

# Kashmir Imbroglia

## Geostrategic and Religious Imperatives

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The Indian Independence Act partitioned India into two independent states: India and Pakistan. In conjunction with this legislation, the existing 564 princely states had the option to join either of the states based on religion and geographical contiguity. Most of these states readily joined one of the two new countries. However, Jammu and Kashmir (J&K, commonly referred to simply as Kashmir), was a peculiar case where Maharaja Hari Singh, a Hindu ruler, governed over a majority Muslim population (77 percent Muslim and 20 percent Hindu), while sharing geographical contiguity with both India and Pakistan.<sup>1</sup> The ruler wished to retain J&K as an independent state, though it was not an available option under the Indian Independence Act.

In this imbroglia, Pakistan considered that the ruler would ultimately decide to merge with it due to the contiguous geographical boundary, the majority of the population being Muslim, and the signing of a “standstill” agreement that ensured free and uninterrupted trade, travel, and communication. India granted a year’s time to make a decision, considering that Kashmir’s Hindus, Sikhs, Buddhists, and even Muslims who adhered to a centuries-old form of pluralistic, secular nationalism, Kashmiriyat, were keen to join India, hoping that Hari Singh wanted to buy time to convince some sections of the Muslim population to join India.<sup>2</sup>

### Kashmiriyat

It is a well-established fact that in the ancient times Kashmir was a prominent Hindu kingdom. Buddhism was introduced in Kashmir in third century BCE. Both religions flourished side by side in the region until the introduction of Islam in the twelfth century CE. Kashmir accepted Islam, not as “a negation but as a culmination of a proud spiritual heritage.”<sup>3</sup> Thus, Kashmir became a mosaic of three religious faiths: Hinduism, Buddhism, and Islam. The transition was peaceful, accomplished through preaching and not through compulsion.<sup>4</sup> In sum, diverse communities of Gujjars, Bakkarwals, Hindu Pandits, Dogras, Ladakhi Buddhists,

Sikhs, and Sufi Muslims constituted a composite culture, one that was “more ethnic than religious.”<sup>5</sup> According to G. M. D. Sufi, “the cult of Buddha, the teachings of Vedanta, the mysticism of Islam have one after another found a congenial home in Kashmir.”<sup>6</sup> Finally, it culminated in the development of a unique identity known as *Kashmiriyat*, meaning “a harmonious relationship cutting across religious and sectarian divisions or pluralistic tradition . . . *Kashmiriyat* is . . . an institution with societal, political, economic and cultural currents and undercurrents.”<sup>7</sup> Although the majority of the population were Muslims, they and their fellow Kashmiris followed a very “syncretic culture and mixed religious practices.”<sup>8</sup>

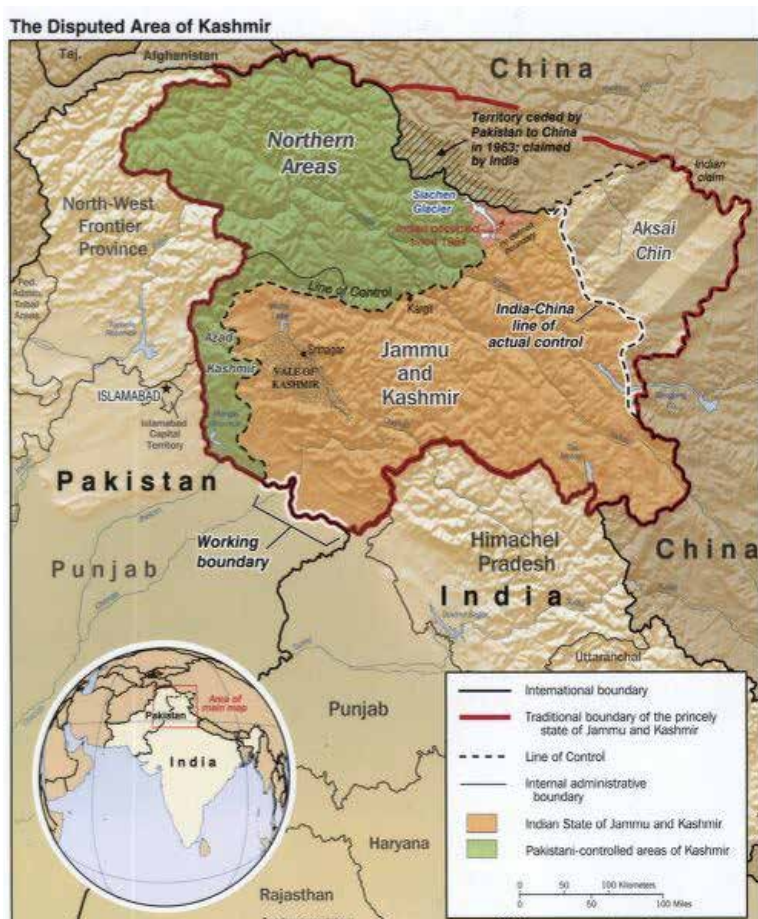


Figure 1. The disputed area of Kashmir. (Courtesy of Central Intelligence Agency, 2002.)

## **Pakistan's Policy toward Kashmir**

Pakistan's claim over J&K emanates from the two-nation theory, which posits that the Partition was intended to create India for Hindus and Pakistan for Muslims. This claim draws its rationale based on Kashmir being a Muslim majority state. However, while considering the matter from the religious perspective, one can observe that Pakistan is a Deobandi/Salafi-dominated Islamic republic, whereas Kashmir is a Sufi-dominated Muslim state. Sufism does not follow the strict orthodoxy of other strains of Islam; rather, it is a syncretic version that accepts all religious faiths and respects their practices. This indicates that from the very outset, Islamabad realized that despite Kashmir being a Muslim-majority state, Sufi Islam drastically varied from the Deobandi and Salafi forms of Islam prevalent in Pakistan.<sup>9</sup> Thus, J&K had better prospects to prosper in a multicultural, multiethnic, and secular India than in a sectarian, sharia-oriented Pakistan.<sup>10</sup>

Aside from the signing of the standstill agreement with Hari Singh in August 1947, Pakistan grew impatient and, in violation of the agreement, orchestrated a tribal invasion on 22 October 1947 to perpetrate militancy in J&K and acquire it by force.<sup>11</sup> However, the major objective of the invaders, once on ground, appeared not liberation but committing mass atrocities like plunder and rape; these actions not only "provoked anger amongst the Kashmiris" but also exposed Pakistan's true intentions.<sup>12</sup> Facing tribal invasion from Pakistan, and with his army unable to control the pandemonium, to safeguard his kingdom the maharaja approached India for military support, but India's Governor-General Lord Louis Mountbatten put a condition of "Accession first and troops later."<sup>13</sup> Realizing the invaders were about to capture the airport, Hari Singh signed an Instrument of Accession with India on 26 October 1947 under the auspices of the India Independence Act 1947.<sup>14</sup> The accession was total and unconditional. Although, the accession took place because of Pakistan's aggressive measures, Pakistan claimed that Hari Singh signed the agreement under duress as he had fled the valley, further asserting he was thus unauthorized to do so.<sup>15</sup> No doubt, Hari Singh left the valley, but he remained very much within his kingdom.

After accession, India rushed its forces by air and contained the situation at the nick of time. India declared a unilateral ceasefire and took the grievance of the Pakistani invasion before the UN Security Council (UNSC). In its resolution, the UNSC recommended a plebiscite.<sup>16</sup> As a precondition for the plebiscite, Pakistan was required to withdraw all its forces from Kashmir. However, Pakistan's foreign minister, Zafarullah Khan, unequivocally denied that Pakistan had any forces in Kashmir. This notwithstanding, Document I Para 3 of the UN Commission's First Interim Report (S/100) concluded that Pakistan was unofficially involved in

aiding the raiders.<sup>17</sup> When the UN Commission arrived in Pakistan in July 1948, Khan contradicted his own statement by affirming, “Pakistan had five brigades in Jammu and Kashmir.”<sup>18</sup> Pakistan knew well in advance that the plebiscite would not be in its favor, as Sheikh Mohammed Abdullah, a Muslim leader and advocate of Kashmiri independence, enjoyed wide popularity in J&K; so, Islamabad refused to withdraw its forces from Kashmir. This quashed any hope for a plebiscite, in contravention to the UNSC’s resolutions.<sup>19</sup>

In an effort to advance a Kashmiri solution to the problem, the Muslim Conference, headed by Sheikh Abdullah, attempting to reflect the ground realities in J&K, had already changed its name to National Conference (NC) in 1939. This shifted the organization’s focus from Muslims only to all the people of J&K and transformed it into an icon of Kashmiri identity. When the choice of joining either of the dominions came, the NC preferred India, holding that doing so was more congruent with the precepts of Kashmiriyat.<sup>20</sup> The NC’s popularity was evident when it won all 75 seats in the constituent assembly elections in 1951, in a sense a *de facto* plebiscite in favor of India.<sup>21</sup>

Pakistan, unable to acquire J&K through legitimate means or by force on its own, got a boost when China invaded India in 1962. Taking advantage of India’s vulnerability, Pakistan regionalized the J&K issue by illegally ceding “5180 sq km of Indian territory in Pakistan-occupied Kashmir to China” in 1963.<sup>22</sup> Thus, Pakistan successfully made China a *de facto* stakeholder in the already vexed issue of J&K. More importantly, in real terms, ceding territory to China violated the UN resolutions of April 1948 and January 1949 that supported a status quo until implementation of the UN resolutions.

Furthermore, a holy relic (a hair from the beard of Prophet Mohammed) went missing from Hazratbal, a Muslim shrine in J&K in 1963.<sup>23</sup> In response, a protest erupted and created a serious law-and-order situation in J&K. Although the hair was found, the Pakistani military hyped the protests as “the defiant struggle of Kashmir’s four million Moslems to be free.”<sup>24</sup> Islamabad considered this an opportune time to incite anti-India sentiments mainly on religious grounds. In this regard, Minister of Foreign Affairs Zulfikar Ali Bhutto pushed Pakistan’s military dictator, Ayub Khan, “to provoke a conflict with India in order to seize Kashmir.”<sup>25</sup>

To provoke conflict, Pakistan’s military launched Operation Grand Slam in 1965, sending militants to cut off India’s access to the Kashmir Valley.<sup>26</sup> Ironically, the militants received little support from residents of the Valley, who remembered the rapes and atrocities committed by the Pakistani invaders in 1948. In response, India launched Operation Ablaze.<sup>27</sup> Considering the volatility, Pakistan accepted a Soviet-mediated cease-fire in September 1965.<sup>28</sup> Pakistan’s depiction of itself as the protectorate of the Kashmiri Muslims, after defeat in the war, lost the nation

substantial credibility among the Kashmiris, who saw beyond the rhetoric. This war also had severe impact on the domestic politics of Pakistan; Commander-in-Chief of the Pakistan Army Yahya Khan removed Ayub Khan from office, in part due to Pakistan's defeat in the war.

To overcome its embarrassment, low morale, and poor image in the eyes of the Kashmiris, Pakistan waged another war in 1971 under the leadership of Yahya Khan, now president of Pakistan. Again meeting with defeat, this time Pakistan not only failed to achieve its aspirations in Kashmir but also lost East Pakistan, which emerged from the conflict as the independent nation of Bangladesh. India had intervened on behalf of the Bangladeshi separatists, forcing Islamabad to surrender its 93,000 soldiers as prisoners of war.<sup>29</sup> The war's outcome forced Yahya Khan to relinquish power unceremoniously. Considering the immediacy of the release of the prisoners, Zulfikar Ali Bhutto, the new president of Pakistan at the time, signed the Shimla Agreement in 1971, committing India and Pakistan to resolve all outstanding issues bilaterally, thus rendering UN or any other third party's role redundant.<sup>30</sup> The liberation of Bangladesh affirmed to the Kashmiris that even liberal Muslims did not wish to be part of Pakistan and demonstrated that Pakistan was incapable of maintaining its own sovereignty and integrity. Accordingly, Kashmiris lost faith in Pakistan and compromised to seek autonomy within India.

Taking cognizance of India's military power and trying to recuperate from the 1971 defeat, Muhammad Zia-ul-Haq, another martial law administrator deposed Bhutto in 1978. Seeking to turn adversity to his advantage, Zia joined the United States and its allies in countermeasures toward the Soviet intervention in Afghanistan. Among other measures, Zia fostered various mujahidin groups, some of which were the precursors to the Taliban, with support from the United States—which hoped to use these religious fanatics as proxies to fight the Soviets in Afghanistan. Zia also Islamized Pakistan, seeking to gain legitimacy at home—exponentially increasing the number of state-recognized madrassas (Islamic seminaries) and unofficial religious schools. Thus, from 1978 to 1988, while fighting against the Soviets in Afghanistan, Pakistan placed J&K's cause on the back burner. This change in focus was a welcome respite for the Kashmiris.

However, this peaceful lull was short-lived. Witnessing upheaval in J&K in the aftermath of 1987 state elections, which were conceivably rigged, public opinion shifted in favor of the Jammu Kashmir Liberation Front (JKLF), and Pakistan found it opportune to initiate a proxy war, calling for Islamic jihad to “liberate” J&K. Islamabad offered its support to the JKLF, encouraging the group to seek secession from India and merge with Pakistan. However, the JKLF's agenda for the liberation of Kashmir from India and did not envision union with Pakistan

but rather independence, as such the organization clashed with the Pakistani agenda and disassociated itself from Islamabad in 1992. Nonplussed, Pakistan created the Hizbul Mujahideen (HM) terrorist organization to supplant the JKLF. HM recruited local Kashmiri cadres but was controlled from Islamabad by Pakistan's Inter-Services Intelligence (ISI).<sup>31</sup> Facing a lack of support for Islamic jihad and having weak command and control in J&K, Pakistan adopted a two-pronged policy. First, Islamabad sought to assassinate Kashmiri moderates, who worked as a firewall between the common people and the proxy war. Prominent among those targeted were Mirwaiz Maulvi Farooq, chairman of the All Jammu and Kashmir Awami Action Committee, and Mirwaiz Qazi Nisar Ahmed, a Kashmiri poet and scholar and a leader of the Muslim United Front.<sup>32</sup> However, such assassinations backfired, as around 50,000 people gathered at the funeral of Ahmad and chanted "death to Hizbul Mujahideen," "get the killers," and "whoever demands Pakistan will get a grave."<sup>33</sup> The second and far more successful prong of Islamabad's efforts was to facilitate entry of Lashkar-e-Taiba (LeT) and Jaish-e-Mohammad (JeM) militants into J&K to perpetrate terroristic activities against the state.<sup>34</sup> Finding cross-border movement difficult because of enhanced border security by India, limited local support for jihad, and inefficacy of its proxy war, the Pakistan Army formed the United Jihad Council in 1994.<sup>35</sup>

Still failing to achieve the expected results and paying heavily through its blood and treasure, Pakistan's military waged the Kargil War in 1999, employing non-state actors as well as its regular military personnel.<sup>36</sup> However, India exposed Pakistan's role through an intercepted communication between Pakistan's president and his army chief, which resulted initially in denial, then acceptance, and finally unconditional withdrawal of Pakistan's forces from Kargil. The entire episode graphically presented Pakistan as a state sponsor of terrorism.<sup>37</sup> Kargil also exposed Pakistan as a weak actor that could not be trusted as a protector of the rights of the people of J&K. Even the Pakistani establishment criticized this war, as illustrated by former ISI chief Asad Durrani (a retired lieutenant general of the Pakistan Army), who stated, "one and all blamed us for Kargil, which was anyway a foolish operation."<sup>38</sup>

In the post-9/11 period and Pres. George W. Bush's ultimatum to the world, "Either you are with us or you are with the terrorists,"<sup>39</sup> Pakistan's president, Pervez Musharraf, ditched the Afghan Taliban to ally with the United States. This change in policy toward the Taliban, which included providing land routes and air bases to attack coreligionists in Afghanistan, led to apprehensions among Islamabad's Kashmiri allies regarding Pakistan's commitment to their cause. Additionally, the shifting situation in Afghanistan had a perceptible effect on the people of

J&K; notably, they appreciated New Delhi's efforts to provide USD 2 billion in aid to needy Afghans.

Having lost the Kargil War, facing Western pressure to do more to counter terrorism, and recognizing the embitterment of the Kashmiris, Musharraf found no alternative to offering an olive branch to India, shifting Islamabad's focus from Kashmir alone to a host of other issues. In July 2001, he visited India to attend the Agra Summit, which aimed at resolving a number of long-standing issues between the two countries, including commercial ties, release of prisoners of war, and the ubiquitous Kashmir issue. However, due to Musharraf's unwillingness to denounce or forgo further support to cross-border terrorism, the parties were unable to reach any agreement.<sup>40</sup>

To alleviate the local angst among Pakistan's proxies and to extract maximum leverage from Islamabad's support for the US war in Afghanistan, Pakistan-based terrorists attacked the Indian parliament in December 2001. Islamabad denied any role in the attack, but Washington, realizing the gravity of the situation, responded by placing the LeT and JeM—the two Pakistani groups responsible for the attack—on the US list of terrorist organizations. Embarrassed, Musharraf was forced to not only ban these organizations but also assure that “none of the groups would be permitted to start any kind of armed movement in the name of the Kashmir struggle from the Pakistani territory.”<sup>41</sup> While such rhetoric was offered half-heartedly, this demonstrated that Pakistan had limited leverage and maneuverability in the regional strategic framework, despite its newfound role as a key American ally in the Global War on Terrorism. If Islamabad continued to openly support terrorist organizations, Pakistan risked being declared a “terrorist state,” which would jeopardize that new relationship.

Under immense pressure from New Delhi and Washington, Musharraf agreed to a peace process and signed a cease-fire along the Line of Control (LoC) in 2003. Furthermore, he proposed a four-point formula to resolve the Kashmir issue that included the initiation of a dialogue; acceptance of the Kashmir issue as central to the disputes between India and Pakistan; elimination of whatever is not acceptable to Pakistan, India, and the Kashmiris (a rather vague point to be sure); and arriving at a solution acceptable to all the three stakeholders.<sup>42</sup> Furthermore, Musharraf assured India that “Pakistan would not permit any militant organization to operate from its territory.”<sup>43</sup> Such overtures generated a degree of optimism regarding J&K and led to a resumption of dialogue in 2004. However, facing opposition at home, Musharraf backtracked and, rejecting his earlier proposal, suggested dividing Kashmir into seven regions: Azad Kashmir, Jammu, Kargil, Kashmir Valley, Ladakh, Poonch, and Northern Areas.<sup>44</sup> Yet finding it unfeasible, he proposed another four-point formula in 2006 that included the gradual withdrawal of troops, local

self-governance, no redrawing of boundaries, and mutual administration by India and Pakistan.<sup>45</sup> Obviously, Musharraf lacked a consistent and coherent policy. This shifting stance reflected to the Kashmiris that Pakistan had its own strategic priorities rather than Kashmir's best interests at heart.

After Musharraf's resignation in 2008, the Pakistan People's Party (PPP) government, headed by Pres. Asif Ali Zardari, to the chagrin of many, openly stated "India has never been a threat to Pakistan" and castigated militant Islamic groups operating in J&K as "terrorists," which contradicted previous narratives that venerated them as "freedom fighters."<sup>46</sup> Around the same time, India began a major upgrade of its anti-obstacle infiltration fence along its border with Pakistan, supporting the barrier with enhanced security measures and the introduction of thermal imaging to track the cross-border movement—making infiltration more difficult.<sup>47</sup> These developments did not bode well for the Pakistani military, who, with the help of nonstate actors, perpetrated the Mumbai attack in November 2008 that resulted in the death of 174 people. Indian security forces captured one perpetrator alive, Ajmal Kasab, and US agents arrested another terrorist who helped plan the attack, an American-born Pakistani named David Headley. Both terrorists named an ISI official as the mastermind of the planning and execution of this attack.<sup>48</sup> To avert another armed conflict between the two countries, international pressure was mounted on Islamabad to assuage India's "9/11." In response, the PPP government arrested seven senior Jamaat-ud-Dawa (JuD) leaders and banned the organization.<sup>49</sup> Resultantly, Pakistan was again forced to place Kashmir on the back burner. For a few years thereafter, militancy fell to its lowest ebb in Kashmir, until the election of the Pakistan Muslim League government of Nawaz Sharif in 2013.

Finding Sharif to be conciliatory and supporting peace with India, his adversaries deposed him for openly admitting Pakistan's role in the Mumbai attack, under the pretense of corruption charges brought before the Supreme Court of Pakistan.<sup>50</sup> In the aftermath, the Pakistani military escalated hostility along the LoC and committed barbaric crimes like ambushing, mutilating, and killing of Indian soldiers. To illustrate the escalation, there were 62 cease-fire violations in 2011; that number jumped to 583 in 2014.<sup>51</sup> In addition, the Pakistani military changed its tactic and directed the infiltrators to attack Indian military installations, such as the Pathankot attack in January 2016, the Pampore attack in June 2016, and the Uri attack in September 2016. India, in witnessing excessive militant activities, for the first time took punitive action through surgical strikes across the LoC on terrorist launch pads in September 2016.

The current government in Pakistan, headed by Imran Khan, has adopted a more moderate approach on J&K, aiming to resolve the issue through dialogue.<sup>52</sup>



However, Pakistan's tarnished image at the international level as a sponsor of terrorism and its unfavorable status on the Financial Action Task Force (FATF) grey list in June 2018 have placed Khan in a difficult position.<sup>53</sup> Notwithstanding the positive signals by Khan to improve relations with India with the view that "if you take one step, we will take two steps,"<sup>54</sup> the nonstate actors prevailed, as witnessed on 14 February 2019 when the deadliest terrorist attack in Kashmir was conducted on a paramilitary convoy, killing 44 security personnel. JeM claimed responsibility for the attack, which the UNSC condemned. The latter organization has listed JeM as a terror entity since 2001. However, JeM chief Masood Azhar continues to receive military protection in Pakistan. As per an expert, Abdul Hameed Khan, "Support to the Kashmiri cause is only an excuse for Pakistan's devilish designs. . . . That Kashmiris are being used as fodder to Pakistani strategic ambitions is not hidden from Kashmiris."<sup>55</sup>



*Photo courtesy of Voice of America.*

**Figure 2. Indian paramilitary soldiers stand by the wreckage of a bus after an explosion in Pampore, Indian-controlled Kashmir, 14 February 2019.**

### **India's Policy toward Kashmir**

In facing invasion from Pakistan, Hari Singh signed the Treaty of Accession, a legal document, with the consent of Governor-General Mountbatten. When the Indian forces on ground had an upper hand and possibly could have taken back the whole area from the occupation of the Pakistani forces, New Delhi made a

misjudgment in first declaring a unilateral cease-fire and subsequently taking the matter to the UN for resolution. Failing resolution of the conflict, the cease-fire line became the LoC. The strategic region of Gilgit, the Haji Pir Pass, and Muzaffarabad, a town adjacent to Uri along the Jhelum River, remained under Pakistani occupation, under Islamabad's label of Azad Kashmir—comprising more than 5,100 square miles of Kashmiri territory. This resulted in India losing a border with Afghanistan and Pakistan gaining a contiguous geographical boundary with China. Despite the legal Instrument of Accession and Pakistan being deemed an aggressor state, India remained on the defensive and compromised on the cease-fire line. Even India remained muted in 1949, when it approached the UN to censure the Pakistani invasion of Kashmir, but the UN passed a resolution for a plebiscite to be held in the entire Kashmiri territory under both Pakistani and Indian control without considering the Instrument of Accession. This gave the impression to the people of J&K that India had limited control over the destiny of the state.

After 1947, Sheikh Abdullah emerged as a towering Kashmiri leader, eventually becoming the prime minister of J&K in March 1948. However, due to Abdullah's softening stance toward Pakistan in order to gain maximum autonomy for J&K from India, Karan Singh, the Kashmiri head of state, dismissed him in August 1953. It appears this decision was made in haste, as India envisioned a repeat of the 1948 incursion by Pakistan, rather than giving due importance to the key concept of *Kashmiriyat*.

Undoubtedly, the Indian government initiated several measures to grant autonomy to J&K. Article 370 of the Indian Constitution (1949) awarded autonomous status, and the subsequently Delhi Agreement of 1952 granted Indian citizenship to J&K residents. Further, to retain the existing demographics of the region, the president of India issued an October 1954 order through Article 35A of the constitution awarding special rights to the J&K residents and prohibiting other Indians from acquiring immovable property and settling permanently in Kashmir. The J&K Constituent Assembly adopted its Constitution on 26 January 1957, emphasizing the status of J&K as an integral part of India. Kashmiri and Indian leaders introduced these articles to gain legitimacy, but in reality, such measures alienated the people of J&K from the rest of India by creating a state within a state.

The 1965 war between India and Pakistan was the time to adjudge true intentions and aspirations of the people of J&K. Instead of supporting Pakistan, Kashmiris fully supported India. However, in the postwar period, India "failed to reward Kashmiri loyalty. Instead of recognizing the *Kashmiriyat*, New Delhi—

emboldened by a military victory against Pakistan—fell back upon its traditional dictum of Kashmir's integration with India.”<sup>56</sup>

To bridge the ongoing distrust, Prime Minister Indira Gandhi and Sheikh Abdullah signed an accord in 1975. As a result, Sheikh Abdullah conceded to tone down his voice for separatism and became the chief minister of J&K. After this accord, he faced twin setbacks. First, he lost the confidence of the Indian government over his previous demand for separatism. Second, his formerly ardent supporters dubbed him a traitor for his acquiescence to the newly signed accord.<sup>57</sup> Knowing Sheikh Abdullah's predicament, New Delhi continued to operate through him, rather than simultaneously building direct connections, trust, and legitimacy with the Kashmiri people. Even after Sheikh Abdullah's death in 1982, New Delhi promoted his son Farooq Abdullah as the new leader in J&K, notwithstanding the lack of legitimacy and trust.

Against these circumstances, while looking for an alternative leadership to mitigate their grievances and retain *Kashmiriyat*, Kashmiris faced unexpected developments during the 1983 state assembly elections when Indira Gandhi played a communal card with her popular slogan “Hindu minorities of Kashmir in danger.” Further, taking a myopic view on the Resettlement Bill passed by the Farooq government to resettle people from Pakistan-controlled Kashmir, Gandhi labelled it as an attempt to strengthen Muslim demographics.<sup>58</sup> Ultimately, as the elections approached, she went to the extreme by labelling Farooq as a national security risk and claiming the situation was a “Muslim invasion” of the Hindu-dominated Jammu region.<sup>59</sup> This electoral engineering sowed communal seeds of discord and generated tension between Hindus and Muslims. In 1983, the Farooq-led NC won 46 of the 76 state assembly seats—out of these, 42 seats were from the Muslim-dominated valley—and Congress secured its 26 seats from the Hindu- and Buddhist-dominated Jammu and Ladakh regions.<sup>60</sup>

Notwithstanding the majority votes in the 1983 elections, a defection of a dozen NC legislators prompted the governor of J&K to dismiss the Farooq government in July 1984. As an alternative, the Congress Party supported G.M. Shah, the eldest son-in-law of Sheikh Abdullah, to form a new government. This horse trading did not sit well with the Kashmiri electorate, and they demonstrated their reaction in the December 1984 national elections, when the NC won all the three seats in the Muslim-dominated valley. With this political polarization along religious grounds, a “breach between *Kashmiriat* and the Indian State appeared to be complete. . . . An irrational electoral game played by the ruling party in Delhi was now to drive a significant section of Kashmiri Muslims to the path of ‘extremism’.”<sup>61</sup>

Against this critical background, the signing of an accord between Prime Minister Rajiv Gandhi and Farooq Abdullah in 1986 indicated the NC's betrayal of *Kashmiriyat*, a final dent on the credibility of Farooq and another demonstration of the Indian government's lack of sensitivity toward the concerns and aspirations of the Kashmiri people. In a sense, Farooq became a mediator between the people of J&K and Delhi. Thus, in the absence of legitimate avenues to address their grievances, Kashmiris oriented themselves toward radical Islam and formed a Muslim United Front (MUF), which gained further credence and legitimacy when the NC and Congress contested state assembly elections jointly in 1987 and won the rigged elections. Although Farooq formed a government with the support of Congress, many Kashmiris and observers considered it a sellout to Delhi. This angered the common people and united the radicals.

The situation took a new turn in December 1989, when JKLF militants abducted Rubaiya Sayeed, the daughter of Indian Minister of Home Affairs Mufti Mohammad Sayeed, in Kashmir. For her release, the government acquiesced to the demand of JKLF and released five hard-core militants, including a Pakistani citizen. This action bolstered the morale of the militants and generated a feeling that the "mighty India can be defeated too."<sup>62</sup> With this soft approach, specifically the abductee being the home minister's daughter, familial interest prevailed over the national interest. Witnessing this vulnerability, Pakistan actively supported Hizbul Mujahideen's rise.

In light of these critical circumstances, the appointment of Gov. Jagmohan Malhotra in January 1990 against the consent of the J&K government, the resignation of Farooq Abdullah, and the devolving law and order situation, New Delhi imposed direct central government rule in J&K. With these developments, *Kashmiriyat* faced increasing challenges in a secular India. Given the predicament in which Muslim Kashmiris found themselves, they looked to mosques and madrasas for direction. This also gave Kashmiri Muslim youths new impetus to seek cross-border support from Pakistan and to narrate their grievances with the wider Islamic community.

Facing domestic unrest as well as the cross-border flow of militants, the government of India enacted the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 in September 1990. This authorized Indian security forces to stop, search, arrest, and shoot suspects with impunity. It took the security forces about three years to normalize the situation, but by 1993, Pakistan began direct intervention in the J&K affairs by infiltrating radicalized militants. Subsequently, Kashmiri Hindus faced the first massacre in Kistwar in 1993 and fled the state. To reinforce its agenda, the Pakistan Army formed the United Jihad Council in 1994,

and by 1995 HM, a pro-Pakistan group, became more prominent in comparison to JKLF in the perpetuation of terrorist attacks.<sup>63</sup>

By late 1990, other groups like LeT, JeM, and Harkat-ul-Ansar (HuA) became active in conducting terrorist activities in J&K. Between 1993 and 1996, on an average, 1,000 civilians and around the same number of militants were killed each year.<sup>64</sup> It appears the government of India, without understanding the underpinnings of the cross-border terrorism, considered it simply a law-and-order situation and restricted itself to political solution. It was only toward the end of 1996 that India was able to control the inflow of the cross-border militants and win the trust of the local people. However, the government failed to anticipate Pakistan's strategic ploy to wage war in the Kargil district.

It is undoubted that India exposed Pakistan's role in Kargil, and "Especially damning were the transcripts of telephone conversations between Musharraf and his Chief of General Staff . . . describing their early success as 'a brilliant tactical operation'."<sup>65</sup> However, subsequent international condemnation forced Pakistan to withdraw its forces unconditionally. Indian forces, despite being in an advantageous situation, refrained from entering into Pakistani territory. This emboldened the radical elements in Kashmir to think that India had its own limits.

India won the Kargil War, but finding some of its prized jihadis languishing in Indian prisons, the ISI facilitated the hijacking of an Indian Airlines plane in December 1999, which eventually ended up in Taliban-ruled Afghanistan.<sup>66</sup> The Pakistani government denied any involvement, but after India released the aforementioned imprisoned terrorists the hostages were released. The Taliban government gave the hijackers safe passage out of Afghanistan. Among the terrorists released as part of this episode was Masood Azhar, the founder of JeM, who with the others released has lived openly in Pakistan ever since.<sup>67</sup> Management of the hijacked flight was India's epic failure, specifically when the plane landed in India for fuel; New Delhi took no action but rather allowed the plane to fly onward without any challenge. This development signaled to the Kashmiris that India had limited or no capacity to avert the hijacking, and the release of the dreaded terrorists lodged in J&K prisons to free the plane hostages only exacerbated this impression. This was the lowest point in India's strategic thinking hitherto.

Furthermore, Musharraf's visit to India in July 2001 created a conducive environment for dialogue, as he appeared sincere in his desire to break the ice during the negotiations. However, Deputy Prime Minister Lal Krishna Advani bungled, either accidentally or intentionally, the opportunity by grandstanding and agitating Musharraf.<sup>68</sup> For India, this was a missed opportunity, as New Delhi failed to constructively engage Musharraf, who was in a defensive mode. The failure of the summit resulted in intensified cross-border terrorism and violence that resulted in

suicide bombing outside the J&K State Assembly in October and a terrorist attack on the Indian Parliament in December 2001. In response, India mobilized its forces along the Pakistani border under Operation Prakaram but limited itself to threat perception. India preferred the use of soft power diplomacy, which garnered international support against Pakistan's embracement of terrorism. In fact, under US pressure, Islamabad was placed on the defensive because of better coordination among Indian security forces, completion of an anti-infiltration obstacle fence, and the turning of local Muslims against the militants in the strategic Poonch and Rajouri regions.<sup>69</sup> This witnessed remarkable progress in reducing the casualties from 4,517 in 2001 to below 1,000 in 2007 and just 117 by 2012.<sup>70</sup>

To win the hearts and minds of the Kashmiris, Prime Minister Atal Bihari Vajpayee, Bhartiya Janata Party (BJP) leader, declared *Kashmiriyat, Insaniyat, Jamhooriyat* (inclusive Kashmiri culture, humanitarianism and democracy) in 2003. This proved to be a cornerstone for reconciliation between New Delhi and the Kashmiri people. The period between 2002 and 2012 remained quite peaceful. These positive results were mainly due to US pressure on Islamabad to do more to constrain terrorism and the Vajpayee government's open-ended approach. Vajpayee made an offer of unconditional talks with all militant groups, gave weight to "*insaniyat*" (humanism), allowed militant groups to visit Pakistan and have consultations there, and promoted power devolution to Kashmiri elected representatives.

Witnessing a relatively peaceful situation in J&K, in the December 2014 state assembly elections people voted in favor of the People's Democratic Party and BJP (a nationalist Hindu Party) rather than the NC and Congress alliance. The new coalition became embroiled in the usual tussle over state-versus-national issues. Specifically, the BJP planned to remove Articles 370 and 35A to withdraw the autonomous status of J&K. This undertaking ultimately created a situation of ambiguity in J&K. Combined with the US drawdown of its forces in Afghanistan, this situation encouraged Pakistan to beef up cross-border militant movement. Adding to the volatile situation, Indian security forces killed Burhan Wani, a HM "commander" in an encounter in July 2016. His death resulted in violent protests.<sup>71</sup> To maintain order, the security forces resorted to firing, killing several people and blinding others—the latter injured by nonlethal, antiriot pellet ammunitions.<sup>72</sup> This incident was unique, as it involved enhanced local youth participation and stone pelting, an increase in active militants from 30–35 to over 300, uniting various fragmented militant groups, and an increased infiltration of militants from across the LoC with the specific purpose of targeting police stations and military camps.



Photo by Seyyed Sajed Hassan Razavi.

**Figure 3. Indian security forces use tear gas and pellet guns to disperse Kashmiri demonstrators.**

To counter these offensives, for the first time, Indian leadership flexed its muscle by threatening Pakistan. Presaging this stronger response, in July 2015, National Security Advisor Ajit Doval admonished Pakistan, “You do one more Mumbai, you lose Balochistan,” referencing repeated terrorist attacks against Mumbai targets, specifically the spectacular episode of 2008, and the ongoing Baluch insurgency in Pakistan—the implication being India would openly support insurgents should Islamabad fail to rein in its lapdogs in Kashmir.<sup>73</sup> Having witnessed further attacks against Pathankot Air Force Station and army bases in Uri and Nagrota military bases, Indian prime minister Narendra Modi hinted of reprisals in his speech on India’s Independence Day on 15 August 2016.<sup>74</sup> Thus, in this imbroglio, national security became primary, and the concerns of the people of J&K became secondary.

Currently, there are around 450 militants in J&K, and the demographics of this group is especially worrisome.<sup>75</sup> They are young and local, drawing inspiration from international terrorist groups like al-Qaeda and the Islamic State (ISIS). However, so far no Kashmiri has been identified as having traveled abroad to fight for al-Qaeda or ISIS.<sup>76</sup>

Considering the critical nature of the challenge, India significantly enhanced the presence of its security forces to 500,000. Under the Armed Forces Special Power Act and the Public Safety Act (PSA), Indian forces started operations to weed out the militants from among the civilians. However, this gave rise to human rights violations and fostered local resentment.<sup>77</sup>

### **Shifting Focus: Kashmir to Terrorism**

With the killing of 19 security personnel at the Uri military camp in J&K by Pakistan-based militants in 2016, India for the first time conducted surgical strikes on the terrorist launch pads inside Pakistan. Still undeterred, these terrorists perpetrated another grisly attack on a paramilitary convoy in Pulwama in J&K, which resulted in the killing of more than 40 Indian soldiers on 14 February 2019. The JeM leadership located in Pakistan claimed responsibility for the attack and even vowed to conduct more such attacks.<sup>78</sup> Receiving very strong public support for a retaliatory action and being in the midst of national election cycle, the Indian government was compelled to act against the terrorists. Thus, India conducted air strikes on JeM training centers in Balakot, Pakistan. New Delhi labeled this a “pre-emptive non-military strike”—that is, not against the people of Pakistan, their government, or the military establishment but, instead, against the terrorist training centers and undertaken for self-defense.<sup>79</sup>

Although this situation turned into a limited aerial war that led to the shooting down of one plane on each side, it is significant that both countries acknowledged that war was not an option. However, two points stand out. First, if the militants conduct another terrorist attack, India will retaliate and target their bases in Pakistan. Second, the origin of terrorism from Pakistani soil resulted in a major strategic shift in the calculus of the situation from focusing on India, Pakistan, and Kashmir to instead on India, Pakistan, and the terrorist groups operating from within Pakistan. Contrary to previous offers made by the United States, Russia, and even China to mediate between New Delhi and Islamabad on the issue of Kashmir, these third parties have also shifted their emphases on mediation between India and Pakistan—interestingly with the issue of Kashmir nowhere mentioned.

Considering all of these developments, Pakistan’s agenda to “liberate” Kashmir has seemingly lost international legitimacy. In the current context, even the big powers appear to side with India as a rising power, whereas the FATF has placed Pakistan on its grey list with a possibility of placement on the blacklist in the near future, as a sponsor of terrorism.

Seeking support elsewhere, Pakistan has turned to the Organisation of Islamic Countries (OIC). This organization has been an ideal platform for Islamabad to



raise the Kashmir issue, mainly because of Pakistan's premier place in this organization as a founding member, having the second-largest Muslim population, being the only nuclear-armed Muslim country, and possessing a highly professional defense force. Interestingly, in the February 2019 OIC Council of Foreign Ministers meeting, the group invited India for the first time as a guest of honor. In protest, Pakistan boycotted the meeting.<sup>80</sup> India's minister of external affairs firmly asserted in her address at the OIC that "We reaffirm that Jammu and Kashmir is an integral part of India and is a matter strictly internal to India."<sup>81</sup> This demonstrates that Pakistan is perhaps even losing ground among its Muslim allies.

In addition, three of the five permanent members of the UNSC—France, the United Kingdom, and the United States—proposed, for the fourth time, that the UN designate Pakistan-based terror group JeM chief Masood Azhar to be declared as a global terrorist. In response to the Pulwama attack, Russian president Vladimir Putin stated, "We strongly condemn this brutal crime. The perpetrators and sponsors of this attack, undoubtedly, should be duly punished" and reiterated Russia's "readiness for further strengthening counter-terrorist cooperation with Indian partners."<sup>82</sup> Similarly, the US national security advisor, John Bolton, openly "supported India's right to self-defense against cross-border terrorism" and explicitly called on Pakistan to "crack down" on JeM.<sup>83</sup> While the Chinese foreign ministry condemned the Pulwama attack, it did not mention Azhar in its statement. Beijing has supported Pakistan by blocking the motions to officially brand Azhar as a global terrorist.<sup>84</sup> However, China faces its own Islamic insurgency in its western provinces and fully understands the menace terrorism poses to state security. Therefore, recently, Beijing has also diluted its support for Islamabad in regards to the latter's support of militants.

In sum, the major world powers have condemned religion-based terrorism. As a result, Pakistan has been exposed and ostracized as a sponsor of terrorism from its soil and is further marginalized on the international scene, at the OIC, and in its own region.

### **Options to Resolve the Kashmir Issue**

Over the last seven decades, Pakistan has failed to gain confidence and establish legitimacy among the Kashmiris, and India has also been unable to deter the cross-border terrorism or adequately demonstrate respect for Kashmiriyat. In this spat, the common people of J&K have suffered cross-border terrorism and endured the presence of the Indian security forces. The younger generation in Kashmir is getting more radicalized rather than adhering to Kashmiriyat. Undoubtedly, in the twenty-first century, war and occupation of the territory is not a continued option when both the adversarial countries are nuclear armed. Likewise, the cession of

territory by a sovereign state to the other—either under pressure or through negotiation—does not appear to be a viable option. Against this, both India and Pakistan have the option to initiate an open-border policy and free trade, which would be beneficial for the development and prosperity of the two countries. However, neither country appears prepared to do so at this stage, and both face a significant trust deficit about the intentions of the other.

A more viable solution might be to turn the currently de-facto border line—the LoC—into an international border and de-escalate militarization of the border areas. After initial trust building, a one-off people's movement from both sides of the LoC can be permitted, this means giving choice to the people whether they want to live in India or Pakistan. Subsequent to this, there can be few entry points controlled by the immigration authorities with the back-up of police forces rather than the military. This will help facilitate regulated people's movements across the border and also some small-scale trade and business. Should this mechanism work well, further short- to mid-term visas could be granted to the traders and business people.

This may not have been possible previously, but in the current period, with Imran Khan as prime minister in Pakistan and demonstrating apparent sincerity in his desire to resolve the Kashmir issue amicably it might now be a viable option. There are obvious benefits all around. Prime Minister Khan can alleviate the financial crisis that Pakistan is currently passing through, lead Pakistan off the FATF list, and establish a sound democracy if the military also intends to improve its image and remove the blemish of sponsoring terrorism. In India, Prime Minister Modi has enjoyed one full term as prime minister and will most likely win a second term in the upcoming elections. His government has attempted to play a proactive role in resolving the Kashmir issue and even turned the policy postures from defensive to proactive. However, the Kashmir issue persists. Both prime ministers enjoy quite strong followings in their respective countries and have an historic opportunity to give new direction to the bilateral relations by resolving the Kashmir issue and respecting Kashmiris' unique identity, as expressed by *Kashmiriyat*.

## **Conclusion**

The Kashmir issue has been ongoing since the Partition of India in 1947. Notwithstanding several confidence-building measures, wars, and low intensity clashes, the conflict persists.

The Kashmiri people have a distinct identity (*Kashmiriyat*) and, as such, have historically favored secularism and multiculturalism rather than the communalism championed by Pakistan and Islamabad's local proxies. Furthermore, the Kashmiri perception about Pakistan's budging during the Kargil War and aban-

donment of the Taliban for Islamabad's own opportunistic gains has raised apprehensions about the reliability of Pakistan even among those sympathetic toward its regional aspirations.

Pakistan's policy toward Kashmir lacks continuity and coherency and demonstrates duality and duplicity. The democratically elected governments have adopted conciliatory approaches, whereas the military appears to follow a policy intended to "bleed India with a thousand cuts."<sup>85</sup> There is no doubt that Pakistan has been successful in tying down over half-a-million Indian security forces in counterterrorism operations, exacting heavy economic costs, and engaging India in a low-cost proxy war through militant groups. However, in the process, by sponsoring cross-border terrorism, Pakistan itself has become an international pariah, condemned by many of the world's preeminent powers and placed on the FATF grey list. It has also lost its standing in the Islamic world, at regional and international levels, and despite China's stalwart, if sometimes lukewarm, support Islamabad is becoming increasingly isolated on the world stage.

India, on the other hand, since the dilution of the *Kashmiriyat* and New Delhi's fiddling with the electoral machinery, has developed a distinct trust deficit with the Kashmiri people. Certainly, elections are held regularly and sufficient budget is allocated for the development of the state, but recurrent overtures regarding the desire to revoke Articles 370 and 35A disturb Kashmiris. Moreover, the presence of excessive security forces have a negative psychological impact on the Kashmiris.

In its dealings with Pakistan, India has been consistent in resolving the Kashmir issue per the Shimla agreement signed by the two countries. Although India has been unsuccessful in thwarting cross-border terrorism, New Delhi has certainly exposed Pakistan on the international scene as a sponsor of terrorism from its territory, isolated Islamabad diplomatically, and successfully placed Pakistan on the FATF grey list.

Pakistan appears to have reached a dead end in its Kashmir policy. It has not been able to annex J&K through war, jihad, diplomacy, or proxy stakeholders. Since the May 2011 discovery of Osama bin Laden in Abbottabad, few observers or political leaders view Pakistan as legitimately concerned with dealing with terrorists operating within its territory. Rather, most consider Islamabad's propaganda promoting a freedom struggle in Kashmir and its fostering of groups seeking to enact such a struggle as terrorism. In the current times, no country would acquiesce to seeing part of its territory secede due to religious terrorism. Doing so would set a precedent that would embolden religious fundamentalists, terrorists, and the state sponsors of terrorism to pursue further such operations around the world. Thus, for Pakistan, "defusing the Kashmir crisis and establishing a long-term peace with India" would remove its "dependence on jihadi groups to wage

proxy war in Kashmir” and return to Islamabad some level of legitimacy on the international stage.<sup>86</sup>

It is clear that the Kashmir situation is not what it was in 1948; Hindus are no longer resident in the Kashmir Valley, Islamabad has changed the status of the neighboring Pakistani regions of Baltistan and the Northern Areas—merging the two to form the new Gilgit-Baltistan territory. China has also become a stakeholder in the Kashmir conflict.

A viable solution would be to convert the LoC into an international border, allowing a one-off movement of residents across the border without altering the border, totally sealing the border, and opening several controlled entry points. The two countries should also commit to non-interference in the internal affairs of each other. **JIPA**

Bowing to international pressure, on 1 May 2019, China lifted its technical hold on a UNSC measure to label Masood Azhar, the founder and leader of the Pakistan-based terrorist organization Jaish-e-Mohammed (JeM), as a global terrorist. See Kamran Yousaf, “UN Blacklists JeM Chief after Kashmir Struggle Delinked,” *Express Tribune*, 1 May 2019.

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