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A New Approach for Kashmir

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A Pakistani border guard. [Flickr](#) [4]/Imtiaz W. Ahmed. As the Obama administration assumes office for a second and final term, it will continue to confront various protracted conflicts that plague the world. Some lack straightforward policy options. But one such conflict located in South Asia does offer clear-cut policy choices: the status of the disputed state on the India-Pakistan border, Jammu and Kashmir.

Confronting this conflict will call on the administration to shed some long held shibboleths and display a degree of boldness. Specifically, it will entail stating forthrightly and unequivocally that the Line of Control (LOC) that divides the disputed territory should be converted into an international border and that the United States will be the first to so recognize it. This would effectively transform the Kashmir impasse from an bilateral dispute between India and Pakistan into an important Indian domestic problem.

Origins of the Conflict

The origins of the Indo-Pakistani dispute are complex. It can be traced to the process of British colonial disengagement from the subcontinent in 1947. As independence and the partition of the British Indian Empire approached, a set of 532 nominally independent “princely states” were given the option of joining either India or Pakistan. Kashmir had posed a problem as it had a Hindu monarch, a Muslim-majority population and abutted both nascent states. To compound matters, the monarch sought independence. When he refused to accede to either state, Pakistani forces taking advantage of a tribal rebellion invaded the state.

Contrary to the popular Pakistani canard that these were simple tribal marauders acting of their own accord to free their Muslim brethren, the intruders enjoyed extensive military and civilian assistance from Pakistan. The monarch, Maharaja Hari Singh, now in a panic, sought India’s military assistance. India agreed to come to Kashmir’s defense only after he agreed to accede. The Indian military stopped the Pakistani invaders and their tribal allies but not before they had seized a third of the state.

Because Singh was fully vested with the power to join the dominion of India, the accession was legal. However, Nehru had proposed that Kashmiris should make this legitimate as well as legal by expressing their preferences in a plebiscite.

Ironically, it was India that took this matter first to the United Nations and it was Pakistan that initially opposed the plebiscite. Nevertheless, the UN passed two critical resolutions in 1948 which specifically called on Pakistan first to withdraw all Pakistani nationals who entered Kashmir “for the purposes of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State.” Once Pakistan met that criteria satisfactorily, India was to put forth a “plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order.” Once these two steps were taken, a plebiscite was to be fielded to ascertain whether Kashmiris preferred to join India or Pakistan.

While Pakistan continues to harp upon India’s perfidy for denying Kashmiris their opportunity to voice their aspirations, Pakistan refused to withdraw its forces, which was the first necessary but insufficient step that would have culminated in the plebiscite. Needless to say, the plebiscite was never required for Kashmir’s accession to be legal and binding.

Since the first tribal incursion that led to the first Indo-Pakistan war of 1947-48, Pakistan has initiated wars in 1965 and in 1999 in an effort to change the territorial status quo. It has sustained a terror campaign in Indian-administered Kashmir and the rest of India in an effort to coerce New Delhi to recognize Pakistan’s interests in this dispute. With the overt nuclearization of both adversaries in 1998, each new provocation runs the risk of prompting a general war with the potential for nuclear escalation.

Unfortunately, all past attempts to negotiate a solution to this impasse over Kashmir have failed. The most significant such effort was undertaken in the wake of the 1971 Indo-Pakistani conflict, which led to Pakistan’s decisive military defeat and the emergence of Bangladesh. Specifically, in the wee hours of July 2, 1972, India and Pakistan signed a postwar agreement in the old

British colonial hill station of Simla in northern India. They renamed the Cease-Fire Line (CFL) in the disputed state of Jammu and Kashmir into the Line of Control (LOC). Indian interlocutors contend that Zulfikar Ali Bhutto, then president of Pakistan, told his Indian counterpart, Prime Minister Indira Gandhi, that over time he was willing to convert the LOAC into an international border, thereby ending Pakistan's putative legal claim to the whole state. However, as the leader of a defeated nation he was not in a position to do so at the time. Pakistani commentators, however, assert that Bhutto reached no such informal understanding.

It is impossible to judge the veracity of either account. The failure, however, to convert the LOC into an international border has dogged Indo-Pakistani relations ever since. Pakistan continues to lay claim to the entire state. From 1990, Pakistan-supported militants co-opted what began as an indigenous insurgency in the Indian controlled portion in 1989. Pakistani terrorists eliminated Kashmiri insurgents, who preferred independence to joining Pakistan and have targeted Kashmiri politicians who sought a negotiated peace. India remains adamant that it will not relinquish the portion under its control and also formally claims all of the state, including that portion under Pakistani administration.

A Way Forward

Bilateral efforts to reach a settlement of the Kashmir dispute are unlikely to materialize, even if India evinces a willingness to relinquish its formal claims on the portion that Pakistan currently controls. Yet to allow the current state of affairs to fester is not in the interests of the United States. In the absence of a resolution of this disputed border, Pakistan is unlikely to end its irredentist claim; it will seek to exploit any source of discontent within the state and continue to precipitate crises in the region with its terrorist clients. These will, almost inevitably, draw in the United States as U.S. policymakers fear the possible escalation of any bilateral crisis to the nuclear level.

There is a way forward. Given that it was Pakistan that violated the first necessary condition for the plebiscite and that much has transpired since 1948, the United States should simply state that Pakistan has no *loci standi* in this dispute. Moreover, it should state forthrightly that Pakistan has contributed to the deaths of tens of thousands in the state due to its terrorist proxies and thus has no role to play in the dispute. With these justifications, the United States should recognize the LOC as the actual border. This will remove Pakistan from the Kashmir puzzle altogether. Henceforth, both Pakistan and India will be held responsible for resolving any outstanding issues with their respective Kashmiri populations.

Having removed Pakistan from the problem set, the United States should encourage New Delhi to resolve the numerous legal, humanitarian, political and economic grievances among its Kashmiris. Indeed, it is in India's own interests to find a way to forge a durable peace in this conflict-plagued state.

India does not have the luxury of time. While Pakistan has long employed its own nationals to terrorize India, India has seen a sustained mobilization of its own varied Muslim communities into violent extremism. While these extremists have enjoyed Pakistani support, increasingly they draw recruits based upon the grievances of Indian Muslims. Bringing Kashmir and its Muslim

citizens into the fold will be an important step in addressing the legitimate grievances of India's varied Muslims.

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