interests. It also underlines a few points that need to be taken into consideration before making any decision or compromise on the future of the peoples’ right of self-determination – *Author*].

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¹ The meeting between Vajpayee and Musharraf on January 6, 2004, produced a joint communiqué, known as the Islamabad Declaration, announcing the resumption of the bilateral composite dialogue to cover all issues, including Kashmir. In it, Musharraf said he would “not permit any territory under Pakistan’s control to be used to support terrorism.” (Racine, 2004.)

Kashmir: Stances of Pakistan and India

The checkered history of Pak-India relations is mired by suspicion and covert as well as open wars. Kashmir, according to the Partition formula, was likely to be part of Pakistan but the Indian government acted otherwise and occupied a large part of the state by military action. The people of Kashmir have invariably been challenging this occupation, initially through peaceful means and subsequently by armed resistance. Islamabad holds that the people of Kashmir should have the right to decide their destiny in a fair and free plebiscite under the relevant United Nations Security Council (UNSC) resolutions.² Traditionally, Pakistan's Kashmir policy has revolved around this historical stance. The country has always claimed that the people of Jammu and Kashmir (J&K) are suffering under Indian rule and seek its help. Thus, the government and the people of Pakistan have always been on the forefront of the Kashmir cause, despite the huge cost involved.

However, notwithstanding its traditional stand on Kashmir, Islamabad has never hesitated to try fresh approaches for settling this vexed problem. Pakistan's first military ruler, General Muhammad Ayub Khan (1907-74) engaged with India in pursuit of mutually acceptable solution in which the United States and United Kingdom played an arbitrary role during 1962-63. However, New Delhi was not willing to concede any meaningful concession, apart from handing over a 3,500-square-mile slice of border area adjacent to Muzaffarabad.³ In return, it demanded a final settlement on the basis of the status quo. Subsequently, India took advantage of the political turmoil in East Pakistan and invaded it. After a brief war, East Pakistan became the independent state of Bangladesh. This had a huge psychological impact on Pakistan's security establishment and on the psyche of the nation. A new chapter of bitterness and distrust had been written in history.

To mend ties, Indian Prime Minister Indira Gandhi and her Pakistani counterpart Zulfikar Ali Bhutto reached an agreement at Simla to settle the Kashmir dispute through peaceful means. However, this agreement did not materialize as both countries later offered different interpretations of the draft agreement and to the verbal understanding that had been reached between the two heads of state, which had not been properly documented.⁴ During 1973-1989, considerable time was given to bilateralism to settle this dispute but, due to various pretexts, this opportunity too was lost.

Ironically, it was New Delhi that had taken the Kashmir issue to the United Nations in 1948 and accepted its resolutions, which basically upheld the Kashmiri people's right to self-determination. But India never prepared to implement these resolutions. A recent revelation confirms that Jawaharlal Nehru, who was India's Prime Minister in 1948, had made commitments on the UN resolutions merely to buy time and was not

² The Constitution of Pakistan, 1973, also outlines its stance on the future status of Jammu and Kashmir. Clause 257 states: "When the people of State of Jammu and Kashmir decide to accede to Pakistan, the relationship between Pakistan and that State shall be determined in accordance with the wishes of the people of the State."

³ Crawford, 2001.

⁴ Sattar, 2007, p. 40.

serious about implementing them in any way.⁵ To strengthen its rule over Kashmir, India gradually clipped the state government's powers and declared it an integral part of India.⁶

Despite two open wars, one nearly full-scale war (i.e. the Kargil confrontation in 1999) over Kashmir, and the Tashkent and Simla agreements between Pakistan and India, the Kashmir dispute remains unresolved. Meanwhile, an armed resistance movement continues inside Indian held Kashmir (IHK) and the masses have rendered huge sacrifices to obtain the right of self-determination. Until 9/11, both countries had been engaged in periodic negotiations. The Indian Prime Minister Atal Behari Vajpayee visited Lahore in February 1999 and Pakistan's President General Pervez Musharraf went to Agra in 2001 to meet the Indian leadership to find a solution to all the intractable problems, particularly the Kashmir problem. But the two countries failed to narrow down their divergent views. Thus both these summits, despite the initial fervor, proved futile and added to despair among the people and leaders on both sides.

Post-9/11 Developments

After 9/11, new international game rules were set by the United States. The newly coined 9/11 terminology helped New Delhi to bracket Pakistan with Taliban, a hub of terrorism, and project India as a victim of terrorism. Besides, the situation also offered India and Pakistan a watershed opportunity to transform their diplomatic relations with the USA. New Delhi

⁵ It is widely accepted that Jawaharlal Nehru was committed to holding a plebiscite according to UNSC resolutions and his own pledges but subsequent events led him to renege from his stated position. However, noted Indian journalist and lawyer A. G. Noorani challenges this notion, asserting with solid facts that Nehru used his commitments to buy time and reduce pressure. He says, "There is ample evidence to prove that Nehru had decided to renege from his pledge on a plebiscite as early as in 1948. Irrefutable evidence on this appeared in 1996 in Volume 19 of *Selected Works of Jawaharlal Nehru* (page 322). It is in a highly secret note he wrote at Sonamarg in Kashmir, dated August 25, 1952, addressed to its Prime Minister (as he was then called) Sheikh Mohammed Abdullah. As a piece of cool analysis, it has no parallel in any of Nehru's writings, still less in its frank cynicism. Nehru virtually admitted that he had set his face against a plebiscite "towards the end of December 1948". He had, clearly, accepted the U.N. Commission for India and Pakistan's plebiscite proposals on December 23, 1948, not to have a plebiscite but only in order to achieve a ceasefire once the Army had reached the desired line. He was resolved to maintain "the status quo then existing" by force. Nehru wrote: "We are superior to Pakistan in military and industrial power. But that superiority is not so great as to produce results quickly either in war or by fear of war. Therefore, our national interest demands that we should adopt a *peaceful policy towards Pakistan and, at the same time, add to our strength.*" (Noorani, 2000)

⁶ Article 370 of the Indian Constitution gives special place to J&K relations with the Indian Union and an accord called the "Delhi Agreement" provides a framework for Indian relations with the State. The Indian Parliament passed a unanimous resolution on February 22, 1994, which defined the territories of J&K and bound the Indian government to get the "occupied territories" back from Pakistan's control. The resolution says, "Pakistan must vacate the areas of the Indian State of Jammu and Kashmir, which they have occupied through aggression; and resolves that...(d) all attempts to interfere in the internal affairs of India will be met resolutely." (IPCS, 2007)

immediately extended all-out support to Washington's War on Terror, presenting its war-related facilities for use against the Taliban regime.⁷

Meanwhile, Islamabad lost no time in jumping on to the US bandwagon and becoming, once again, a frontline state for the USA. Pakistan feared that India might snatch the opportunity to forge an anti-Pakistan alliance with the US. It quickly disappointed New Delhi and created a sense of despair both in the corridors of the Indian establishment and the public.

During this period, a number of events occurred that favored New Delhi; for instance, the UN Resolution 1373 (2001)⁸ adopted by the Security Council at its meeting on September 28, 2001, clearly ignored the distinction between the freedom movement and terrorism, whereas the US dubbed all resistance movements for the right to self-determination as terrorist campaigns.⁹ Besides a few exceptions, the entire world community accepted this flaw in interpretation. Kashmir was among the first casualties of these new game rules. Soon after, the traditional sympathy towards oppressed people disappeared and the world media and big countries started to call freedom fighters terrorists. India cashed in on this trend and portrayed itself as a victim of terrorism, not a brutal oppressor confronting the freedom struggle of the Kashmiris.

Just three months after the September 11 events, the Indian parliament was attacked. The episode invited condemnation from all over the world and sympathy towards India, while Pakistan was pressurized to rein in militants active inside IHK.¹⁰ Indian Prime Minister Atal Behari

⁷ Sattar, *Op. cit.*, p. 268.

⁸ The UNSC Resolution calls on states to "(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists...(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts."

⁹ US President George W. Bush told a joint session of Congress in September 2001, "Our war on terror begins with al Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated." (The Whitehouse, 2001)

¹⁰ Without any evidence whatsoever, the Indian government held Islamabad responsible for the attacks. Arundhati Roy, the famous Indian writer, explains the entire case. In her words, "Three Kashmiri men, Syed Abdul Rahman Geelani, Shaukat Hussain Guru and Mohammad Afzal, and Shaukat's wife, Afsan Guru, were arrested. On appeal, the High Court, subsequently, acquitted Geelani and Afsan, but upheld Shaukat's and Afzal's death sentence. Eventually, the Supreme Court upheld the acquittals and reduced Shaukat's punishment to 10 years of rigorous imprisonment. However, the Court enhanced Mohammad Afzal's sentence. He was given three life sentences and a double death sentence." In its judgment on August 5, 2005, the Supreme Court admitted that the evidence against Afzal was only circumstantial, and that there was no evidence that he belonged to any terrorist group or organization. But it went on to endorse what can only be described as lynch

Vajpayee, according to renowned writer Arundhati Roy, seized the opportunity to compare this attack with the 9/11 attacks. India snapped diplomatic relations and all communication links with Pakistan and manned its border with Pakistan with half a million soldiers, challenging Pakistan to change its Kashmir policy or face dire consequences.¹¹ Responding in the same coin, Pakistan also mobilized its forces. The standoff created a war-like situation in the region and alarmed the US, which was heavily dependent on Pakistan for its crucial logistic support in the US war in Afghanistan. It was untenable for the US to allow Pakistan to shift its focus from the Afghan border to the eastern one.

Pakistan's Policy in the Changing Scenario

The events of 9/11, the attack on the Indian parliament, and the following war-like situation between India and Pakistan not only greatly impacted the Kashmiri resistance movement but also compelled Islamabad to change its track on Kashmir. Moreover, the unfriendly international environment and Pakistan's deep involvement in Afghanistan forced Islamabad to rethink its relations with India and its Kashmir policy. The decision of General Pervez Musharraf to join the US-led War on Terror was also a factor in changing Islamabad's strategic position on Kashmir, particularly in terms of its ideological foundation. The economic condition of the country, unrest in the tribal areas, and — allegedly externally sponsored — violence in some parts of Balochistan, and the growing engagement along the Afghan border also played an instrumental role in bringing about a paradigm shift in Islamabad's thinking towards India. It is also said that Pakistan's trusted friends, like China and Saudi Arabia, advised it to seek an unconventional way out for a lasting deal with India over the Kashmir issue and bilateral relations; besides, constant persuasion from the United States also continued.¹²

Pakistan's capacity to protract the low cost conflict in Kashmir is beyond any doubt. Although the likely spillover effects of this on Pakistan's polity are obvious, they will be, to a great degree, manageable. On the other hand, despite its conventional military superiority and strong diplomatic backing from the world, India could not subdue the resolve of Pakistan to support Kashmir's right to self-determination and its demand

law. "The incident, which resulted in heavy casualties, had shaken the entire nation and the collective conscience of the society will only be satisfied if capital punishment is awarded to the offender." Spelling out the reasons for giving Afzal the death penalty, the judgment went on: "The appellant, who is a surrendered militant and who was bent upon repeating the acts of treason against the nation, is a menace to the society and his life should become extinct." This implies a dangerous ignorance of what it means to be a "surrendered militant" in Kashmir today. (Roy, 2006)

¹¹ *Ibid.*

¹² Our friends, such as China, have been advising us to focus more on our country's economic development and regional stability and to put Kashmir on the backburner until better times. Even the Islamic countries pay no more than lip service to the Kashmiri cause and, that too, only reluctantly in Organization of Islamic Conference (OIC) forums. Otherwise, they are as indifferent practically as the rest of the world. The Arab countries, in particular, are too preoccupied with their own political and economic survival to identify themselves with the problems of the wider Ummah. (Ahmad, 2004)

for sovereign equality with India. Pakistan's ties with the United States, and its role as an ally of the West, are considered advantageous for seeking a settlement of the Kashmir issue. As the country's former Foreign Secretary Shamshad Ahmad observed:

We cannot deny the post-9/11 reality that our "friends," the Americans, now have deeper than ever stakes in India-Pakistan rapprochement as a factor of stability for regional and global peace.¹³

The 'covert' US engagement with Islamabad, Delhi and Kashmiris is no longer a secret. Washington has expressed its desire at a number of times to help settle the Kashmir issue within the existing territorial parameters but with minor realignment.¹⁴ It views India as a potential rival to China, not only in the region but also in global affairs. Siddharth Srivastava, a New Delhi-based journalist, observes:

The US is striving to build India as a strategic counterweight to China, along with Japan and Australia.¹⁵

Termed as naïve by critics, Pakistan's calculations of the ground realities are optimistic, being based on the belief that India will never be able to bring normalcy into Kashmir because Kashmiris are highly skeptical towards it, and that India will need Pakistan's support and will ultimately make tangible transformations in its current stance over Kashmir. The majority of Kashmiris do not trust the Indian government and, ever since the eruption of the resistance, their aspiration for the right of self-determination has multiplied manifold and now cuts across even the hardcore pro-India circles in the Kashmir Valley. India's carrot and stick tactics and the brutalities of its forces have alienated the local population and invoked armed resistance, which may not die down easily.¹⁶ It is this assessment of the situation that emboldened Islamabad to make tangible concessions on Kashmir and bring India to the table for talks. Some also believe that the personal ambition of the President Musharraf — his wish to be regarded in history as a statesman who settled one of the world's most complicated disputes — is a driving factor that has brought essential changes in Islamabad's policies.

Besides various other factors that caused India and Pakistan to change their policies on the Kashmir issue, back channel diplomacy led by the US played a major role in alleviating the crisis and creating a viable atmosphere for initiatives towards a comprehensive normalization

¹³ *Ibid.*

¹⁴ Mahmud, 2005.

¹⁵ *Asia Times*, April 14, 2007, "Siddharth Srivastava India has China in its range." (http://www.atimes.com/atimes/South_Asia/ID14Df01.html)

¹⁶ After spending a few days in Srinagar, Khalid Hasan, the *Friday Times'* correspondent in Washington, writes; "The alienation with India is total. No Kashmiri sees himself as an Indian. When I say Kashmiri, I mean the Muslims of the valley. Everyone you talk to...*Azadi*. The reality of Kashmir today is the graveyards of the martyrs where almost all graves are of those young men cut down in the first spring of their youth." (*Friday Times*, May 6-12, 2005)

process.¹⁷

Change in India's Approach

For a long time, India's approach for dealing with Pakistan had revolved mainly around zero tolerance in any concerns related to India's security or political ideology. However, its inability to 'punish' Pakistan and to break its back economically (by creating a war-like environment in the region) had a sobering impact on the Indian mindset and led New Delhi to conclude that its conventional policies vis-à-vis Pakistan and Kashmir were getting nowhere. In the past, New Delhi had publicly pronounced several times that it would take punitive action and destroy what it alleged were militant training camps inside Azad Jammu and Kashmir (AJK) by air strikes. However, its hostile attitude did not yield the desired results and Islamabad did not succumb to its pressure.

At the same time, economic tycoons and multinational companies were pressuring the Indian government to normalize relations with Islamabad as hostile relations between the two neighbors and the constant fear of war had a negative impact on business activity and international investment. New Delhi needed peace in the region and internal stability to continue its current annual growth rate of 8-10 percent and obtain further foreign investment. As one researcher on the peace process put it:

Improved relations would lead to improved trade: there was money to be made, and this had become a strategic objective for both Islamabad and New Delhi.¹⁸

India realized that its successful economic journey would cease if it did not settle disputes with Pakistan.¹⁹ It had to think about the immense

¹⁷ It is no secret that the United States had been playing a key role in bringing India and Pakistan to the negotiation table. In this context, a news report reveals some interesting facts: 'The United States is now the established, de facto third party in India-Pakistan relations. Pakistan President Pervez Musharraf and Indian Prime Minister Manmohan Singh provided fresh evidence of this during their recent visit to New York. Both met U.S. President George W. Bush before their dinner meeting with each other in New York on September 14, 2005. Each had a "wish list" to present to Mr. Bush. On September 13, Dr. Singh told President Bush that "our [India's] belief is that Pakistan still controlled the flow of terror [in Jammu and Kashmir] and this must stop for any realistic progress." The same day, Gen. Musharraf "sought" the reduction of Indian troops in Jammu and Kashmir during his meeting with the U.S. President. "The [Pakistani] President has already discussed this [reduction of troops in Jammu and Kashmir] proposal with President Bush," Pakistan's Ambassador to Washington, Jehangir Karamat, said after the Bush-Musharraf meeting.' (Baruah, 2005b)

¹⁸ Croft, 2005.

¹⁹The economic factor also played a significant role; as a noted commentator says: "Two months ago, India and Pakistan appeared headed for a nuclear war. Colin Powell, the U.S. Secretary of State and a former General, played a key role in taking the two parties back from the brink. But here in India, I've discovered that there was another new, and fascinating, set of pressures that restrained the Indian government and made nuclear war, from its side, unthinkable. Quite simply, India's huge software and information technology industry, which has emerged over the last decade and made India the back-room and research hub of many of the world's largest corporations, essentially told the nationalist Indian government to cool it. And the

potential in bilateral trade and in trade with landlocked Afghanistan and Central Asia via Pakistan. Besides, India aspires for a permanent seat in the UN Security Council for which it had to ensure friendly relations with neighbors and settle the Kashmir issue in the context of which India is regarded among those countries that did not comply with the UNSC resolutions. Moreover, the Kashmir resistance poses a huge financial burden on the Indian treasury.²⁰ It is also acknowledged that the Indian security forces do not have the capacity to fix the problem; rather, they invite anger by frequently committing severe human rights violations that aggravate the already complex situation.²¹

After the withdrawal of Indian forces from the Pakistani borders, Pakistan made a chain of unilateral concessions pronounced by President General Musharraf himself. It began with a unilateral ceasefire on LoC announced by Prime Minister Zaffarullah Khan Jamali in November 2003. In the following month, speaking to *Reuters*, General Musharraf said he had "left aside" the 55-year-old demand for a UN mandated plebiscite on Kashmir and wished to meet India "halfway" in a bid for peace in the subcontinent.²²

These multiple pulls created a sense of obligation among the Indian ruling elite to at least take some measures to show that they were serious about settling the problems. Eventually, the Indian Prime Minister Atal Behari Vajpayee went to Kupwara in the south of the Kashmir Valley and offered a hand of friendship to Pakistan in April 2004. This was regarded a departure from the conventional Indian thinking on Kashmir and Pakistan, and paved the way for further initiatives on Kashmir. It also created a palatable environment for Vajpayee to visit Islamabad to attend the South Asian Association for Regional Cooperation (SAARC) summit.

Musharraf's 'Out of the Box' Thinking

Islamabad has consistently said that it supports the resistance in IHK diplomatically and politically, and has nothing to do with the armed struggle. It has also invariably linked talks with India with progress on the Kashmir settlement. But it relinquished both of these stands in the quest to find a compromised solution. Pakistan accepted the responsibility to rein in

government here got the message and has sought to de-escalate ever since. That's right, in the crunch, it was the influence of General Electric, not General Powell, that did the trick." (Friedman, 2002)

²⁰ The Indian Ministry of Home Affairs reports that India spent \$1.1 billion on cross-border insurgency over 1989-2002, plus \$4 million a month on economic development in Kashmir. India's central government also provides \$93 million assistance to the state government in Kashmir, which does not include the cost for the care of 40,000 displaced persons from the Kashmir Valley or compensation for the 20,000 dead. (Bhattacharjee, 2004)

²¹ This fact was recognized by a working group on good governance formed by the Indian premier himself in a recent report, which said, "The State's failure to end widespread human rights abuses by security forces and militants was responsible for fuelling the cycle of violence in the State." (Working Group on Ensuring Good Governance in J&K at http://www.hinduonnet.com/nic/jk/jkreport_4.pdf viewed on May 8, 2007.)

²² *Dawn*, December 20, 2003.

militants operating from areas under its control. It also pledged to stop all kinds of cross-border activities from Azad Kashmir.²³ Pakistan had never acknowledged the armed resistance in IHK as terrorism, but astonishingly, it ceded even this stance and conceded to the Indian interpretation of the movement. As a retired former Ambassador aptly commented:

This amounted to an admission of its guilt and was unprecedented in that Pakistan unilaterally took on a responsibility that was not only almost impossible to honor, but even more importantly, it was given without any reciprocal obligation by the other side.²⁴

To further the shift in policy, the Pakistani President articulated his ideas on Kashmir for the first time while speaking to journalists during an *iftar* dinner held in Islamabad in October 2004. Although he said these were “off the cuff” ideas, the nature of the proposals on the Kashmir settlement that he forwarded suggests that he had in mind a well-conceived and thought-out plan, on which he was gauging feedback. The crux of the proposals is outlined below:

- Identify seven regions, demilitarize them, and change their status before looking for possible options to resolve the dispute.
- The status quo in Kashmir is unacceptable and the LoC cannot be a solution to the lingering dispute.
- As a starting point for a step-by-step approach on the option of demilitarization, the regions on both sides of the LoC need to be analyzed for local culture and demographic composition. After identifying these regions, there could be gradual demilitarization, following which the two sides could discuss who should control these areas.
- Pakistan and India could also have joint control of these areas or the United Nations could be asked to play a role.²⁵

Later, Musharraf dilated upon his ideas with the *CNBC* anchorperson, Karan Thapar, on January 8, 2006. He suggested the concept of self-governance and joint management of the entire Kashmir area. In his words, “self-governance is more than autonomy but less than independence. In other words, both India and Pakistan will keep the parts of Kashmir they control but under their joint management. Self-governance is devolved to the Kashmiris, independence being firmly ruled out.”²⁶

The interviewer, Karan Thapar, afterwards elaborated this concept in

²³ Musharraf assured India by stating that he would not permit any territory under Pakistan’s control to be used to support terrorism in any manner. (Sattar, *Op. cit.*, p. 269)

²⁴ Fatemi, 2006.

²⁵ *Dawn*, October 26, 2004, “Musharraf calls for debate on Kashmir options: Status quo no solution.”

²⁶ Thapar, 2006.

his article, saying, "...The self-governance would apply to the full state of Jammu and Kashmir as it existed in 1947. This means it would be implemented in Northern Areas (Gilgit Baltistan). Additionally, the border within old Kashmir state would be open and thus irrelevant."²⁷

Subsequently, Musharraf had a comprehensive discussion on his proposals with the noted Indian lawyer and journalist, A. G. Noorani, who published it in the Indian magazine *Frontline* on August 12-25, 2006. Later on, President Musharraf also spoke to *NDTV* on similar ideas, going further to clearly articulate his position as follows:

- i) Kashmir will have the same borders but people will be allowed to move freely back and forth in the region;
- ii) The region will have self-governance or autonomy, but not independence;
- iii) Troops will be withdrawn from the region in a phased manner
- iv) A joint supervision mechanism will be set up with India, Pakistan and Kashmir represented in it.²⁸

The proposals offered by Musharraf sent clear signals that: a) Islamabad was ready to compromise its traditional stance that the people of Kashmir will decide their destiny through free and fair plebiscite; b) Indian and Pakistani sovereignty would remain as it currently was at the end of the day; c) The LoC would be irrelevant, except as a line on a map to demarcate both parts of the state; d) Self-governance or self rule would be granted to both parts of Kashmir and joint management established.

Pakistan's proposals paved the way to move forward on a slightly faster track as India did not view them as being against its strategic or political interests. Previously, Pakistan had banked on the UNSC resolutions that guaranteed the right of self-determination to the Kashmiris, besides recognizing Pakistan as a principal party to the dispute. Musharraf relinquished these positions unilaterally without seeking any quid pro quo. In other words, he came close to almost acknowledging the Indian claim that Kashmir could not be receded from the Union. India also tactfully rephrased its traditional stance that "J&K is its integral part" in more acceptable language, now asserting that "Borders cannot be redrawn but any kind of solution could be acceptable to India." Musharraf agreed to this proposition while rejecting the status quo and showed willingness to embrace some kind of joint management of the state.

Moreover, Pakistan accepted the pro-Indian Kashmiri leadership's role in the future dispensation and changed its position that only the All Parties

²⁷ *Ibid.*

²⁸ Naqvi, 2006b.

Hurriyat Conference (APHC) should be the representative of Kashmiri people in the negotiation process. President Musharraf said that the President of the National Conference, Omer Abdullah, and Mahbooba Mufti had a role to play in the Kashmir political landscape.²⁹ This gesture comforted the Indian establishment as Pakistan's demands were in line with their own views and interests.

These major departures from the traditional stance made Musharraf a good bet for India to deal with Pakistan on Kashmir and settle other issues broadly allied to Pak-India trade and access to markets in Central Asia and Afghanistan.

A Review of the Composite Dialogue

The dialogue process between Islamabad and New Delhi is slowly progressing despite several ups and downs. It is often said that the continuation of the process is in itself a success because, in the past, the two countries have been unable to remain engaged in a sustainable dialogue. However, the substance of the process and prospects of its success need to be analyzed.

Until February 1994, India and Pakistan were engaged in sporadic dialogues that always ended with zero progress. This is why both countries formally suspended dialogue in 1994. Islamabad's approach was to settle the Kashmir issue first, after which the other problems would get settled almost automatically, whereas India was interested in dilating first on other issues, such as trade and travel. Eventually, to bridge the gap between the two positions, both governments agreed to address all political and territorial issues simultaneously, including Jammu and Kashmir. Consequently, the foreign secretaries of the two countries met in Islamabad and resumed the stalled dialogue process in June 1997.³⁰ They institutionalized the process by identifying eight areas to deliberate upon and established working groups to make progress on each issue separately but simultaneously.³¹

This entire process was called off when the Kargil confrontation occurred. As discussed earlier, post-9/11 events also contributed in the stalemate between the two countries. Later, in 2004, India and Pakistan launched a renewed peace process aimed at resolving all their longstanding disputes. However, the Kashmir dispute still dominates over other issues. Even after voicing his new approaches, President Musharraf said that if progress on Kashmir could not make headway, the entire process would be

²⁹ Musharraf made these remarks during his visit to New Delhi. (Gilani, 2005)

³⁰ Prime Minister I. K. Gujral agreed with Prime Minister Nawaz Sharif on May 12, 1997, at the SAARC summit in Male, to set up a Working Group on Kashmir and Other Issues. Gujral said that day: "We have mandated the Foreign Secretaries to meet by the end of June to work out and identify the areas where Joint Working Groups can be set up and proceed with it." (Noorani, 2007)

³¹ The peace and security issues included confidence building measures, Jammu and Kashmir, terrorism and drug trafficking, economic and commercial cooperation, promotion of friendly exchanges in various fields, and the problems pertaining to Siachen, the Wuller Barage project/Tulbul navigation project and Sir Creek.

back to square one.³² Recently, Prime Minister Shaukat Aziz has underscored the settlement of Kashmir as a precondition for further progress on other related disputes as well as for offering trade and business opportunities to India.³³

Since January 2004, both neighbors have been engaged on two different levels. The first is the official level, at which concerned officials from both sides meet periodically and report their progress to foreign secretaries, who meet to review the outcome and discuss the Kashmir, peace and security issues, before, finally, the foreign ministers meet to take stock of developments and set the rules for further dialogue. The second level of engagement is back-channel diplomacy. Pakistan's National Security Secretary, Tariq Aziz, who is known to be a close aide of President Musharraf, and India's S. K. Lamba, former High Commissioner to Pakistan, are engaged in a serious dialogue. However, it has been said that only five people in Pakistan are truly in the loop on the actual state of bilateral negotiations.³⁴ Therefore, no one can really assess the behind-the-curtains activities or predict the contours of solutions.

So far, at the official level, both countries have completed four rounds of a composite dialogue. This process received a dent when the Mumbai train blasts on July 11, 2006 caused a postponement in the foreign secretary-level talks. India blamed elements from Pakistan for their involvement in the blasts but no evidence was provided by the Indian government to Pakistan. This decision was in violation of the joint statement, issued on April 18, 2005, by the leaders of Pakistan and India, which states that, "Terrorist acts would not be allowed to derail the peace process."³⁵ Eventually, sanity prevailed and the stalled process was resumed in November 2006. Likewise, in February, the Lahore-bound Samjhauta Express became a target of bomb blasts that killed 68 passengers, most of whom were Pakistani. Islamabad reacted with caution and did not allow the peace process to derail, despite the immense loss of its citizens' lives. The question does arise how New Delhi would have reacted had Indian citizens been the victims.

The fourth round of composite dialogue was held in Islamabad on March 13-14, 2007, with a focus on the Jammu and Kashmir dispute and peace and security. In the context of peace and security, the two sides

³² The dispute over Kashmir could erupt again unless a solution is found that is acceptable to India, Pakistan and Kashmiris. (*The Nation*, April 18, 2005, "Musharraf wraps up India trip with warning that Kashmir still is a flashpoint," Islamabad.)

³³ Prime Minister Shaukat Aziz has reportedly said that the trust deficit between India and Pakistan has been reduced in the past three years, but more progress in economic and other ties is linked to progress in negotiations on Kashmir, and progress on Kashmir will determine progress on economic relations. The Prime Minister said a point needed to be reached where the people of India, Pakistan and Kashmir would be happy, and this would take "courage, magnanimity, flexibility and leadership." (*Daily Times*, January 19, 2007, "Indo-Pak trust deficit has narrowed: PM.")

³⁴ Khan, 2007.

³⁵ Baruah, 2005a.

discussed a wide range of issues relating to their conventional and nuclear military capabilities and reviewed the entire process. The Pakistani team sought India's response to President Musharraf's "ideas" on the resolution of the Kashmir issue and emphasized the need for forward movement on Jammu and Kashmir, saying it was time to move from confidence-building measures to dispute resolution.³⁶

Among related issues, Pakistan pushed for early finalization of the agreements on speedy return of inadvertent line crossers; quarterly flag meetings of the sector commanders at the LoC; and liberalization of the visa regime.³⁷ Pakistan also proposed some new cross-LoC confidence building measures, including allowing sports activities and launch of helicopter and postal services between Srinagar and Muzaffarabad.

In addition, Pakistan tabled a new proposal on anti-ballistic missiles. Siachen, Sir Creek and economic cooperation were among the other issues discussed.

Following are the significant consensus points of the fourth round of foreign secretary-level talks:

- After years of reluctance, Pakistan agreed to the Indian proposal of launching a bus service between Kargil and Skardu in the Northern Areas. The two sides will next discuss logistics and modalities;
- It was agreed that a truck service between Srinagar and Muzaffarabad would be launched in a few months;
- It was agreed that the Joint Committee of Retired Judges, set up to look into the prisoners issue, would begin its work soon and suggest ways to ensure the humane treatment of Indian prisoners in Pakistani jails and Pakistani prisoners in Indian jails;
- The two countries agreed to conclude an agreement on "No Development of New Posts and Defense Works" along the LoC and proposed drafts for new border control guidelines along the International Border;
- The two sides agreed to work on finalizing a liberalized visa regime, including a proposal for group tourism.

Although the meeting could not settle the problem of demilitarizing Siachen, it was able to narrow down differences on some elements. The political leadership of both countries appears optimistic about resolving this issue in the days ahead.³⁸

³⁶ *Dawn*, March 13, 2007, "Composite Dialogue round begins today."

³⁷ *Weekly Outlook*, March 18, 2007, "Pak seeks to keep J&K violence out of Anti-Terror Mechanism."

³⁸ The Indian Prime Minister said, "There are immense opportunities. We are working together to resolve our differences." (Naqvi, 2007) However, the Indian army is considered to be a major hurdle in any solution of the Siachen dispute. The Chief of Indian Army Staff General J. J. Singh, Corps Commander of that region, as well as

Likewise, the formation of a Joint Counter-Terrorism Mechanism is also a significant development. India has long blamed Pakistan for any terrorist activities occurring on its territory. The Mechanism offers an opportunity for thorough investigation of incidents prior to the pronouncements of conclusions.³⁹ However, it was reported in sections of the Pakistani and Indian press that Islamabad seeks to keep the armed resistance in J&K out of the ambit of the Joint Anti-Terrorism Mechanism. At a joint press conference with the Indian Foreign Secretary Shivshankar Menon, his Pakistani counterpart, Riaz Mohammad Khan, said that Jammu and Kashmir was “disputed” and should not be “mixed” with the initiatives that are between India and Pakistan only.⁴⁰

The visible achievement of the four rounds of foreign secretaries’ level dialogue is the initiation of a Srinagar-Muzaffarabad bus service and, of late, the opening of entry points along the LoC for civilian crossing.⁴¹ Although the 42-month dialogue process has not yielded the desired results, both the governments seem to be closer to agreements on a number of issues. Besides, the two countries have also exchanged some proposals through the back channel on the settlement of the Jammu and Kashmir dispute. However, very few people of the two governments are fully aware of what is going on behind the scene. Concerned citizens and the general public on both sides know virtually nothing. This makes the

Brigade Commander of Siachen, insists on joint mapping of the glacier and defining the line of control before any dialogue on the demilitarization of the region begins. The Indian Army Chief has been trying to persuade the political leadership of his country—and quite successfully—not to reach any accord on Siachen with Pakistan without authenticating the existing positions on the glacier. (Ahmar, 2006)

³⁹ The current Joint Anti-terrorism Institutional Mechanism is the byproduct of a joint statement issued after the Manmohan Singh-Musharraf meeting in Havana on September 16, 2006. The joint statement says: “They decided to put in place an India-Pakistan anti-terrorism institutional mechanism to identify and implement counter-terrorism initiatives and investigations.” That joint statement was not the product of a short meeting between the two leaders. Manmohan Singh made a statement on September 12 in which he said, “Terrorism constitutes a threat for both countries and Pakistan, too, is a victim of terrorism.” This statement was a prerequisite to the joint mechanism. The decision to set up the new mechanism comes on the heels of India’s asking Pakistan to take concrete action on the ground to stop terrorism emanating from its territory if it wants the peace process to move forward. However, both countries have different aims to achieve from this mechanism. Islamabad may be prepared to include outfits like Jaish-e-Mohammed (JeM) and Lashkar-e-Toiba (LeT) in the joint mechanism on terror, but definitely not the Hizbul Mujahideen (HM). The Pakistani rationale is that the HM is a “home-grown movement.” (*The Indian Express*, March 14, 2007. “More CBMs, J-K Out Of Terror Loop: Pakistan.” See also, *The Indian Express*, March 10, 2007, “Kashmir Violence Isn’t Terror, Keep It Off The Table: Pakistan tells India.”

⁴⁰ *Weekly Outlook*, March 18, 2007, *Op. cit.*

⁴¹ The cumbersome procedure for obtaining permission to visit the other side has been under severe criticism since the beginning, but neither of the two governments appears prepared to make it easier. Sometimes, it takes three months to get permission and the facility is also limited to divided families; common visitors are not allowed to tour the other side. Above all, the bus runs fortnightly and a passenger would not be able to return before 15 days. This limits travelers as sparing 15 days is not easy for many people.

back channel process vulnerable: nobody knows how stakeholders and the public will react when the solution is finally made public.

India's Mixed Response

Initially, the Indian leadership was quick to turn down President Musharraf's proposals on Kashmir, making it clear that sharing the sovereignty of Jammu and Kashmir with Pakistan was out of the question. However, due to the host of factors outlined above, it eventually realized that it had to reciprocate and take the proposals into serious consideration.

The Indian Prime Minister made some reconciliatory remarks that encouraged pro-settlement forces in Kashmir and Pakistan. India resumed the negotiation process with APHC's Mirwaiz faction and also held meeting with Sajjad Ghani Lone, Chairman of the People's Conference and to the leader of Jammu & Kashmir Liberation Front (JKLF), Yasin Malk.⁴² The Indian Prime Minister held three Kashmir-related roundtables with the pro-India leadership of IHK and formed five working groups to seek recommendations on various issues.⁴³ The pro-independence leadership

⁴² The Mirwaiz faction of APHC had a meeting with Manmohan Singh on September 5, 2005, while Sajjad Ghani Lone met the Prime Minister on January 14, 2006 and Yasin Malik had a similar meeting on February 18, 2006.

⁴³ The Indian Prime Minister held the second roundtable conference of Kashmiri leaders on May 24-25, 2006, in Srinagar and formed five Working Groups to study the situation and present suggestions. Besides, the group studying centre-state relations, the other four groups presented their recommendations to the government in the third session of the roundtable held on April 24, 2007, in New Delhi. The detailed reports are available at http://www.hinduonnet.com/nic/jk/jkreport_4.pdf (as viewed on May 8, 2007).

The working group on "strengthening relations across the Line of Control," headed by the former Foreign Secretary, M. Rasgotra, presented a comprehensive set of suggestions that could effect paradigm shifts in the ground realities if implemented in letter and spirit. They also indicate how India envisages the future of the state of Jammu and Kashmir, in which it includes Azad Kashmir and Gilgit and Baltistan. The group acknowledged that the Permanent Resident Certificate (PRC), commonly known as "state subject," is a basic identity for the local people. The group not only recommended opening of seven further routes across the LoC for civilian travel and trade but also underlined the need to restore the Kargil-Skardu route leading to China. However, it sounds wildly fantastic to envision the opening of the traditional Leh-Xinjiang route at this point in time. Nonetheless, it is worthwhile to note that the group recommends taking a unilateral initiative to open these routes, regardless of Islamabad's response.

Another significant proposal is about the institutionalized relationship between the universities across the LoC as well as an exchange program for students, journalists and academics. The group clearly states that the ultimate aim is to encourage, in stages, the creation of a Free Trade Area comprising J&K and Azad Kashmir. Modalities for this are being worked out between the two sides. Issues of State taxes on goods traded across the LoC may be determined by the State Government after due consideration of all relevant aspects.

To regularize and provide political backing for the recommendations, the group recommends the setting up of a 10-member joint consultative body of legislatures of both sides to exchange views periodically on social, economic, cultural and trade related matters of mutual interest. It also identifies areas wherein mutual cooperation may be developed, such as horticulture, tourism promotion and environment protection, besides disaster management. Interestingly, 'the group on confidence

was also invited but it did not participate, demanding that a separate meeting be held with it instead of a joint sitting with pro-India politicians. Notably, President Musharraf personally encouraged the pro-independence APHC leadership to join talks with India and Pakistan separately, as this would be a step in the direction of trilateral talks.⁴⁴

There is a feeling in a large section of the Indian establishment and public opinion that Pakistan has narrowed down its position and come closer to that of India's, despite its use of different jargon and nuances. It is interesting to note that, in the last two years, Indian Prime Minister Manmohan Singh has spoken on his vision of how to settle the Kashmir issue several times. On March 24, 2006, in Amritsar, he argued for a step-by-step approach and commencement of dialogue with the people "in their areas of control" to improve the quality of governance. Regarding the future status of the LoC, he said that it might eventually become a mere line on a map, and that people might be able to visit and trade freely. He made a departure from his government's earlier stated position by acknowledging that the "the two parts of Jammu and Kashmir can, with the active encouragement of the governments of India and Pakistan, work out cooperative consultative mechanisms so as to maximize the gains of cooperation."⁴⁵ He also offered a treaty of friendship between India and Pakistan.⁴⁶

Subsequently, at the Second Round Table Conference held in Srinagar in May 2006, the Indian Prime Minister indicated that he might take some institutional arrangements to bring people from both sides of the LoC closer to each other.⁴⁷ While meeting with a APHC Conference delegation in New Delhi, he said India might create an environment in which a person could live in Srinagar or Muzaffarabad without any legal restriction.⁴⁸ He reiterated that India was willing to move beyond its stated position, and expressed his openness to any ideas that might contribute to the ongoing thought process.⁴⁹ Finally, speaking to a meeting of Indian businessmen in

building measures across segments of society in the state' argues for an unconditional dialogue process with militants groups to find sustainable solutions to the problems of militancy. Likewise, it suggests several means to give safe passage for the return of militants to their homes and also provides guidelines for their rehabilitation.

⁴⁴ It appears that the Indian government asked Musharraf to use his influence on the divided APHC to bring its leaders to the negotiating table. "I bluntly said why should I tell them to meet (Indians)? I too want to meet (them). If I am not allowed to meet them, why should I tell them to meet (Indians)? They agreed. So the meeting took place," Musharraf revealed in an interaction with Pakistani media before leaving New Delhi (Gilani, *Op. cit.*). Besides, Musharraf dropped an open hint for the APHC leaders saying they should use their "brain" and join the talks with India and Pakistan separately as it is the step in the direction of trilateral talks (*The Indian Express* (News), April 19, 2005)

⁴⁵ Baruah, 2006.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ APHC leader Abdul Ghani Bhut shared this with the writer in a meeting in Jammu on April 20, 2006.

⁴⁹ Pandher, 2006.

New Delhi, Prime Minister Manmohan Singh repeated his hope for a treaty of peace and friendship with Pakistan and emphasized the need for linkage among South Asian states for economic development.⁵⁰ This was the second time he had spoken of such a treaty in the period of about a month. Just one month earlier, he had initiated his idea of a treaty of peace and friendship at a public rally in Amritsar. Echoing the same line a few days earlier, the Indian External Affairs Minister Pranab Mukherjee had said that India had to be prepared for some give and take in the border talks with China and Pakistan and should be prepared to shun rigid claims of national sovereignty if the talks were to be meaningful.⁵¹

These pronouncements indicate that the Indian leadership is willing to have a phased-out formula for the resolution of the Kashmir issues. Nevertheless, it is neither relinquishing Indian sovereignty over Jammu and Kashmir, nor ready to trade off territory. At the end of the day, the people of Jammu and Kashmir may have de facto reunification of the state, which will give them psychological satisfaction.⁵² Apart from Manmohan Singh's reconciliatory remarks, a number of other key political stakeholders, such as Mufti Muhammad Sayeed's People's Democratic Party (PDP), National Conference, and APHC's Mirwaiz faction all support the Islamabad approach on Kashmir with slightly varied interpretations.⁵³

In this context, the Indian government has adopted a policy of engaging both Kashmiris and Pakistan in the dialogue process, separately but simultaneously. It suggests that New Delhi has attached huge expectations to an internal agreement with the people of Kashmir, giving relatively less importance to the external factor. However, it recognises the significance of people-to-people contacts across the LoC and, therefore, agreed to initiate the Srinagar-Muzaffarabad bus service and allowed Kashmiri leaders to travel on it to Muzaffarabad in July 2005. It has also given relatively better political space to the Mirwaiz faction of APHC and frequently facilitated its travel outside the country.

On the other hand, a number of Indian officials and commentators are restlessly following the beaten track of bitterness, continuing to hurl accusations at Pakistan with no regard for the emerging environment. Officials in India's top echelons quite frequently use isolated events to accuse Pakistan of terrorism without offering any substantial evidence.⁵⁴ At times, Islamabad's sincerity is questioned. For instance, according to Satish Chandra, former Deputy National Security Advisor to the Indian government:

Is the military in Pakistan sincere in wanting good relations with India? Pakistan's engagement in the current dialogue process is due to

⁵⁰ Gilani, 2007.

⁵¹ *Dawn*, December 15, 2006, "India won't give up claim: FM: Land ceded by Pakistan to China."

⁵² Mufti Muhammad Sayeed confided this to the writer during his visit to Srinagar in April 2006.

⁵³ *Daily Times*, December 20, 2006, "India, Pakistan agree to make LoC irrelevant."

⁵⁴ Naqvi, 2006a.

compulsion of external pressures and military exigencies which have tied up substantial Pakistani forces on the West.⁵⁵

In April 2005, when Musharraf visited New Delhi, both the governments made announcements that the peace process was irreversible and no incident would be permitted to derail it. But immediately after the Mumbai bomb blasts, New Delhi called off the dialogue process and stalled the foreign secretary-level talks for almost three months. Indeed, New Delhi left no stone unturned to prove that Pakistan was a haven for terrorists and was involved in promoting terrorist networks inside India, particularly in the occupied Jammu and Kashmir.⁵⁶ Satish Chandra observed:

Pakistan's involvement in terrorism is well-known. It is not limited to Jammu and Kashmir, but extends to several parts of India, including the northeast. One of my major concerns was that in many parts of India, including New Delhi, we are a hair's breadth away from a major terrorist attack.⁵⁷

In view of such contradictions, it may be assumed that either opinion within the Indian establishment is divided on the future course of action, or New Delhi has a well-defined, official double-edged policy of conducting talks with Islamabad and, at the same time, continuing its blame game to keep the latter under pressure. It is possible that New Delhi wishes to maintain tactical ambiguity to keep both pro- and anti-peace process forces confused with mixed signals. Such an approach also allows the Indian government to drag its feet on the peace process whenever it desires.

It appears that India does not care if its stance sends negative signals to the people of Pakistan, or if it reinforces the argument before them that Delhi is not responding to Musharraf's flexibility, even in diluted form. On the other hand, Musharraf has consistently applauded Vajpayee and Manmohan Singh, calling them statesmen, but the Indian leadership has never reciprocated the gesture. Musharraf has earned a lot of appreciation across the world for his efforts to solve the Kashmir problem but this too has made little impression on the Indian establishment.

Some leading Indian opinion makers believe that Pakistan had no option but to comply with Indian demands. This view has been echoed by former Indian Prime Minister Inder Kumar Gujral in the following words:

What options does he [Musharraf] have? His country faces innumerable problems. He also finds India growing taller and taller. His

⁵⁵ Chandra, 2006, p. 70.

⁵⁶ "Pakistan has emerged as the epicenter of terrorism in the world. All activities of international terrorism are linked to Pakistan: London, Madrid, New York. Everywhere there is the Pakistan connection. Also the terrorist activities in India, Mumbai, Delhi, Kashmir, are linked with Pakistan." Governor J&K S. K. Sinha as quoted in a report of the Belgium Association for Solidarity with Jammu and Kashmir (BASJAK). (BASJAK, 2006)

⁵⁷ Satish Chandra, *Op. cit.*, pp.70-71.

friends, the Americans, have told him not to rock the boat.⁵⁸

Thus, the process of reconciliation and the blame game are continuing simultaneously, indicating that the Indian establishment has yet to enter true reconciliation mode.⁵⁹ Naturally, several questions arise about this complex Indian attitude. The answer primarily lies in the changed ground realities; for instance, back and forth movement across LoC has admittedly gone down, while militants are no longer a major threat to the security forces. Moreover, with the tacit approval of Islamabad, the fencing of the LoC has been completed without any real hassle. The unfaltering commitment on the part of Pakistan to respect the ceasefire along the LoC is a further encouraging factor. Inside Kashmir, the APHC stands divided into two factions and one of them, headed by Mirwaiz Omer Farooq, is in touch with Indian interlocutors, seeking a compromised settlement of the issue within the Indian Union.

New Stakeholders

Recently, Kashmiri domestic politics took a dramatic turn when the President of the pro-India National Conference, Omar Abdullah, made a striking demand. He said that no solution for Kashmir was possible without the involvement of Hizbul Mujahideen (HM) in the dialogue process. He urged India and Pakistan to hold talks with the United Jihad Council and HM's chief, Syed Salauddin.⁶⁰ Besides Omar Abdullah, the PDP chief Mehbooba Mufti has also consistently advised New Delhi to bring HM on board. JKLF leader Yasin Malik, known as the pioneer of militancy, also sets dialogue with HM as a precondition to a peaceful resolution of the Kashmir dispute. Moreover, a number of intra-Kashmir dialogue conferences organized by the Centre for Dialogue and Reconciliation, Delhi, have persistently been arguing for a seat for militants in the ongoing process.⁶¹

HM has welcomed the suggestion for the first time in its 17-year armed resistance. Its inclusion in the dialogue has become a bipartisan demand of the Kashmiri stakeholders, cutting across the political divide. However, several questions arise regarding HM's future course of action. It is a fact that HM has played an instrumental role in highlighting the Kashmir issue by rendering huge sacrifices. It commands immense respect

⁵⁸ Nayar, 2005.

⁵⁹ It is a known fact that the Indian establishment leads the strategic thinking regarding Indian relations with Pakistan. No matter who rules in Delhi, the state policies remain consistent. A few instances are worth noting to understand how the establishment acts and sabotages the political process. In 1992, the Siachen Agreement was ready to be signed between the Indian and Pakistani Foreign Secretaries but "higher Indian authorities" intervened and the issue was left to linger on. More recently, the July 2001 draft of the Agra Declaration could not be signed because of a disagreement within the ruling (BJP) camp. And now the Indian army has become a bottleneck in the signing of an agreement on the Siachen issue, despite the larger consensus on it. An interesting account of the Agra summit has been written by former Foreign Minister and eye witness, Abdus Sattar, in his recently published book (Abdul Sattar, *Op. cit.*, pp. 236-239.).

⁶⁰ *Greater Kashmir*, April 5, 2007, "Talk to Salahuddin: Omar to India, Pak," Srinagar.

⁶¹ For a detailed account, see Mahmud, 2007.

and credibility among the masses. Its chief, Syed Salauddin, is a household name in Kashmir and is regarded as one of the most trusted leaders of the state.

CBMs: A Blank Cheque for HR Violations

Despite a number of Confidence Building Measures (CBMs), the articulation of positive statements in the top echelons of the two countries, and several rounds of high level tête-à-tête between Indian and Pakistani officials, there has not been even a slight decline in the level of human rights violation in Indian-held Kashmir. Fake encounters and disappearances are still staged.⁶² The violations are so high that even the pro-Indian mainstream, along with the "separatist parties" — as India calls them — are up in arms against the government and security forces on this issue.⁶³

In the context of the ongoing peace process, it was not a misplaced expectation that, at least to improve its democratic image, the Indian government would take special measures to ensure respect for human rights and stop indiscriminate killings of civilians in the state. It was also necessary to get public support for the ongoing dialogue process. But events show that human rights abuses have actually doubled and random killings continue as a routine matter in IHK. It is quite surprising that the world community does not let a single opportunity slip to condemn human rights violations by resistance outfits but is silent on the acts of barbarism committed by the forces.

The Indian brutalities fuel feelings of vengeance among Kashmiris and invite more violence, which helps in providing fresh blood to the dissidents. It should be borne in mind that, in the initial years, the character of the resistance movement was not violent or communalized as it later became. However, even peaceful protests were dispersed with gunfire. The Indian forces imprisoned all renowned political figures and ceased all avenues for the peaceful and non-violent components of the struggle. Eventually, not only the youth but also professionals and the political leadership were dragged into armed struggle. These views were echoed in the editorial

⁶² An Indian weekly reports: "They killed innocents and called them terrorists. Kashmiri villagers shout anti-India and anti-police slogans as they carry the body of Nazir Ahmed Deka after it was exhumed in Saloora, a village 25 kilometers northeast of Srinagar. Continuing its investigations in the shocking killings of innocent civilians in fake police encounters and then being passed off as militants, the Jammu and Kashmir Police has arrested four of its own personnel, including a Senior Superintendent of Police and a Deputy Superintendent of Police, on charges of abduction and murder. The police also exhumed as many as four bodies from their graves, believed to be that of Nazir Ahmad Deka, Ghulam Nabi Wani, Ali Mohammad Paddar and Showkat Ahmad Kataria, all missing under similar circumstances. Civil society groups in the state claim about 10,000 people have been reported missing since the insurgency began in 1989, but the state government says the number is closer to 4,000." ("Week in Pictures," *Outlook* November 30, 2006. viewed at <http://www.outlookindia.com/photoessays.asp?foldername=20070205&filename=weekin&storyid=1> on April 7, 2007.)

⁶³ *Indo-Asian News Service*, January 31, 2007, "Kashmir house adjourned on rights abuses."

comments of the Jammu-based *Kashmir Times* on January 5, 2005:

The poor track record of Indian forces on human rights front, which includes not just physical torture but also the mental trauma and agony of being looked upon with suspicion and subjected to every day humiliation in one's own home by a man in uniform who is for all practical purposes an outsider, thus becomes a major source of spread of militancy in its fanatic form, as is evident today.⁶⁴

Given, Kashmiri leaders often say that the current Indian strategy is aimed at crushing the Kashmiri struggle for self-determination under the disguise of parleys with Pakistan. This is why Indian forces are vigorously pursuing their military operations in the state. Secondly, as long as the two sides remain engaged in talks, the international community and human rights organizations will not voice any concerns lest it derail the dialogue process and spoil the atmosphere. Besides, Pakistan is consciously avoiding making human rights a point in the talks, fearing that it might annoy India to the extent that it backs out of the negotiations. India is taking undue advantage of this deliberate silence. On the other hand, it has practically given India a soft opportunity to suppress all the significant voices in the state.

It is also a known fact that the Indian armed forces have developed stakes in the J&K conflict. Over a period of time, they have developed a huge infrastructure and extract immense benefits from the festering wounds of Kashmir. They are entrusted with several draconian powers and prerogatives to conduct arbitrary operations and commit custodial killings. It is a proven fact that the security forces take money from local people through intimidation and threats.⁶⁵ Therefore, the huge military set-up in J&K has itself become a bottleneck in the peace process. Several Kashmir watchers believe that it was the military and intelligence establishment that compelled the Congress-led government to not budge from the Indian stated position on the issue. The ruling class in Delhi today also believes that Islamabad is on the receiving end and its game plan has been exhausted. So, eventually, the Indian writ on Kashmir shall be fully reestablished.⁶⁶

Dissident voices

Syed Ali Gilani, Chairman of his own faction of APHC, has emerged as a leading critic of the current peace process. He believes that the process is going to bury the Kashmir issue rather than settling it according to the people's wishes. His views have a strong following of politically aware lawyers, intellectuals, youth and women inside Kashmir. Apart from his political and religious ideology, he commands respect from all segments of Kashmiri society because of his firm stand on resolution of Kashmir according to the wishes of its people. Militant outfits, too, regard him as a

⁶⁴ *Kashmir Times*, Jammu, (editorial), January 5, 2005.

⁶⁵ For details see Coalition of Civil Society, 2006, p. 130.

⁶⁶ Ved Bhasin, Editor of *Kashmir Times*, Jammu, interviewed in Islamabad on March 18, 2007.

source of aspiration. Hizbul Mujahideen, the largest indigenous militant outfit, has been especially under his influence since its inception. Armed groups, such as Lashkar and Jaish, have also expressed great respect for him. Because of his position within these outfits, he has emerged as one of the key influential leaders of the Valley. It is often said that he holds the key to the peaceful settlement of Kashmir.

On January 17, 2007 a strike was observed in the Valley to mark a protest against the visit of Mirwaiz Omer Farooq and his colleagues to Islamabad. Interestingly, however, public response to his recent strike call had been overwhelming, with the calling it a near to complete strike.⁶⁷ This signifies the failure of the moderate APHC factions to take people into confidence. Mirwaiz visited Islamabad in January 19-27, 2007. He had meetings with President Pervez Musharraf twice and other government functionaries, besides sitting with a large number of political entities and Kashmiri parties. However, he could not get in touch with Syed Salahudin, the Hizbul Mujahideen commander-in-chief, as he declined to meet him. Likewise, in Azad Kashmir, apart from the ruling Muslim Conference, no other political party or civil society group supported the current formulation of the Kashmir settlement. Evidently, within Kashmiri opinion, the current moves do not enjoy reasonable support, which makes the entire process vulnerable and weak.

Emerging Contours of Settlement and Issues for Consideration

A cursory review of the peace process suggests that some people-to-people contacts and the sojourn of selected Kashmiri leaders to Islamabad and other key capitals are the only significant achievements that have been made so far. However, it is a fact that both the governments have arrived at a broader understanding for restructuring their relationship in a new paradigm. This assumption was strengthened by Pakistani Foreign Minister Khurshid Mahmood Kasuri in an interview to a local daily. According to the report:

Pakistan and India have almost reached an agreement to resolve the core issue of Kashmir and it is being given the final shape. He [Mr. Kasuri] said that a lot of the ground has been covered for an agreement on Kashmir and some areas of differences are being sorted out. Certain steps are needed to create conducive environment so that the two governments could sell the 'package' to the people of Pakistan, India and Kashmir.⁶⁸

In the same interview, Kasuri delineated the contours of the solution, saying that it would be closer to Musharraf's ideas.

However, this sort of enthusiasm is not visible at any level on the Indian side. Manmohan Singh himself denied these pronouncements, saying that "some public statements" emanating in this regard from Pakistan do

⁶⁷ See *The Hindu* and *Kashmir Times*, Jammu, of January 18, 2007.

⁶⁸ Hussain, 2007.

not give the correct picture.⁶⁹

The exponents of settlement clearly indicate that the right of self-determination would not be entrenched in the future dispensation. If this is the case, then it seems Islamabad seeks merely face-saving and some tangible concessions for the Kashmiri people. It is thus imperative to analyze the contours of settlement of the Kashmir dispute.

A lasting solution requires a broader consensus of the people in question, whereas the recent unprecedented strike against Mirwaiz Omer Farooq's visit to Islamabad shows that Kashmiris want the opposite.⁷⁰ The people of Kashmir do not share his vision and approach to the settlement as yet. Equally true is the fact that Islamabad no longer seems to enjoy the blind trust and confidence of the Kashmiris. It appears that whatever has transpired so far could not win the hearts of the people of Kashmir. Back home, the Musharraf government has not yet taken Parliament into confidence. It is widely believed the Musharraf is keeping his cards close to his chest, but Manmohan Singh's government has already briefed its opposition parties in line with the country's bipartisan approach to important issues.

So far, some CBMs and people-to-people contacts seem the ultimate destination of this process. However, the process will remain unproductive unless it addresses the Kashmir issue substantially. It is also damaging to the process that the Indian state merely relies on Musharraf and doubts the Pakistani establishment's intentions towards it.

To make this entire process a success story, it must be ensured that the emerging discourse accommodates the aspirations of Kashmiris to the best possible extent and does not permanently forfeit the right to self-determination. Neither Pakistan, nor India has the right to forfeit on the Kashmiris' behalf. Self-determination is a right of the Kashmiri people; it is not a commodity that can be bartered in exchange for what some believe to be a realizable solution.⁷¹ *Thus, the imminent solution, i.e. self-governance of Jammu and Kashmir under continued Indian sovereignty, might be deliberated as a provisional arrangement, which may provide an opportunity to seek a permanent solution to the dispute.* This will give the Kashmiris a sense of achievement and they would appreciate that their rights were not compromised. Equally, it may create a conducive milieu for a peaceful life and the right to free expression. The change could translate into a broader political awakening, which may strengthen people's consciousness for their future role in the larger regional setting.

At the same time, the Indian establishment will have to imagine a solution beyond its current constitutional framework. Even Manmohan Singh asserted this in his first roundtable conference on Kashmir in New

⁶⁹ Dhar, 2007.

⁷⁰ The weekly *Chattan Srinagar* termed the strike as "complete" and "unprecedented" in its January 22-28, 2007 issue.

⁷¹ Navlakha, 2007.

Delhi on February 25, 2006. He said, "I am confident that working together with all groups, both within *and outside the mainstream*, we can arrive at arrangements within the vast flexibilities provided by the Constitution, arrangements which provide real empowerment and comprehensive security to all the people of Jammu and Kashmir."⁷² Kashmiris have been struggling against this constitutional control for decades. For them, reconciliation with the Indian constitution would be impossible. For nearly the same reasons, Mirwaiz has been demanding arrangements outside the Indian constitution, but within the Indian Union, to make the proposals more plausible to the public at large and allow India to maintain physical control over Kashmir without having a say in the internal matters of the state.⁷³ This kind of arrangement may be workable for some time. Pakistan and various Kashmiri opinion leaders must put pressure on New Delhi to alter its constitutional clauses related to Jammu and Kashmir. Any settlement agreed upon within the Indian constitutional framework would, eventually, be unsuccessful.

Joint mechanism or joint control over Kashmir is another suggestion from Musharraf. It would be naive to expect that the two arch rivals could run Jammu and Kashmir jointly when they are unable to negotiate demilitarization of Siachan where scores of soldiers are killed everyday by harsh weather. The noted Indian writer A. G. Noorani has aptly said that the two countries are not even capable of jointly controlling a municipality, let alone Jammu and Kashmir.⁷⁴ Besides these inabilities, the idea of joint control rubs salt into old wounds of the Partition. It may inspire some myopic ideologues on the Indian side to dream of reverting to pre-Partition days when the British Empire was managing both countries from Delhi.

Above all, Pakistan would not even think of offering India any kind of role in Muzaffarabad and Gilgit. These are strategically vital areas and if they became danger zones, it would hurt Pakistan's security and territorial integrity. No doubt, it tempts Islamabad to cultivate an opportunity to play a role in IHK but the question would arise why Pakistan seeks a role within an Indian-controlled area where its position would not even equate with that of a junior partner.

On the other hand, development of institutionalized ties between Srinagar and Muzaffarabad should get top priority. On both sides, local governments may be provided space to run joint projects concerning water resource management, internal trade and business, etc.

A delicate but vital point is that Kashmiris must act carefully lest they create an atmosphere that pits them against each other. The efforts of diverse political groups can be fruitful if they work together in the larger interest of the masses. The recent infighting between Al-Fatah and Hamas in Palestine shows how a cause can be spoilt and real goals ignored when those on the same side fail to accept their differences. Likewise, the

⁷² Noorani, 2006.

⁷³ *Dawn*, November 17, 2005, "New thinking on Kashmir: text of Mirwaiz's speech."

⁷⁴ Noorani, 2006, *Op. cit.*

internal political rift in the Kashmiri leadership has the potential to trigger a civil war. It is imperative that both factions of the APHC and other pro-freedom leaders carve out a way to coexist without compromising their political ideologies.

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