

# **S p e c i a l   S t u d y**

## **Indo-Pak dispute over Kashmir: Root cause of all troubles**

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## **Root cause of all troubles**

Few bilateral disputes have lasted so long, been so intense and accomplished so little. The Indo-Pak dispute over Kashmir has overlapped most post-World War II conflicts - the cold war, the war in Indo-China, the American-Chinese confrontation, South African apartheid, US-Vietnam war, the Korean war and the Israeli-Arab conflict. Two full-scale wars, frequent armed confrontations along the Indo-Pak border, and over eight years of Kashmiri militancy have not induced either India or Pakistan to shift from their positions of five decades. Post-war history is replete with many instances in which hitherto antagonistic countries had arrived at a consensus to put the differences in cold storage and expand areas of cooperation. The United States and the then Soviet Union followed the same logic. And progress could be achieved in Sino-Indian ties after New Delhi and Beijing subscribed to this imperative, but not in Indo-Pak ties.

Delhi declares the Kashmir issue settled with the then Maharaja of Kashmir Hari Singh, signing the Instrument of Accession to India and subsequently the Constituent Assembly in the State approving it. It claims that Kashmir is an integral part of India and accuses Pakistan of interference in its internal affairs. Pakistan on the other hand, wants the issue to be settled by a plebiscite as originally envisaged by a UN Security Council resolution of 50 years standing. Neither position is sustainable.

At least four realities have to be accepted. One, military solution of the Kashmir dispute is not possible; two, a unilateral political solution is difficult; three, while the USA has a stake in peace between India and Pakistan, neither Washington nor world opinion shall make a decisive contribution towards resolving the conflict; and four, direct negotiations offer the only effective path to a peaceful solution. In the past, New Delhi has made many friendly overtures: It presented several "non-papers" on cooperation in areas like maintaining peace along the Line of Control, Siachen, fixing maritime boundaries and confidence measures. The then Prime Minister, Mr. Gujral, as part of his Gujral doctrine, aimed at establishing friendly relations with the country's neighbours, made many far reaching unilateral concessions to Pakistan. Both his government and the present Vajpayee Government offered to resume Foreign Secretary level talks. While during Gujral's regime, the talks were held but no substantive progress made, in Mr. Vajpayee's rule, the two countries continue to differ from where to start again - from what was agreed in the Islamabad talks in June, 1997 or what

transpired in the Dhaka meeting of the two Prime Ministers when India presented a set of fresh proposals to break the deadlock.

All that Pakistan could come up with is a one line - Kashmir or nothing else. Some political observers wonder what purpose will be served by India persevering with its espousal of the virtues of conciliation when Pakistan keeps harping on a solution to Kashmir which in Islamabad's view amounts to delivering Kashmir to it on a platter. Kashmir, Pakistanis tell India, is the "core issue" and must be tackled and solved first of all. They claim to be doing this with utmost "sincerity" and if India understands the "reality" of the situation, the problems will get resolved easily and quickly. However, no definitions have been provided for at least two terms: How does one define the core issue and how sincere Pakistan is after it chose to forget the Simla Agreement signed by its own President after India returned 92 thousand of its prisoners of war and 7000 sq. kilometre of occupied territory.

In the past four years, the normal inter-State relations between the two neighbouring countries have remained hostage to the Kashmir issue. The then Benazir Bhutto Government had raised the rhetoric on Kashmir to such a level that she had left herself very little room to manoeuvre with respect to the hardliners in her country. Her Indian counterpart, Mr. Narasimha Rao, on the other hand, gave a tit-for-tit response to Pakistan's attempts to drag the Kashmir issue at every fora including ILO and the Environment Conferences. The countries moved out of that spiral when Mr. Gujral became the Prime Minister and put his Gujral doctrine into practice which was based on non-reciprocity from smaller neighbours.

But, now the Indian nuclear tests have given Pakistan what it could not achieve in the last 50 years - international recognition that Kashmir was the root cause of all the tensions between India and Pakistan and that it has got to be solved bilaterally if possible and through outside intervention, if not.

### **BJP's security doctrine**

Unlike the previous Gujral Government which was soft on Pakistan despite its noisy rhetoric on the alleged repression and human rights abuses in Kashmir, call for a plebiscite in Kashmir and implementation of the moth-eaten UN resolutions on Kashmir, the new Hindu nationalist Government has a different security doctrine with regard to Pakistan over Kashmir. It is said to be based on "hot pursuit, pro-active engagement, making proxy war costly and retaking Pak-occupied Kashmir".

These have been just some of the slogans put out by BJP leaders like Home Minister, Mr. L.K. Advani and Parliamentary Affairs Minister, Madan Lal Khurana, and duly repeated by Jammu and Kashmir Chief Minister, Dr. Farooq Abdullah. On May 18, 1998, shortly after the Government's first major policy meeting on Jammu and Kashmir, Home Minister, Mr. Advani made explicit a linkage between the Pokhran tests and India's strategic position. He argued that India's "decisive step to become a nuclear weapon State has brought about a qualitative new state in Indo-Pak relations, particularly in finding a lasting solution to the Kashmir problem". "Islamabad", he said, "has to realise the change in the geostrategic situation in the region and the world." Even more disturbingly, Mr. Advani raised the possibility that nuclear weapons might be used to address Pakistan's offensive in Jammu and Kashmir. He said, although "we adhere to the no-first-strike principle, India is resolved to deal firmly with Pakistan's hostile activities." He did not rule out hot pursuit of terrorists into the Pakistani territory. Mr. Advani now rules out hot pursuit as one of the options.

### **Accession of Kashmir**

The Kashmir problem began immediately after partition with the raid of the tribals on Kashmir on October 24, 1947. To dwell a little into the history, under the Indian Independence Act which granted dominion status to both India and Pakistan, Kashmir had been released from its allegiance to the British crown and thus was free to decide its own fate whether to accede to India or to Pakistan. While it is true that the basic brief given to Sir Cyril Radcliffe, who was brought in from London to draw the boundaries of India and Pakistan, was to go by the demography of the zones, his job was limited to British Indian territory and did not include the princely States. As a result, the Radcliffe Line, which was to be drenched with the blood of fleeing refugees in the dusty summer of 1947 did not go beyond Punjab in the West; Jammu and Kashmir was a princely State whose ruler, Maharaja Hari Singh, had the right to decide for himself whether to join India, Pakistan or remain independent with British paramountcy coming to an end on August 15, 1947. And it is the Radcliffe Line which finally decided what would constitute India and Pakistan, not the notion of Muslim majority areas. If Muslim majority of a region had been the sole criterion then Hyderabad (the present capital of Andhra Pradesh, then ruled by the Nizam) should have been the third piece of Jinnah's Pakistan.

Maharaja Hari Singh of Jammu and Kashmir was seriously contemplating an independent State and this was well known as there is a letter of his addressed to Lord Mountbatten dated October 26, 1947 which, among other things said: "I

wanted to take time to decide to which I should accede, whether it is not in the best interest of both the dominions and my State to stay independent, of course, with friendly and cordial relations with both.” As time went by according to the British Cabinet Mission’s proposals of May 1946, British paramountcy over the princely States would have lapsed and the latter would acquire sovereign independent status with freedom to decide their relations with the contemplated Union of India. At this stage, although many of the princes were faced with the more sensible choice of acceding to India or Pakistan, under the old foreign influence, some made a bid for independence. And Hari Singh was one of them. He resisted strong pressure from Indian leaders, including Mahatma Gandhi, Mr. Jawaharlal Nehru and Patel to go along with the popular line of Sheikh Abdullah and opt for India. Instead, the Maharaja signed a “Standstill Agreement” with Pakistan while India sought time to respond.

Mohammed Ali Jinnah tried his best to wean away the Muslims of the Valley, but the National Conference of Sheikh Abdullah did not want Kashmiri Muslims to become second class citizens in a Pakistan dominated by Punjabi Muslims - as was later proved in East Pakistan (now Bangladesh) and is being felt today in Sindh and NWFP. With the majority of the Muslim population and all means of communication being through Pakistan, it was natural that Mr. Jinnah and his advisers should consider it as an integral part of Pakistan. The Maharaja was time and again reminded that under the Standstill Agreement, he had absolute right to take a decision of acceding to Pakistan and it was promised that all his rights, privileges and powers would be duly safeguarded. The Maharaja, knowing the fate of the Hindus in Pakistan was not impressed.

To achieve his goal, Jinnah frequently sent his emissaries to bring pressure upon the Maharaja. Mr. Jinnah had also used the services of his British Military Secretary to meet the Maharaja with Mr. Jinnah’s personal letter mentioning that on medical ground he had been advised to spend the summer in the valley, where of course, he would be making his own arrangements. The Maharaja, however, saw through Mr. Jinnah’s game and politely turned down this request on the ground that adequate security arrangements were not possible to receive the Governor General of a neighbouring State. Mr. Jinnah was enraged at this reply; but before he could teach a suitable lesson to the Maharaja, he thought of using other tactics.

Even Lord Mountbatten, who was the first Governor General of India, was of the view that Kashmir should accede to Pakistan. During his holiday in Kashmir in 1947, he mentioned this to the Maharaja during one of his excursion tours, and had suggested that formal talks could be held about it. On the last day

of Mountbatten's visit when these talks were scheduled to be held, the Maharaja cleverly stayed away. Thus, Lord Mountbatten had to return disappointed. Lord Mountbatten, in his meeting with the Prime Minister of Maharaja, Mr. Mehar Chand Mahajan, impressed on him that considering the large Muslim population as well as its geography and communication links, Kashmir had no option other than to accede to Pakistan.

Interestingly, the Indian leaders were mostly non-committal. This was the view of both Mahatma Gandhi and Sardar Patel though the latter wanted the Maharaja to accede to India. Mahatma Gandhi, who visited Kashmir before the partition, wanted the Maharaja to accede to India but never got any satisfactory response. Mr. Nehru, on the other hand, first wanted Sheikh Abdullah, who was at that time under arrest, be released. It was only after that the question of accession could be amicably settled through the political process.

On the other hand, Major Shah, who was military emissary of Mr. Jinnah and was camping in Srinagar was determined to tell the Maharaja either to accede to Pakistan or face the consequences. Mr. Jinnah, on the other hand, having failed in his persuasive tactics, had ordered complete economic blockade on Kashmir. The idea was to starve this State of its essential supplies and thus force the Maharaja to accede to Pakistan. As Kashmir was under complete economic blockade, neither essential supplies could move in, nor local products could be sent out. Along with this blockade, the communal frenzy was systematically fanned in the State. The Hindu villages along the border were torched. A lot of panic was thus created and people in large numbers fled their homes.

Mr. Jinnah who was camping in Lahore, invited Maharaja Hari Singh's Prime Minister, Mr. Mehar Chand Mahajan there for talks on the State acceding to Pakistan. But, Mr. Mahajan ignored the invitation. Mr. Jinnah then planned to abduct the Maharaja and Mahajan and take the possession of the State by force. However, this plan did not materialize.

Soon followed a well planned attack by the armed tribal raiders, well trained and equipped by Pakistan. Led by Brig. Akbar Khan, the raiders ransacked Kohala, Domel, Muzaffarabad, Garhi, Uri and committed loot, arson, rape and murder against Kashmiris including Muslims, Pandits, Sikhs and others - especially in Baramulla, 34 miles from Srinagar. To make matters worse, Mr. Jinnah ordered his British commander-in-chief to march two brigades of the Pakistan army into the valley on October 27, one from Rawalpindi and the other from Sialkot, the two major entry points, so that he could celebrate Id in Srinagar. The commander-in-chief refused to carry out these orders without the concurrence of the supreme commander of the armed forces of both the dominions - Gen. Auchinleck.

The latter met Mr. Jinnah on Oct. 26 and it was on his advice that Mr. Jinnah cancelled his earlier orders.

Even though the Maharaja had been informed in advance of these raids by his lieutenants, he dismissed them. At the same time, he was quite confident of the superiority of his armed forces to repulse any raids from across the border. However, he had under-estimated the whole situation.

The Indian Government on the other hand, did not appear to have comprehended the gravity of the situation as it did not care to send a satisfactory reply even after the Deputy Prime Minister of Kashmir had visited Delhi with a personal letter for help from the Maharaja. The British Prime Minister had also been approached to intervene. But, nothing seemed to work during the most crucial days of October 24 and 25, 1947, when the raiders were close to Srinagar.

It was against this backdrop that Maharaja Hari Singh sent an SOS to Delhi on October 24 for help. To impress upon the Maharaja that he had to make up his mind on accession before expecting any help from Delhi, Mr. V.P. Menon, Sardar Patel's lieutenant, who played a crucial role in bringing about the accession, was sent to Srinagar along with senior military officers, to take stock of the situation. On arrival, he found the Maharaja and his Prime Minister "totally unnerved". Maharaja Hari Singh readily accepted Menon's suggestion that he should get away from Srinagar as soon as possible as tribal raiders were nearing Srinagar airport. Mr. Menon returned to Delhi on Oct. 26 and apprised Mr. Nehru and Sardar Patel of the gravity of the situation. Next day, Maharaja's Prime Minister, Mr. Mehar Chand Mahajan, also flew to New Delhi and insisted that if immediate help was not given immediately, then there was no option before them than to join Pakistan. Reports say this was enough to send Mr. Nehru, short-tempered as he was, into a rage and in his temper he asked Mr. Mahajan to get out of his room. However, this ugly situation was saved through the timely intervention of Sheikh Abdullah, who was staying with Mr. Nehru and had overheard the conversation. He immediately sent a note to Nehru. Ultimately it was agreed to accept the Instrument of Accession with the proviso that power would pass into the hands of Sheikh Abdullah and his party, which was the only non-communal body in the State. Maharaja Hari Singh, who was shifted to Jammu for safety reasons, was waken up from his sleep by Mr. V.P. Menon who lost no time in signing the Instrument of Accession which was carried back to Delhi by Mr. Menon. The Army was sent the next morning and Kashmir was saved, and the raiders were pushed back. But, a unilateral ceasefire by Mr. Nehru left at least one third of Kashmir in the hands of Pakistan.

The Instrument of Accession was signed by Maharaja Hari Singh on the fifth day of the tribal invasion on Kashmir from Pakistan and that the same had been duly accepted by Lord Mountbatten in Delhi on October, 27 stands established beyond doubt in the testimony of the as recorded in various biographies, documents and letters. It was at this stage that a fateful decision was taken at Lord Mountbatten's suggestion that the Maharaja's accession should subsequently be "ratified" through a "plebiscite". Mr. Nehru and Sardar Patel endorsed the proposition.

Lord Mountbatten recorded his acceptance of the Instrument of Accession on October 27, 1947, specifying that "It is my government's wish that as soon as law and order has been restored in Kashmir and her soil cleared of the invaders, the question of the State's accession should be settled by a reference to the people."

The Instrument of Accession was the usual document signed by the States as per the Government of India Act of 1935 except that it ensured it a special status. The Act was clear on the irrevocability of the accession: "An Indian State shall be deemed to have acceded to the Dominion if the Governor General has signified his acceptance of an Instrument of Accession executed by the ruler whereby the ruler on behalf of the State declares that he accedes to the Dominion."

The clauses of the Instrument were subsequently overtaken by the Constitution when it came into force on January 26, 1950 and the new situation was best explained by Mr. V.K. Krishna Menon, while speaking in the UN Security Council in the late 50s. He said: "Accessions are not revocable. The Indian Constitution contains no provisions for "de-accessation" or partial or temporary accessions."

The Instrument of Accession, which Maharaja Hari Singh signed on Oct. 26, 1947 and which Lord Mountbatten accepted, maintained internal sovereignty for the State of Jammu and Kashmir in all matters excepting defence, communication, currency and allied affairs. Further, on Lord Mountbatten's persuasion, Prime minister Nehru and his Cabinet agreed to include the proviso in the Instrument of Accession that "the Maharaja's accession would be considered temporary. It would be rendered permanent only after law and order had been restored and it had been confirmed as representing the will of the Kashmir's population by a plebiscite."

The internal sovereignty of the State of Jammu and Kashmir was accepted and subsequently guaranteed under Article 370 of the Constitution of India.

After the accession of Jammu and Kashmir was accepted, the Governor General, Lord Mountbatten, wrote: "It is my Government's wish (not obligation)



that as soon as law and order has been restored in Kashmir and its soil cleared of the (Pakistani) invaders, the question of the State's accession should be settled by a reference to the people." This reference was made to the people except in the areas illegally occupied by Pakistan.

In February, 1954, the Constituent Assembly of Jammu and Kashmir ratified the decision of accession and in November, 1956, this decision was also given the final formal sanction of the people through their democratically elected Constituent Assembly.

In December 1947, Government of India, on the advice of Governor General, Lord Mountbatten lodged a complaint with the UN against Pakistan's aggression in Kashmir. This they did as an act of faith in the UN which they hoped would stop Pakistan's aggression. This faith was misplaced but India wanted to give a chance to Pakistan to withdraw peacefully from the areas it had occupied by force. This was again a hope in vain; though perhaps justified at the time, it was a mistake judging by the hindsight of later events.

The UN Security Council was divided between the Soviet and American blocs. Events were judged by it in the context of the Cold War and not on their merits. The Anglo-American bloc equated the aggressor, Pakistan, with the victim of aggression, India. It passed a resolution on Jan. 5, 1949 asking for a ceasefire. Again India accepted in the vain hope that Part II of the Resolution of the UN Kashmir Commission asking Pakistan to withdraw all its regular and irregular forces from Pak-occupied Kashmir (PoK) would be implemented before Part III i.e. holding a plebiscite to ascertain the wishes of the people of Jammu and Kashmir State could be started. Instead of withdrawing its regular and irregular forces from PoK, Pakistan on the contrary increased its regular forces and strengthened its military and irregular forces there.

Meanwhile, India went ahead with holding elections in its part of Jammu and Kashmir and gave it a special status under Article 370 of the Indian Constitution which gave a large amount of autonomy to the State.

## **UN resolution vs. Shimla Agreement**

Pakistan bases its case on the UN resolution of 1948 which calls for a plebiscite in Kashmir but it ignores a supplementary conditions that plebiscite could be held only after Pakistan withdraws all its forces from the part of Kashmir it occupies.

Pakistan has failed to implement the first two conditions of the UN resolution on Kashmir. The first called for withdrawal of all Pakistan troops and

raiders from the territories of the former princely state of Jammu and Kashmir. The second condition was to restore the jurisdiction of the Srinagar government over the entire territory of Kashmir. Only then is a plebiscite to be held. Therefore, Pakistan must be asked to first fulfil its obligations before asking India to carry out the third part of the UN resolution. The UN mediator, Mr. Gunnar Jarring in his 1957 report had highlighted that if UN resolutions were not immediately implemented, ground realities tended to change rapidly rendering such resolutions unimplementable.

In fact, the UN resolution was rushed through in unusual haste when Sardar Patel was confident of the Indian military driving the Pakistanis out of the Kashmir Valley completely. Military action in Kashmir was abruptly halted. Sardar Patel was justifiably annoyed at such a development as India had reluctantly agreed to the status quo position in Kashmir after the passage of this resolution. It was at the suggestion of Lord Mountbatten in 1947-48 that Mr. Nehru made the mistake of taking the matter to the United Nations in the hope of having Pakistan declared an aggressor for its tribal invasion of Kashmir. This is stated to have been one of Mr. Nehru's innocent mistakes. He and his advisers had made no assessment of the lack of support India had in the world body. The complaint was enmeshed in the intrigues of the Anglo-American block which brushed aside the Indian accusation that Pakistan was the aggressor. The debates went on to set up commissions and appoint delegations for negotiations, all of which placed India and Pakistan on an equal footing and gave a foothold to Pakistan in Kashmir. This was the time when the Kashmir war was on and India could have thrown the Pakistani invaders out of Kashmir. But India in good faith accepted the ceasefire which enabled Pakistan to have a standing which it enjoys today in Kashmir.

The Indian stress is on the implementation of Simla Agreement which India believes overrides the UN resolutions. The Simla resolution calls for resolution of disputes including Kashmir through bilateral talks without any outside intervention.

In India's perception, Simla froze the Kashmir issue assuming that it did not settle it. Para 4 (ii) of the pact binds the parties to respect the line of control "without prejudice to the recognized position of either side", a phrase written by Mr Bhutto in his own hand at his pre-dinner meeting with Mrs Gandhi on July 2, 1972. To him it meant the dispute was kept alive. He had in mind what immediately followed these words: "Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat or the use of force in violation of this Line".

Peaceful change by mutual accord alone is permissible. The commitment, in Para 1 (1), “to settle their differences by peaceful means through bilateral negotiations” in effect buttressed the status quo since the two could never agree. In India’s view, this ruled out mediation by others as well. This is what the mantra “on the basis of Simla” means.

On the other hand, Para 6 of the Simla Pact of July 3, 1972, required the heads of Governments of India and Pakistan to “meet again at a mutually convenient time in the future and that, in the meanwhile, the representatives of the two sides will meet to discuss further the modalities and arrangements for the establishment of durable peace and normalization of relations, including the question of repatriation of prisoners of war and civilian internees, a final settlement of Jammu and Kashmir and the resumption of diplomatic relations.” Clearly, the Kashmir settlement was to be part of the process of normalization. But, as Pakistan’s Foreign Minister, Sahabzada Yaqoob Khan, admitted in the National Assembly on June 3, 1986, neither side proposed talks on Kashmir under the pact. This damns both sides.

Pakistan’s first formal proposal for a meeting of representatives of the two sides “to initiate negotiations on the settlement of Jammu and Kashmir in terms of Article 6 of the Simla Agreement” was made in its Prime Minister, Mr Nawaz Sharif’s letter of July 14, 1992, to India’s Prime Minister, Mr P V Narasimha Rao, well after it had launched its covert military operation in the State. India never proposed such talks nor did it ever demand ratification of any understanding of Kashmir.

If India did not propose talks under Para 6, it was because it had nothing to say beyond what Jawaharlal Nehru had said on April 13, 1956 - settle on the basis of the cease-fire line. Which is why while he was ready to “talk”, he was never willing to “negotiate” on Kashmir. On November 29, 1962, Nehru and Ayub Khan announced that they had “agreed that a renewed effort should be made to resolve the outstanding differences between their two countries on Kashmir”. The very next day Nehru made plain that he rejected “anything that involved the upsetting of the present arrangements”.

The latest exchanges are of the same tenor. The then Prime Minister’s greetings to Mrs Benazir Bhutto, on October 19, 1993, offered discussion of “issues related to Jammu and Kashmir”, not its “final settlement” (the Simla formulation).

As Z.A. Bhutto told Prime Minister Indira Gandhi at Shimla that he was not in a position to discuss Kashmir because the whole peace agreement would be suspect in the eyes of the Pakistanis. “My back is to the wall; I can’t make any

more concessions,” Bhutto had said. He suggested that the discussion on Kashmir be postponed. “Why hurry on these matters? I think haste sometimes ruins these problems.” Some concrete proposals were discussed at Simla, including converting the line of control into an international border. Some say Bhutto gave an undertaking to this effect. This may have been the case. He was under pressure because India held at that time 90,000 prisoners and a great deal of Pakistani territory. His main argument was that Pakistan had to take into account its public position on Kashmir and that he should not be asked to “negotiate” Kashmir “here and now”. He would not yet be able to “sell” any formula that might be found.

Nothing concrete emerged at Simla except the principle of a bilateral approach to the problem. It meant that neither India nor Pakistan would raise Kashmir in any international forum. Islamabad observed the agreement more in the breach than in the practice. It is difficult to understand why Islamabad insists on third party intervention on Kashmir when the two countries themselves have not made a serious attempts to talk about it in the last 26 years.

The Indian view is that the 1972 Simla Agreement which committed the two countries to resolve their disputes only through bilateral negotiations has overtaken the UN resolutions. As for plebiscite, the Indian stand has been that the various elections in Jammu and Kashmir with the full participation of the people bear testimony to their accepting union with the India which now rule out plebiscite.

No offer (of plebiscite), made at an international forum, stands for ever, legal experts say. Moreover, the UN resolutions have become time-barred, impractical and obsolete. No less important is the fact that the circumstances under which the “commitment” was made have undergone a drastic change because of which the principle of applies to them. The principle is recognized by the Vienna Convention on Treaties and according to it, a state is not obliged to perform its obligations under an international undertaking if there occurs a fundamental change in the circumstances existing at the time the obligation was undertaken. Much has changed in Pakistan. Pakistan has lost its moral right to call for implementation of UN resolutions both because of the terrorism and insurgency it is sponsoring in Indian controlled Kashmir as well as the lack of self-rule and denial of fundamental and democratic rights in the occupied-Kashmir where the Governments and the Prime Ministers are made and unmade in Islamabad.

### **Origin of present crisis- erosion of autonomy**

The origin of the present crisis in Kashmir is traced to the Government of

India not honouring the commitment to the special status granted to Kashmir when the Instrument of Accession was signed and a special Article 370 was inserted in the Constitution. Since then, the Government in New Delhi is alleged to have systematically eroding into its internal sovereignty and acting contrary to its commitments in the Instrument of Accession.

The Instrument of Accession of Kashmir signed by Maharaja Hari Singh with India was strictly conditional on “a reference to the people” of Jammu and Kashmir. This was put down in the Instrument of Accession and Lord Mountbatten too expressed the opinion that it should be approved by the people of the State. On November 2, 1947, Mr. Nehru gave his Government’s pledge to hold a referendum under international auspices. This pledge was repeated several times on several occasions by Mr. Nehru who once said in Parliament that he wanted “no forced unions”. But, this much-promised referendum was never held.

The Instrument of Accession clearly delimited the scope of the accession to only defence, foreign affairs and communications. In October, 1949, India’s Constituent Assembly inserted a special provision in the Constitution, Article 306A, extending such autonomy to Jammu and Kashmir. This, it was promised, would be an interim arrangement till the plebiscite was held.

However, in July 1952, the Prime Minister of Jammu and Kashmir (as he was called) Sheikh Abdullah, and Nehru hammered out a “Delhi Agreement” which essentially ratified Kashmir’s autonomy and enshrined Article 306A as Article 370 which came to grant “special status” to Jammu and Kashmir. But, in 1954, a Constitutional (Application to Jammu and Kashmir) Order was promulgated by the President which gave New Delhi the power to legislate on all matters in the Union List, not just defence, foreign affairs and communications, with regard to Jammu and Kashmir. This order practically nullified the 1952 Delhi Agreement.

How did Kashmir “accept” this Constitutional Order? According to some research work on Kashmir, the story is that in August, 1953, Sheikh Abdullah was arrested, formally by Dr. Karan Singh (son of Maharaja Hari Singh & the then Governor) functioning “in the interest of the people of the State”. In place of the Sheikh, one of his top lieutenants, Bakshi Ghulam Mohammed, was installed as Prime Minister of Kashmir. There were protests against this appointment which was put down by force. When the 1954 Constitutional Order was promulgated, Bakshi eagerly gave Kashmir’s concurrence which was necessary to validate this law.

The internal sovereignty of the State of Jammu and Kashmir was thus accepted and subsequently guaranteed under Article 370 of the Constitution of

India (1950). In pursuance of internal sovereignty under the Instrument of Accession, the Maharaja of Kashmir constituted the State's Constituent Assembly in 1951 to draft a separate Constitution for the State. Under the State's Constitution, its Head of the State was designated as Sadr-e-Riyasat and head of the Government as Prime Minister. Dr. Karan Singh became the first Sadr-e-Riyasat and Sheikh Abdullah its first Prime Minister.

But, by a notification, the jurisdiction of the Supreme Court was extended to Kashmir in 1952 and in 1958, the Government of India unilaterally extended its control on all matters in the State of Jammu and Kashmir which were included in the Union List. This was in flagrant violation of the provisions of the Instrument of Accession. The State Legislature was eventually prevailed upon by the Centre in 1965 to amend its Constitution to replace the designations of Sadr-e-Riyasat and Prime Minister by Governor and Chief Minister respectively. The fundamental rights chapter of the Union Constitution was extended to Jammu and Kashmir under a 1954 Presidential order issued under Article 370, with a fatal "modification". Unlike in the rest of the country, the curbs (reasonable restrictions) imposed by the executive on the fundamental rights of citizens in Jammu and Kashmir were made non-justifiable. It was only in the 80s that this crippling disability was removed at the instance of the Sheikh Government.

## **Erosion of democracy**

The Kashmiris believe, not entirely without justification, that massive rigging of elections was done in Kashmir even during the Sheikh's rule from 1947 to 1953 when he was arrested. This had come to be accepted as an imperative of the "national interest". The result was that the genuine anti-establishment grievances of Kashmiris as also their legitimate aspirations, deprived of democratic channels of expression, fell into wrong grooves.

In the three crucial areas of election, democracy and fundamental rights, Kashmiris were systematically made to feel as being second class citizens. Only a handful of favoured ones came to be entrusted with the management of the national interest in Kashmir. The "managers" were hired and fired, not according to the will or choice of the people they were supposed to be representing but only according to the convenience of New Delhi. That alone explains why the Sheikh who enjoyed the total support of all 75 members of the State Assembly was unceremoniously removed from power in 1953 only to be put back right there 22 years later when he did not have a single MLA of his own in the House and was not even a member himself. The message was loud and clear - the choice of New Delhi and not the aspirations of Kashmiris, matter, because the

“national interest” so demands. This became the pattern right upto 1986 when Dr. Farooq Adullah (son of Sheikh Abdullah) was put back into the saddle after having been brought down only two years earlier.

This mentality has eroded the credibility of the system itself. Restoring the Centre’s credibility in Kashmir will necessarily have to precede any efforts to put back the system.

Since the arrest and dismissal of Sheikh Abdullah in 1953, the successive Prime Ministers/Chief Ministers of the State were practically nominated by the ruling Congress Party in Delhi. They all readily consented to the erosion of the State’s autonomy. They lacked the courage of conviction to dissent. The Congress leadership at the Centre was not willing to tolerate even legitimate dissent from the people and leaders of Kashmir Valley. This acute intolerance of dissent reflected the absence of democratic norms in the Congress culture.

On account of persistent suppression of democracy in the State for over two decades, the political scenario had begun deteriorating sharply. Mr. Mir Qasim, its Chief Minister during the 1973-75 became acutely conscious of this deterioration and realized that only Sheikh Abdullah, who was under arrest, could stem the rot. He initiated moves for rapprochement between Mrs. Indira Gandhi and Sheikh Abdullah. This eventually culminated in the Parthasarthy-Afzal Beg Pact (1975) which brought back Sheikh Abdullah to power after decades of incarceration. Sheikh Abdullah was provided with a face-saving route to rejoin the mainstream. 1953 was thus undone in 1975. The Plebiscite Front, the valley-wide network of the Sheikh’s secessionist politics, was disbanded by its founder. The process of emotional integration regained its momentum. The outcome of the 1977 assembly elections held under Governor’s rule and universally acknowledged as the first ever free fair poll in Kashmir, was appropriately hailed by the Sheikh as authentic endorsement of the State’s accession with India. The wound had begun healing when Mrs. Indira Gandhi committed a political blunder by asking Governor Jagmohan to dismiss the democratically elected government.

To dislodge Dr. Abdullah, Mrs. Gandhi in March, 1984 replaced Governor, Mr. B.K. Nehru with Mr. Jagmohan, who enacted a constitutional coup by installing Mr. G.M. Shah, brother-in-law of Dr. Farooq Abdullah as Chief Minister in coalition with the Congress. This was a turning point. Mr. Jagmohan’s coup destroyed the last vestiges of Article 370. indeed of any notion of constitutionality for Kashmir. The State would from now on, be ruled from New Delhi. In fact the downfall of Kashmir took place between 1984 and 87. In 1977 and 1983, the people of Kashmir witnessed free and fair elections. But, what they saw afterwards was a real farce. The imposition of the G.M. Shah government caused a lot of

resentment. This opened a new chapter in the Valley where the past became irrelevant and a new, angry generation came up. This generation found that a lot of democratic norms and hopes had gone up in smoke. This mood was in a sense a complete reversal.

Mrs. Gandhi had helped Dr. Farooq Abdullah to succeed his father after his death. But, in return, she demanded unflinching loyalty. Dr. Farooq Abdullah was not willing to oblige her. He had made a common cause with the main opposition parties in the country against the dictatorial behaviour of Mrs. Indira Gandhi. This was the time it could be noticed that the Kashmiris had fully identified themselves with Indian polity. There were no doubt some votaries of Pakistan but they were in a microscopic minority. The arbitrary and tactless dismissal of Dr. Farooq Abdullah's Government reversed the whole process and was deeply resented in the Valley. Once again the Kashmiris were denied the freedom to be governed by a democratically elected Chief Minister.

The Kashmir scenario radically changed for the worse with the Rajiv-Farooq accord in October, 1966. Somehow the general impression in the Valley was that Dr. Farooq Abdullah had sold out the autonomy of Kashmir which his father had zealously guarded. There was total disillusionment against his leadership and he had completely lost the confidence of the people.

The popular feeling in the Valley that the Assembly polls held in 1987 were rigged on a large scale with New Delhi's blessings not only reversed the positive trends set off by the free, fair poll in 1977 but also provided an ideal ground to the secessionist militancy to capture the imagination of Kashmiris. Within a span of ten years, their faith in the ballot box yielded place to faith in the gun. Pakistan took full advantage of this situation. Former President, Gen. Ziaul Haq put into action Operation Topac, which provided for induction of trained armed mercenaries into the Valley, organising the Kashmiri youth to take up arms against the Government, launching a long-term proxy war in Kashmir to weaken the State administration and also to bog down a huge Indian military to fight this low-key insurgency for a long time.

By the time Prime Minister Narasimha Rao had to make a quiet exit after the Congress Party lost election, the ground situation began to show considerable improvement. Kashmir went to elections first for Parliamentary seats along with the rest of the country and for the first time since 1987 when insurgency first raised its head, and the people came out in large numbers without the fear of the militants striking at them. Elections were adjudged as free and fair by impartial monitors. This was followed by Assembly elections which proved to be equally peaceful with a comfortable voter turn-out. This was projected as a vote against



insurgency, a vote against the Hurriyat leaders who had issued a call for boycott and the negation of Pakistan's claim to Kashmir on the strength that the people of Kashmir wanted to cede. Since then, Dr. Farooq Abdullah is doing well to heal the wounds of the people, promising them relief and rehabilitation. The damaged infrastructure of the State is being repaired. The former militants are being offered jobs and pardon if they give up militancy.

### **Recent exchange of letters**

The insurgency situation in Kashmir has been contained quite effectively. At present, the insurgency is sustained only by foreign mercenaries. But relations between the two countries have nosedived after the nuclear explosions. Yet every new Government, either in New Delhi or Islamabad enters with high hopes on resolving indo-Pak conflicts, especially Kashmir. The exchange of letters of felicitation are sought to be converted into new initiatives for opening dialogue. Like the previous Prime Ministers, Mr. Vajpayee and Mr. Nawaz Sharif, in their exchange of pleasantries raised hopes of a new beginning in their relations and take the ongoing Foreign Secretary level dialogue to concrete results. But, before they could mull over the sincerity of each other's intentions, the big bang, or the nuclear detonations, by the Vajpayee Government and a matching response by Pakistan in May, 1998 put them into the hole they had dug for themselves.

In his letter of congratulations, Mr. Nawaz Sharif said he was ready to go the extra mile for friendly ties between the two countries and Mr. Vajpayee in his reply committed his BJP Government to the continuation of the dialogue on a constructive and sustained basis. To break the logjam, Mr. Vajpayee advocated that the contentious Kashmir issue should be shelved for sometime to enable the two countries to consolidate bilateral economic and trade relations. But, Pakistan was far from excited over his suggestion, made during his speech on confidence motion in Parliament on March 28, which said though there is little doubt that the two countries should build up trust and confidence by taking up "easier" issues first, the talks process would be meaningless without a "meaningful dialogue" on the core issue of Kashmir on the table.

Yet, on the eve of the G-8 meeting in London, Pakistan on June 11 offered talks with India in addition to offering an agreement on no-nuclear tests and a unilateral declaration of moratorium on further tests. This show of reasonableness was however, seen in the context of the G-8 meeting rather than a prompt acceptance of the offer by Mr. Vajpayee.

## **The Western Agenda**

Whether it was the Geneva meeting of the Foreign Ministers of the five Permanent Members of the Security Council, or the London meeting of G-8 Foreign Ministers or the special meeting of the Security Council itself, in the communiqués or resolutions they passed, the western countries described Kashmir as being the “root cause of all the tension” between India and Pakistan warning that any further delay in the resolution of which could lead to a nuclear holocaust, either by design or miscalculation.

The full Western agenda was unveiled when the Foreign Ministers of the Permanent Members of the Security Council or P-5, met in Geneva on June 4, 1998 followed by a meeting of the UN Security Council and the G-8 Foreign Ministers in London. While urging India and Pakistan to give up their nuclear power ambitions and unconditionally sign the nuclear non-proliferation treaties, some of them sought to prepare the ground for a third party role in mediating the troubled relationship between India and Pakistan. The P-5 in its communiqué vowed to “actively encourage India and Pakistan to find mutually acceptable solutions, through direct dialogue, **that addresses the root cause of the tension, including Kashmir** and to try to build confidence rather than seek confrontation. The Security Council resolution adopted virtually the same language on Kashmir and the India-Pak relationship. However, the G-8 Foreign Ministers’ communiqué goes a step beyond by asking the two countries to “resume without delay a direct dialogue that addresses the root causes of the tension, including Kashmir”. It even takes the trouble to detail the steps to be taken.

Indirect offers of help to get the negotiations going have also come from countries like Bangladesh, Japan and Philippines. Bangladesh Prime Minister, visiting India and Pakistan offered Dhaka as a neutral venue for a summit meeting between the Prime Ministers of India and Pakistan, Mr. Atal Behari Vajpayee and Mr. Nawaz Sharif. Japan’s Foreign Minister has offered to host a conference on Kashmir in Tokyo while Philippines made the offer when Minister of State for External Affairs, Mrs. Vasundara Raje, visited Manila. India has politely but firmly rejected the offers.

## **Status of talks : Views of India, Pakistan**

As already mentioned, in a show of reasonableness on the occasion of the G-8 meeting in Geneva, Pakistan on June 11, 1998 offered to resume talks with India in addition to signing a no-nuclear test agreement and declaring a unilateral moratorium on further nuclear tests. India reciprocated by offering to resume the

Foreign secretary level dialogue on June 22 in New Delhi within the framework of the Dhaka meeting between the Prime Ministers of India and Pakistan in January, 1998 when India presented a new set of proposals to break the deadlock over the mandate of the proposed Working Group on Kashmir which was one of the eight sought to be set up to take on different contentious issues. Pakistan, however, immediately rejected the Indian offer calling it “political gimmickry” and suggesting that the talks be held in Islamabad on the basis of the June 23, 1997 agreement in the Pakistani capital.

The stumbling block in resuming talks with Pakistan on the basis of June 1997 agreement by Foreign Secretaries of the two countries at their Islamabad meeting is the commitment of the then Gujral Government to set up a Joint Working Group (JWG) on Kashmir, in addition to such JWGs on seven other contentious issues. A proposal to set up such groups was mooted at the New Delhi meeting of the two Foreign Secretaries which was approved by their Prime Ministers (Mr. Nawaz Sharif and the then Indian Prime Minister, Mr. Gujral) at their Male meeting on the sidelines of the SAARC summit in Maldives on May 12, 1996.

It was at the Delhi talks between the Foreign Secretaries of the two countries which ended on March 31, 1998 that the Pakistan Foreign Secretary, Mr. Shamshad Ahmed came up with a proposal for a series of Joint Working Groups (JWGs) to be set up to separately take up the issues on which the two countries strongly differ - be it Kashmir or Siachen, Tulbul Barrage or Sir Creek maritime boundary. But, the Indian side led by the then Foreign Secretary, Salman Haider, saw a hidden catch in the proposal that Pakistan wanted to pin down India on specifically discussing the Kashmir issue while the talks on other issues in the separate JWGs may be allowed to drag on. India expressed its strong reservations and at the end, the two sides agreed to disagree with the commitment to meet again in the Pakistani capital.

Subsequently, at their Male meeting on May 12, on the sidelines of the SAARC summit in the Maldives capital, Pakistan Prime Minister, Nawaz Sharif, and the then Indian Prime Minister, I.K. Gujral, agreed to set up a range of Joint Working Groups on issues to be identified by their Foreign Secretaries. The decision was seen as a victory of Pakistan because at the Delhi meeting of the Foreign Secretaries a month before, India had cold-shouldered the proposal since India was averse to dealing with the Kashmir issue exclusively. Pakistan was of the view that “an integrated approach” through the device of a possible “comprehensive mechanism” of a network of Indo-Pak panels will “ensure that the Kashmir question is not put on the back-burner”. India, which was reluctant

to have a Working Group on Kashmir initially when Pakistan mooted the idea at the Delhi talks, after giving it a careful consideration, now saw no problem so long as it was part of a package that includes Working Groups on other issues of mutual concern. It was thought that a Working Group on Kashmir will give it the opportunity to raise the issue of Pakistan's support to terrorism in Kashmir and human rights abuses in Pak-occupied Kashmir.

There were equally weighty reasons on the Pakistani side too which came to believe that a designated negotiating group on Kashmir will be the only device of forcing India to place the issue firmly on the agenda of bilateral parleys. Islamabad's worries on this score are traceable to its perception that India renegeed in 1994 on its implicit pledge to discuss the final political status of Jammu and Kashmir. The pledge was seen in the fine print of a mutually agreed agenda for a bilateral meeting held at the level of Foreign Secretaries in Islamabad in January, 1994.

Ultimately, in a major step forward in building bridges of understanding between the two countries, the Foreign Secretaries at their four-day talks in Islamabad ended with a decision on June 23 to set up a mechanism which includes the formation of Joint Working Groups at appropriate levels, including the one on Kashmir, to address problems in "an integrated manner". But, they soon fell out on the interpretation of the joint statement over the group on Kashmir.

It was further decided that while all the other groups will be headed by senior officials from the Foreign Ministries of the two countries, at least two groups on Kashmir and peace and security would be led by the Foreign Secretaries of the respective countries.

It was thought in New Delhi that the concept of Working Groups would serve two important purposes. First, different elements on both sides of the border would feel assured that all important issues were being addressed and no compromises were being made. Second, the economic potential of the two countries, which was a hostage so long to the political differences between them, will have a chance to be tapped. They may also act as meeting points between India's stance of putting Kashmir to one side, while addressing other important economic issues and Pakistan's stand of first addressing the Kashmir issue before cooperating on other economic and cultural issues. New Delhi thought that the decision to discuss Kashmir at the Working Group did not amount to any special concession to Pakistan since India was committed to it under the terms of the Shimla agreement which clearly stipulated that both India and Pakistan would not resort to violence "till final settlement" about the disputed State. It

was realized that as any give-and-take on Kashmir is not possible, keeping in view the strong sentiments aroused by the issue in both countries, the two sides would seek to promote agreement on issues which may help widen areas of understanding across the borders. These include some agreements on lessening of irksome restrictions on visas for trade and travel between the two countries, on purchase of surplus power by India from Pakistan and on export of coal, sugar and several other items for which Pakistan is dependent on other countries.

In agreeing to the setting up of 8 Working Groups India later felt that a JWG on Kashmir will give Pakistan the opportunity to shift the focus of bilateral talks to this issue, ignoring the seven other outstanding items that needed to be resolved for normalizing relations.

Under the June 23, 1997 agreement in Islamabad, on the basis of which Pakistan wants to resume dialogue, eight outstanding issues, including Kashmir were identified: Jammu and Kashmir, Peace and Security (including confidence-building measures), Siachen, Wullar Barrage/Tulbul navigation project, Sir Creek, Terrorism and drug trafficking, Economic and commercial cooperation and Promotion of friendly exchanges in various fields.

Later, differences arose on the modalities of the Working Group on Kashmir. While Pakistan sought to give it a high profile, India wanted it to be treated as one of the eight subjects.

The September talks in New Delhi got bogged down over divergent interpretation of the June agreement. While Islamabad insisted on separate and exclusive talks on Kashmir, India wanted talks on all outstanding issues simultaneously. Pakistan wanted the "core issue" of Kashmir to be given a higher status which was not acceptable to India. Subsequently, Pakistan blamed India for backtracking from the June 23 joint statement. The September talks held in New Delhi were adjourned and India offered fresh modalities of talks to Pakistan in January, 1998, when the two Prime Ministers were to meet in Dhaka, along with the host Prime Minister, Sheikh Hasina for a trilateral economic summit. At their separate talks in Dhaka, the then Prime Minister of India, Mr. Gujral suggested that all the 8 issues be taken up simultaneously at the same venue and on the same dates and that was accepted by Mr. Nawaz Sharif. The elections in India and the change of government interrupted the process. On June 11, Pakistan came out with a counter-proposal that "in view of the current situation", the two sides address, on a priority basis, the first two issues - peace and security and Kashmir.

As would be seen, talks on Kashmir get bogged down very often. Even agreements reached are interpreted differently. A case in point is the joint

statement issued by the two Foreign Secretaries after their June 23 meeting mentioned above. Pakistan was quite upbeat on the formation of a Group on Kashmir, and projected it as a victory in as much as they now hoped to pin India down on Kashmir now that by agreeing to form an exclusive Working Group on Kashmir, that too to be headed by the Foreign Secretaries, India had conceded the Pakistani demand to treat it as a core issue. Mr. Nawaz Sharif termed the agreement as “a major breakthrough” because it included the Kashmir issue on an agenda for further discussions for the first time. But, on his return to New Delhi, Indian Foreign Secretary, Salman Haider, remarked that there was no concession and no change in India’s stand that Kashmir was an integral part of India and what remained to be decided was the vacation of occupied Kashmir by Pakistan.

Differences cropped up between the two on the interpretation of the joint statement. Pakistan is reported to have argued that progress in all areas must be “integrated” with the progress on “the core issue” of Kashmir. India, on the other hand, refused to commit itself to the setting up of Working Groups on Kashmir and peace and security. It argued that since the joint statement talks of “mechanism, including Working Groups”, it is not necessary that there will be Working Groups on all areas and that too when it is clearly mentioned that Kashmir issue will be dealt with by the Foreign Secretaries. Pakistan alleged that India’s posture towards the ongoing dialogue raises doubts about the whole negotiating process and negates the Male spirit. Pakistan accused India of developing cold feet after agreeing on a mechanism particularly on the issues of Kashmir and peace and security. Pakistan Foreign Minister, Gohar Ayub Khan, also accused India of going back on the Working Group issue.

For India, Kashmir is one of the 8 areas identified for discussion in the June 1997 joint statement, while for Pakistan it is “the core issue”. Political observers note that when the Indian and Pakistani Foreign Secretaries at their June meeting in Islamabad agreed to set up a mechanism, including Working Groups at appropriate levels, to address all the eight identified issues “in an integrated manner”, Islamabad was happy. It pushed hard for including the word “integrated in the joint statement, which could be used later by its negotiators. The Indian side pressed for including the problem of terrorism in the working group either on Kashmir or the one on peace, security and confidence-building. This would have enabled New Delhi which is accusing Pakistan’s involvement in insurgency in Kashmir, to save its face over conceding on a separate Working Group on Kashmir. But, the Pakistanis pressed ahead with their view that terrorism was merely an offshoot of drug trafficking. In the end, they had their way and a Working Group to deal with the twin problems of drug trafficking and terrorism was approved.

It was alleged by the critics of the then Prime Minister, Mr. Gujral that obsessed with his Doctrine to improve ties with India's neighbours even if it had to make concessions without expecting reciprocity, the Foreign Secretary had carried a brief from him not to return empty handed. So, the Indian delegation succumbed to all the Pakistani demands so that the Gujral doctrine could be kept alive.

In terms of the June agreement, no one issue can be given pride of place and no one issue can be ignored. So, the central problem of the current framework of talks is rooted in the decision to bundle together all the issues into one negotiation. Islamabad was happy on the move to consider the disparate issues in an "integrated manner", Islamabad was happy. It pushed hard for including the word "integrated" in the June 23, 1997 joint statement which could be used later by its negotiators. According to observers, the move to consider the disparate issues in an "integrated" manner and the desire to the progress on every front has ensured that there is no advance in any sector.

Except the one on Kashmir, Working Groups on the remaining seven issues are unlikely to pose hurdles at the resumed talks. On Siachen, the Defence Secretaries of the two sides have held six rounds of talks from January, 1986 to November, 1992. It is expected that the joint working group on Siachen, if set up, would stick to the earlier practice of Defence Secretaries discussing the issue further. The major area of differences remains on the Pakistani demand for the two armies pulling out from their present positions. India is not willing to do so because its troops are occupying advantageous heights and there is the possibility of Pakistan occupying the heights once it pulls out from there. In the case of the Tulbul navigation project (which the Pakistanis term as Wullar barrage project), the Indian Water Resources Secretary and his Pakistani counterpart have held several rounds of discussions between 1987 and 1992. The same officials are likely to be part of the joint working group. The issue between the two countries relates to a barrage to be constructed by the Jammu and Kashmir State on the Jhelum river just below the Wular Lake. The object of the barrage is to allow navigation over a distance of some 20 km between Wular lake and the Kashmir town of Baramula. Pakistan's contention is that the project involves storage, not navigation and is a breach of the Indus Water Treaty of 1960, which assigned the Jhelum waters to Pakistan. On the Sir Creek (a 60-mile long estuary in the marshes of the Rann of Kutch) issue, the Surveyors General of India and Pakistan have had five rounds of talks. As in the past, the Surveyors General of the two countries could take up discussion in the joint working group. While the working group on "terrorism and drug trafficking" could see the Home Secretaries of India and Pakistan discussing the problem, the one on economic and commercial

cooperation is likely to be the baby of Commerce Secretaries of the two countries.

India favoured this approach vis-a-vis Pakistan because it felt that a gradual improvement in overall bilateral relations in the matter of trade, cultural exchanges and wider contacts among ordinary people will create the right atmosphere for tackling the more contentious issues.

The Foreign Secretaries of the two countries once again met in New Delhi Sept. 16-18. The talks again ended in a virtual deadlock. A brief joint statement issued at the end of talks did not suggest any visible forward movement on Kashmir or progress towards finalizing the Joint Working Group mechanism on the eight issues identified at the Islamabad meeting. On his return, Pakistan Foreign Secretary, Shamshad Amhed, accused India of resiling from the Islamabad joint statement which envisaged creation of an overall mechanism, including formation of Working Groups.

## **Non-papers**

Earlier, Pakistan and India had resumed Foreign Secretary level talks in January, 1994 after a gap of some 17 months. The then Benazir Bhutto Government had all along ignored the then Indian Prime Minister, Narasimha Rao's offer of talks in his congratulatory message to her on her election. But, two developments seemed to have convinced her that she was losing ground in her propaganda on Kashmir. First, the satisfactory resolution of the Hazratbal crisis, and second, Islamabad's inability to muster enough support for the resolution it proposed to move in the UN General Assembly, seeking to condemn India on the issue of human rights in Kashmir. The talks were held in the background of Pakistan projecting it as a "make or break" exercise, arguing that if there was no tangible progress on the "core" issue of Kashmir, a flashpoint, there can be no peace in the region. And if India failed to show any flexibility there would be no more bilateral talks. Back home, Pakistan Foreign Office had said that the talks cannot be held in a vacuum and in the event of the failure of talks Pakistan "will find domestically extremely difficult to continue the sterile process of dialogue."

The two-day Islamabad talks between the then Foreign Ministers of the two countries - Mr. J.N. Dixit of India and Mr. Shaharyar Khan of Pakistan - predictably achieved nothing. Voicing its disappointment over the outcome of talks, Pakistan decided to seek international mediation. The talks failed because the two sides differed dramatically over the approach on the Kashmir issue. While India talked about the Simla Agreement, Pakistan said, while it respected it, this did not mean that it could not utilize the UN resolutions on the dispute.



Notwithstanding the Indo-Pak differences on various issues, coupled with Islamabad's reticence on holding further talks, India sent six proposals, described as "non-papers" aimed at working out some agreements and arrangements on specific and specialized irritants, including that of Siachen and nuclear non-proliferation. The other of the six subjects were: confidence-building measures, economic cooperation, delimitation of the maritime boundary in the Sir Creek region and Wular barrage.

In return, Pakistan delivered India two "non-papers" which demanded that any future talks between the two countries should focus on finalizing the modalities of holding a plebiscite in Kashmir. Government of India rejected the demand of holding plebiscite in an area which was an integral part of India. The Pakistani demand for plebiscite amounted to hardening of its stand. Pakistan also rejected the six proposals contained in the Indian non-papers saying that they do not address the core problem of Kashmir. Pakistan accused India of raising relatively less important issues to show to the world that it is engaged in negotiations so that the pressure of world opinion is diverted from the core issue. Pakistan rejected India's proposal to turn the Line of Control (LoC) into a line of peace and tranquility, arguing that the proposal "virtually asks us to accept the status quo on the LoC which we have already indicated is not acceptable to Pakistan."

The Prime Minister, Mr. A.B. Vajpayee, has once again on July 8, 1998, ruled out any negotiations to make the Line of Control the international border between the two countries. "All of Jammu and Kashmir is an integral part of India Parliament has passed a resolution on this. And there is no question of using the LoC as the basis for talks", the Prime Minister told the Lok Sabha, the Lower House of Parliament.

### **Pak proxy war : support for insurgency**

Pakistan's ruling classes have fostered a feeling among their people that Indians are not reconciled to partition and especially the Hindu nationalists like the BJP do not accept the two-nation theory; that India would do everything to undo the deed and subject Muslims to Hindu rule. Neither Jinnah nor his successors recognized the fact that ethnic ties can be stronger than religious until this was demonstrated in Bangladesh, erstwhile East Pakistan. That is why the Pakistani leaders cannot stomach independence as the third option for Kashmir which has a pervasive sense of ethnic identity.

Pakistan's strategy over Kashmir underwent a subtle change after its 1971

defeat in the war. The then Pakistan President, Z.A. Bhutto, placed an emphasis on time and mass indoctrination inside Kashmir. The main objective of Mr. Bhutto's policy was to disrupt, discredit and paralyze the Indian administration before committing Pakistani troops. He had by then realized that mere sympathy for the cause did not have enough strength to win him Kashmir. What was required was a radicalization of the population through religion. Mr. Bhutto, abhorred the role of the fundamentalist parties in domestic politics, but he was not averse to seeking their support for the destabilising of Kashmir and Afghanistan. In Kashmir, Bhutto used the organisational strength of fundamentalist parties with cross border affiliations to spread Islamic ideas as an antidote to the secular forces being projected by New Delhi. It began by focussing upon Islamic education. The Jamaat-e-Islami was useful because of its sway in the (religious schools) that rapidly spread throughout the rural areas of Kashmir valley.

The spread of Islamic ideals was the first element of the strategy of radicalizing the Kashmiri Muslims. The second was the creation of an elaborate information ring within the Kashmir government. The political crises of the period commencing from 1982 allowed pro-Pakistani fundamentalist parties to exploit the alienation of the common Kashmiris. Through the **Maulvis** Islamabad was able to communicate with the common Kashmiri for the first time. It set up a fledgling organisation within Kashmir for greater use in future.

Mr. Bhutto's overthrow and subsequent execution did not mean the end of the Kashmir gambit. Instead, the policy was streamlined and the military's direct involvement increased. It also received more funding because of President Ziaul Haq's Islamisation policies. Most importantly, the policy of Islamisation through education at the grassroots became an effective counter to the relatively successful philosophy propagated by New Delhi that (the ethos of Kashmiris) was built on secularism. Islam is different in Kashmir. It entered the Valley in the 14th century by percept and persuasion, not by force, and was brought in by the gentle, mediative order of Sufis.

New Delhi ignored the quiet revolution taking place inside Kashmir. It did not take advantage of the Afghan imbroglio to counter Islamabad's Kashmir operations. Instead, New Delhi preferred to accept at face value the peace overtures made by the Zia regime in respect of Kashmir. President Zia put into operation what was later revealed as Operation Topac, to be implemented in three phases, beginning with the induction of militants and then raising the tempo of insurgency to the level of people's revolution against the Indian regime backed by Pakistani military action.

With President Zia, the radicalization of Kashmiri society proceeded at a

feverish pace. The Inter-Services Intelligence created a network of informers and sympathizers who penetrated every State Government Department. Infiltration and exfiltration routes were identified. Slowly weapons training along with ideological brainwashing began to be imparted in camps in Pak-occupied Kashmir. By 1988, the trickle had become a flood. All that was required by President Zia's successor, Ms Benazir Bhutto was to give the underground movement a green light with her *azadi, azadi, azadi* (independence) speech.

Pakistan's territorial greed over Kashmir rather than their self-proclaimed concern for meeting the aspirations of the people of Kashmir came into the open when in a **New York Times** interview on May 16, 1994, when Ms. Bhutto said if India could be forced to hold a plebiscite, the independence of Kashmir would not be an issue. Kashmiris will be given only two choices - to join India or Pakistan. She said this is because Pakistan could "lose" the plebiscite if the option of independence or was given. Her argument was that if the question of independent Kashmir was also put to plebiscite, the Hindus would vote for accession to India because they are in minority, but the Muslim vote would be divided between those who wanted to join Pakistan and those who wanted Independence. Indeed, Ms Bhutto's comments knocked the bottom out of Pakistan's Kashmir campaign and made nonsense of its proclaimed position on why it was meddling in the affairs of Kashmir, going to the extent of promoting trans-border terrorism and raising the issue at international fora. Till then Pakistan had staked claim to Kashmir on the basis of territorial affinity, maintaining all along that the people of this State would happily opt for Pakistan if given the chance and that this is the reason why India has refused to hold a plebiscite. The successive regimes have sought to justify Pakistan's obsession with Kashmir by suggesting that it is prompted by concern for people whom they consider their own. Islamabad has never tired of pointing out that Jammu and Kashmir is a Muslim-majority State and with this criterion alone it should not have been on the Indian side of the Radcliffe line. Seen against the backdrop of what Ms Bhutto said, these claims sounded spurious; what emerges is the fact that Pakistan has all along been prompted by territorial aggrandizement. In other words, it is the land and not the people that interests Islamabad; the rest is an elaborate cover-up to legitimize its ulterior motive. This is the Indian view.

## **Internationalising Kashmir**

Violation of Human Rights is another stick with which Pakistan beats India, and vice versa. Both criticise each other on this score. But Pakistan's approach has been more aggressive since it mixes religion with it and also uses it to

internationalise the Kashmir issue. Ms Bhutto's regime was marked by a stunning diplomatic victory by India in the face of heavy odds in March, 1994 when for lack of support, her government was forced to withdraw its controversial resolution on alleged human rights violations in Jammu and Kashmir at the United Nations Human Rights Commission at Geneva. The happy denouement came after the failure of Pakistan's blatant bid to misuse the UN Human Rights Commission to further its territorial ambition by feigning concern over the alleged violation of human rights in Kashmir. Most of the 53 members of the Commission including those of the Organisation of Islamic Conference obviously saw through Islamabad's game despite its frantic campaign to deflect international attention from its shameful acts of cross-border terrorism in Kashmir. This indeed is why the Pakistani delegation at the Geneva session of the UNHRC eventually found itself totally isolated by the time its resolution on Kashmir came up for a vote.

Apart from this, between Ms Bhutto's first and second terms, Islamabad was unable to push its Kashmir strategy because political stability returned to New Delhi. Further, militancy in the Valley had come dangerously close to despondency as New Delhi remained unperturbed by terrorist attacks. Increased international attention started bringing about a change in the perception after four Western tourists were kidnapped by a little known terrorist group, Al-Fahran and presumably killed. While one escaped, the beheaded body of another was found placed on a roadside, others could not be found live or dead. The international community began looking upon militant groups as violators. Amnesty International, the United States State Department and Asia Watch began taking notice. Towards the end of the Presidency of Mr. George Bush, the threat of being labelled a State sponsor of terrorism loomed large over Pakistan. A number of US annual reports on "Patterns of Global Terrorism" by the State Department in effect accused Pakistan of continuing to support Kashmiri militants engaged in terrorism. A report also claimed that some support to the Kashmiri militants also came from private Pakistani organisations such as the Jamaat-i-Islami. The Report did not believe Pakistani claim that it was giving only moral, political and diplomatic support and not military assistance to Kashmir militants.

In Ms Bhutto's second term, Islamabad's options had narrowed considerably. Militancy by itself was not capable of wrenching the State out of the Union. The militants were becoming demoralized. New recruits were becoming difficult to find. As a result, Islamabad had to relocate unemployed Afghan mercenaries into the Valley in greater numbers to keep the pressure going. Continuation of the existing strategy allowed Mr. Sharif to get an upper hand in the domestic political tussle.

There was no other option for Ms Bhutto other than to internationalize the dispute. She had to do something radically different to gain the high ground and boost the militants. In this effort, she was fortunate to find unexpected help from Ms Robin Raphel, the then US Assistant Secretary of State in charge of the newly-created South Asia Bureau. Ms Raphel sought to reopen old controversies by disputing the legality of the Instrument of Accession, equating civil war in Afghanistan with insurgency in Kashmir. The strategy adopted by the Benazir Government was to get as much exposure as possible for its new stance. It tried to highlight the human rights facet of the Kashmir issue. By pushing this angle, Islamabad hoped to capitalize upon international concern for human rights. It was, therefore, logical she would pursue a multi-pronged strategy. She sought the Organisation of Islamic Conference's help on grounds that Muslims were being "martyred" in the Valley. In the larger and non-religious fora like the UN General Assembly and Human Rights Commission, she sought to place Islamabad's charges on a secular plane.

It was, however, too long a period to perpetuate terrorism in Kashmir without any concrete results. By the time Mr. Nawaz Sharif came to power, his own preoccupations at home with a defiant Chief Justice of the Supreme Court and President Farooq Leghari, both of whom were bent to dismiss his Government, as well as the disenchantment that had set in among the militants who came to realise that Pakistan was using them only as a fodder cannon for its own personal selfish ends, changed the whole situation. Government of India's own policy of winning over the militants, offering them jobs and grant them amnesty if they gave up guns, providing an elected Government in the State with a sizable electorate participating in the polling, helped a great deal in restoring normalcy in the State. Now, the position is such that tourists have begun to throng into the Kashmir Valley after nearly a decade and even film shootings in the scenic Kashmir, have started. The foreign militants have little support in the Valley. The very tight security on the borders has restricted infiltration from the Pakistani side.

### **Aggressive posture by the BJP government**

In the past, Pakistan was using the threat of using nuclear weapons in a war with India if it took any strong action over Kashmir like hot pursuit of militants into the Pak-occupied Kashmir. But, the BJP Government neutralized this threat by carrying out a series of nuclear tests which has put Pakistan on the defensive. The tests have prompted the BJP Government to opt for what it says, "pro-active" policy over Kashmir. After the nuclear tests, Home Minister Advani, at a first

major policy meeting on Jammu and Kashmir on May 18, told Pakistan that India's decisive step to become a nuclear weapon State has brought about a qualitative new state in Indo-Pak relations, particularly in finding a lasting solution to the Kashmir. Islamabad, he said, should now realise the change in the geostrategic situation in the region and the world. Even more disturbingly, Advani raised the possibility that nuclear weapons might be used to address Pakistan's offensive in Jammu and Kashmir. To quote Mr. Advani, "Although we adhere to the no-first-strike principle, India is resolved to deal firmly with Pakistan's hostile activities." Kashmir Chief Minister Farooq Abdullah too endorsed the Pokhran tests arguing that India's status as a nuclear power would compel Pakistan to end its offensive in Kashmir.

The security doctrine of BJP with regard to Kashmir has three facets: "Hot pursuit, "pro-active engagement" to make proxy war costly and "retaking Pak-occupied Kashmir". These have just been some of the slogans put out by BJP leaders ranging from Mr. Advani to Mr. Khurana.

To emphasize that the militants cannot be ticked off in the new euphoria of their losing support of Pakistan after the assumption of a Hindu nationalist Government in New Delhi, in two gruesome attacks, 51 innocent civilians have been killed, all of them Hindus. In one incident, Hindu villagers were attacked and killed at their homes in Champnari in Doda, while in another the menfolk of a marriage party were separated from the females, lined up and gunned down. Police authorities said that with normalcy, tourists and film crews fast returning to the scenic valley, it is the Punjabi-speaking Pakistani army regulars and Afghan mercenaries who are keeping terrorism alive in the State so that after the Pokhran blasts, Pakistan could drive home the point that Kashmir had become a flashpoint of a nuclear war and the international community must recede to resolve the dispute.

## **Various proposals**

Taking into account the national positions of the two countries and the views of the Kashmiri people, what are the options available to resolve the Kashmir question? A "plebiscite" in accordance with the UN resolutions is the one demanded by Pakistan but rejected by India on legal and political grounds. This option has also been rejected by most Kashmiri dissident groups because it limits the choice to joining India or Pakistan and rules out the third option - independence - which is ruled out by Pakistan which says the Security Council restricts the choice to only their voting to join either India or Pakistan.

The other proposal, sometimes believed to be acceptable to India, is that of a regional plebiscite, according to which the choice of joining India or Pakistan may be offered separately to the three regions of Jammu, Ladakh and Kashmir. The assumption in India is that the people of Jammu and Ladakh will opt for India and those of Kashmir for Pakistan. Whether the assumption is correct or not, the proposal is in complete violation of the principles of secularism on which Indian polity is based and is unacceptable to India.

Another proposal is that the whole State of Jammu and Kashmir be re-partitioned on religious or ethno-cultural lines. This would be neither viable nor acceptable to the people of the State.

Yet another alternative proposal that is sometimes mooted by certain sections outside the sub-continent as well as inside is that the whole State be placed under the trusteeship for some years after which the wishes of the people be ascertained. The proposal has been rejected by Pakistan, is not acceptable to India and has very little support with Jammu and Kashmir.

In this context, one may refer to some of the excerpts of a speech by Mr. Warren Austin, chief American representative in the Security Council in 1948 when he had categorically accepted the merger of Kashmir with India. Mr. Austin had said: "The external sovereignty of Kashmir is no longer under the control of the Maharaja with the accession of Jammu and Kashmir to India. The foreign sovereignty went over to India and is exercised by India and that is why India happens to be here (in UN) as a petitioner."

One may also recall that on August 25, 1948, the UN Commission on India and Pakistan had written a letter to Mr. Nehru in which it was stated explicitly that India's sovereignty over the entire territory of the State was not questionable and that the responsibility of security of the State of Jammu and Kashmir rested with the Government of India. Sir Owen Dixon had also clearly stated that Pakistan must withdraw from the so-called Azad Kashmir before India could hold the plebiscite. Doubts are, however, being raised now on the finality of Kashmir's accession to India in the light of nuclear explosions by India and Pakistan. This is a Pakistani victory of sorts as also its successful attempts to internationalise the issue. The western world now speaks of Kashmir as the core issue between India and Pakistan. On balance, therefore, Pakistan seems to have won the present diplomatic war.

At one time, the Jammu and Kashmir Chief Minister, Dr. Farooq Abdullah suggested that the current Line of Control (LoC) should be made the international border to resolve the Kashmir dispute. He said, "What is happening today is that Pakistan is trying to grab Kashmir while India wants Pakistan to vacate the other

side of Kashmir. If each side keeps what it has, the dispute should be resolved.”

A similar suggestion was reportedly made by a close aide of Prime Minister Vajpayee, Mr. Jaswant Singh, in an interview on Home TV. But, when it raised hackles in political circles, he disowned his remarks

Prof. Ainslee Embree of Henry L. Stimson Centre in Washington too has suggested that since no one really believes that plebiscite is feasible under today’s conditions, the division of Kashmir Valley along the Line of Control between India and Pakistan is the only answer to the problem.

Another US expert on South Asian affairs, Prof. Stephen Cohen, who frequently advises the State Department, has suggested that President Clinton call a “Camp David” type peace process for India and Pakistan. He made the suggestion in a memorandum, adding that any initiative to engage India and Pakistan in summit talks should be bipartisan so that it can last Democratic and Republican Administrations.

Another suggestion came from Ms Benazir Bhutto, when she was the Prime Minister. She called for a nine-nation multinational dialogue involving the five UN Security Council members, Japan and Germany, and of course, India and Pakistan, to discuss the Kashmir dispute.

Dr. Mahbubul Haq, an economic expert and former Finance Minister of Pakistan and a strong votary of India and Pakistan sinking their differences for the economic good of the people, suggested “a time-specific regime of a UN trusteeship in the valley” without prejudice to the positions of both India and Pakistan on the dispute. The first step, he said, should be to establish a UN trusteeship in the Valley - though the boundaries will have to be carefully defined through quiet negotiations between India and Pakistan. During the period of trusteeship, which could last for a decade, the Kashmiris should be allowed and keep a position of studied neutrality in the region. The period of trusteeship should calm down the situation in the Valley India and Pakistan then could start “a process of secret dialogue” in some quiet corner of the world” to resolve the Kashmir dispute during this period.

## **Mediation efforts**

India has been opposed to any third party mediation and has recently snubbed efforts in this direction even from the UN Secretary General. The closest India came to accepting mediation and a deal on Kashmir was soon after the India-China war in 1962. According to authoritative sources, under Anglo-American pressure, India was willing to concede 1500 square miles of Kashmiri



territory to Pakistan in return for Western arms soon after the 1962 war. The story of India's readiness to "adjust its borders with Pakistan" without giving up the Kashmir Valley, followed the communication between former Prime Minister, Jawaharlal Nehru with the Heads of State of the UK, Canada, Australia and New Zealand. The initial signals for talks with Pakistan were backed by a torrent of high profile diplomacy. Mr. Averell Harriman headed a US team to engage India on Kashmir while Mr. Duncan Sandys, British Secretary of State for Commonwealth Affairs, formed the other end of the Anglo-American diplomatic pioneer. Consequently, Indian officials drew four maps, each with progressively higher territorial concession which could be presented to its Pakistani counterparts in the future talks which were becoming increasingly likely. All these maps revolved around a "basic map" in which the Indo-Pak boundary alignment was, as far as possible, to be marked along rivers. The boundary alignment was supposed to move from "Karen eastwards". The "Krishna-Ganga would be the northern boundary, practically upto its source. Then, beyond a north-south watershed, it would be Dras, running North-eastwards to Kargil and beyond Kargil, the line would be lost in the snows in the direction of Leh. At the other end, the North-west, the line would turn South after Karen and stay west of Karen, Tithwal and Uri. Still further South, India would keep west of Gulmarg, Rajouri and Noshera. In the Punch Mendhar sector, India could give Pakistan some good cultivable area and let one of the several North-South rivers that all run into the Chenab to form a fair border.

India and Pakistani Ministers discussed these maps during the six rounds of talks which started in December, 1962 but broke down on May 16, 1963 presumably because of the excessive demands by the Pakistani side led by the then Foreign Minister, Zulfikar Ali Bhutto.

### **Pak quest for US intervention**

When it comes to solving political issues with India, Pakistan lack the will as well as the confidence of an independent nation and would prefer to walk on crutches seeking support from world powers, mainly USA. Its clamour for third party intervention in solving the Kashmir issue is an ample proof of this, notwithstanding that it has been clearly written down in the Shimla agreement that both the countries would solve their bilateral issues by sitting across the table without the intervention of any third power.

This agreement was signed between India and Pakistan in 1972 which also supersedes earlier decisions for providing amicable solution to their mutual problems. India is thus justified in rejecting Pakistan's insistence on the third

power intervention on the Kashmir issue. It is clearly a bilateral issue which should be solved in the spirit of Shimla agreement. Also, Pakistan's insistence that UN resolutions passed half a century ago be invoked and the issue settled through referendum by the local population has no meaning under changed scenario.

From the Indian point of view, Pakistan has to be pushed to agree to negotiate on a table with just two chairs: one for India and the other for it. But, it is evident from the belligerent statements made by its Foreign Minister, Gohar Ayub Khan that the talks are just about doomed from the start. Pakistan is likely to sit around the negotiating table for awhile and then walk out, citing India's recalcitrant attitude towards Kashmir. It is then likely to appeal to the big powers to intervene because Pakistan sees the present nuclear debate as its now-or-never chance to internationalize Kashmir.

### **China as mediator**

After the nuclear tests by India and Pakistan and the difficulty to persuade them to resolve the Kashmir conflict bilaterally, a dangerous situation, from the Indian point of view, has been created by President Clinton's open invitation to China to intervene in the Indo-Pak dispute over Kashmir. What is worse is the suggestion that China can start thinking of being an arbiter, or at least a participant, in disputes between India and Pakistan.

Addressing the National Geographic Society in Washington recently, President Clinton said, "because of its history with both countries (India and Pakistan), China must be a part of any ultimate resolution of this matter." Getting China involved in South Asian affairs is a ploy to use Kashmir as a leverage to get India to roll back its nuclear programme. This will be a dangerous move because the USA has already made it known that it is no sympathizer of the Indian view. It considers Kashmir as a "disputed" territory. The Chinese position is worse. It already occupies a part of Kashmir territory which Pakistan has gifted to it. China has gone back to its old grudges against India, which it had kept on the backburner. It has reiterated that India has occupied 90,000 square km of its territory.

### **Stand taken by the US**

The US has never been sympathetic to the Indian position, primarily because it sees Pakistan furthering its national interests more than India. When Ms Robin Raphel was incharge of the South Asian Bureau in the US State Department,

Washington began to question the finality of the Instrument of Accession and called Kashmir the disputed State. The attempts of the US to question the very basic document of accession may be seen as an attempt to undermine India's international position on Kashmir. At the same time, the USA wants to acquire an increased leverage in Central Asia through Pakistan to influence developments in that part of the world as also in the Arab world. The American tilt towards Pakistan has thus had two purposes: to maintain its influence on Muslim and Arab countries through Pakistan and secondly to prevent India from emerging as a big power in this region. Ms Raphael's replacement with a more moderate bureaucrat, Mr. Karl Inderfurth, saw the United States correcting once again its approach to the Kashmir question, insisting that it was upto the two countries, without any third party involvement to resolve the Kashmir tangle.

But, all that has changed in the wake of nuclear tests by the two countries and there is the renewed emphasis by the US that Kashmir has now become the root cause of all tensions between India and Pakistan and if it was not addressed and the conflict settled amicably, there were chances of the two countries fighting a nuclear war over the issue. The United States is no longer making a reference to the UN resolutions and their implementation by India.

The running battle between India and Pakistan and Kashmir is, therefore, unlikely to see an early resolution. The two countries have got to live with the dispute and ultimately, as suggested by Prime Minister's aide, Mr. Jaswant Singh, the present Line of Control will have to get frozen into an undemarcated border between the two countries unless some future administrator in Pakistan decides to use the newly-acquired nuclear power to change the course of history. This is presently the biggest worry given Pakistan's aggressive designs on Kashmir and given its past track record. All the disputes in the history have been resolved on the basis of give and take and even in India's territorial dispute with China, the question of "mutual accommodation" is the bedrock of their negotiations. India and Pakistan, two poor cousins in the Indian subcontinent can gain more by way of developing economic relations rather than spending much of their resources in buying arms to match each other's military potential if the Kashmir issue is put on the back-burner or at least frozen for sometime for the sake of the welfare of the two people.

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