

“Déjà vu all over again?” Why Dialogue Won’t Solve the Kashmir Dispute

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S U M M A R Y The intensification of a long-standing dispute between India and Pakistan over the state of Kashmir has become the cause of international concern. The stakes for these nuclear-armed rivals are high. Each views Kashmir as the validation of its national ideology; each fears that giving it up will result in serious domestic turmoil. Moreover, each country has plausible legal arguments for its claims along with a long history of grievances. The deep differences over Kashmir that divide the two countries have so far proven intractable, and following September 11 the movement toward confrontation accelerated. There has never been a more urgent need for international attention to Kashmir. While diplomatic engagement seems necessary for a resolution of this dispute, past results indicate that simply pressuring the two sides to talk may be disastrous. In order to avoid such results, any effort to intervene in this dispute must be undertaken with an awareness of how it evolved, why it has been so difficult to resolve, and what kinds of solutions to it might realistically be pursued.

Dialogue and compromise carry serious risks for both India and Pakistan

In 2001, a widely anticipated summit meeting between India and Pakistan collapsed over the disputed state of Kashmir. Just months later, the tensions between these nuclear-armed rivals would challenge American efforts to build a coalition against terrorism: India charged Washington with ignoring Pakistan's support for terrorism in the Indian-controlled portion of Kashmir, hinting that it would take military action against Pakistani bases.

The India-Pakistan dispute over Kashmir has already produced two wars, contributed to a nuclear standoff, and stymied U.S. goals during the Cold War. The intensification in the last decade of this long-lived and complex dispute has commanded international attention and concern. Deadlocked for now, the two countries seem to require diplomatic intervention to avoid stepping up the conflict further. But to achieve this purpose, it is vital for policymakers and analysts to have an understanding of the details of the dispute and the reasons why it has proven to be so difficult to resolve. In the case of the Kashmir dispute, dialogue and compromise carry serious risks for both sides.

Sources of Stalemate

The Kashmir dispute grew out of the 1947 division of the British Indian Empire into two independent states, Hindu-majority India and Muslim-majority Pakistan. The division, or Partition as it is referred to in South Asia, came about because many Indian Muslim leaders believed that the cultural identity of Indian Muslims would be threatened in a Hindu-majority India. Their party, the Muslim League, held that Hindus and Indian Muslims constituted two "nations" and deserved separate states. Leaders of India's future ruling party, the Indian National Congress, rejected the "two-nation theory" but accepted the creation of Pakistan as the price of independence, partly in the belief that Pakistan would collapse anyway.

The act of Partition itself left bitter memories. Massacres on both sides of the border left hundreds of thousands dead, and millions from both countries migrated to the state where they would be part of a

religious majority. For these refugees—who include Pakistan's president and India's minister in charge of internal security—the validity of the two-nation theory carries a personal resonance.

Kashmir as a symbol of ideological differences.

Both India and Pakistan thus view Kashmir as the critical test of their founding ideologies. It is India's only Muslim-majority province, it adjoins Pakistan, it is more easily entered from Pakistan, and it was part of the original vision of Pakistan. Despite having a Muslim majority, Kashmir did not go to Pakistan initially because it was part of a larger state, Jammu and Kashmir, which was ruled by a hereditary prince rather than being directly administered by British authorities. For Pakistan, Kashmir is part of the unfinished business of the Partition. For India, possession of Kashmir, with a population in 2001 of 10 million, demonstrates India's secular credentials and guarantees the safety of its 120 million Muslim citizens.

Separatist movements in both countries increased the importance of Kashmir. In 1971, Pakistan lost its eastern wing when India first supported East Pakistani separatists and then intervened in a Pakistani civil war to create Bangladesh. Two of Pakistan's four remaining provinces experienced separatist violence during the next 15 years. Consequently, Pakistani leaders came increasingly to emphasize Islam as a unifying ideology. India too has faced separatist rebellions in several provinces and, during the 1980s, charged

Historical Origins of the Dispute

Like other Indian princes, the Hindu maharaja of Kashmir had the option of joining either India or Pakistan. However, along with the Muslim ruler of predominantly Hindu Hyderabad, he initially sought independence. The maharaja opted for India when Muslim tribesmen invaded Kashmir from Pakistan. A short war between India and Pakistan in 1948 left India with 64 percent of the state and Pakistan with 36 percent. This division has remained since 1948, with the exception of a region annexed by China in 1962, leaving India with about 47 percent of the original state of Jammu and Kashmir.



Pakistan with abetting Sikh separatism in India's Punjab State. India fears that giving up Kashmir now would encourage more such movements.

Internationalization of the issue. The Kashmir issue became an international one in 1948 when India appealed to the United Nations Security Council to order Pakistan to withdraw its troops. The Council, however, refused to decide between the rival claims of the two sides and passed a resolution calling for a popular vote to determine the wishes of Kashmiris. India read the resolution to mean that Pakistan should withdraw first, allowing India to hold the vote, but Pakistan insisted on a simultaneous withdrawal. Neither side withdrew.

India eventually maintained that elections held under universal suffrage had met the need to consult Kashmiri sentiment and proceeded to treat Kashmir's accession to India as final. Jammu and Kashmir was incorporated as a state of the Indian Union but, under Article 370 of the Indian constitution, was granted far more autonomy than other Indian states. Pakistan incorporated the Gilgit region of Jammu and Kashmir into Pakistan but declared areas under its control adjoining the Kashmir Valley to be the self-governing republic of Azad (Free) Kashmir.

Over the next decade, both superpowers attempted unsuccessfully to bring about peace in the subcontinent.

In the early 1960s the United States attempted to mediate the conflict, but instead a short and inconclusive war over Kashmir followed in 1965. As in 1948, irregular troops entered Indian Kashmir from Pakistan. India responded by attacking Pakistan proper. In a ceasefire agreement brokered by the Soviet Union at Tashkent, both sides forswore the use of force in settling the conflict, but they continue to differ over whether Pakistani support for insurgents in Kashmir violates this agreement. In 1972, after Pakistan lost the Bangladesh war, the two sides agreed at the Indian city of Shimla (formerly Simla), to convert the ceasefire line into a formal Line of Control, but Pakistan rejected an Indian proposal to turn this line into a final border. India interprets Shimla as requiring that the two sides settle future disputes without external intervention or mediation, but Pakistan, which did refrain from raising the issue of Kashmir in international forums until the 1990s, does not.

Formally, India continues to claim Pakistani-held portions of Kashmir, while Pakistan calls for implementing UN resolutions on Kashmir. In practice, neither side is willing to countenance Kashmiri independence. Although the Indian parliament recently unanimously reiterated its claim to Pakistani-held Kashmir, India would probably be willing to give this up as part of a final settlement. For its part, Pakistan would probably be willing to allow the portion of Indian Kashmir where Muslims are not in a majority to remain with India. However, on the question of

Legal Claims to Kashmir

India's claim to Kashmir is based on the maharaja of Kashmir's accession to India. However, Pakistan challenges the validity of the accession, claiming that the maharaja had been overthrown by a domestic insurrection before the accession. Pakistan defends this argument by pointing to India's action in another princely state, Hyderabad, which did not adjoin Pakistan, and which India annexed after sponsoring an uprising against the Muslim ruler. India, however, rejects the analogy, arguing that the forces that challenged the maharaja in 1947 were invaders from Pakistan, not domestic rebels.

Over the 1960s, both superpowers attempted unsuccessfully to bring about peace

whether the Muslim-majority Kashmir Valley should be allowed to join Pakistan if it so chose, neither side is willing to compromise.

The Kashmir Insurgency

The Bangladesh war and India's nuclear test in the 1970s froze the conflict by rendering Pakistan incapable of presenting a political or military challenge. During the 1980s, however, Pakistan's assistance to the U.S. effort to dislodge the Soviet Union from Afghanistan helped to rebuild the Pakistani army and led to the emergence of armed Islamist militias, for whom Kashmir became a salient issue. By the end of the decade, the eruption of an insurgency in Indian Kashmir and Pakistan's acquisition of nuclear weapons created a situation in which these militias could act and provided Pakistan with the opportunity to support them.

The origins of the current insurgency lie in domestic politics within Indian-held Kashmir and in India generally. Before independence, the most popular political force among Kashmiri Muslims was the secular and left-leaning Jammu and Kashmir National Conference, which favored independence or association with India, in that order. In the early 1950s, National Conference leader Sheikh Mohammed Abdullah won elections in Indian Kashmir handily, allowing India to claim popular support among Kashmiris.

Compromised elections in Kashmir. From 1954 to 1975, however, elections in the state were hopelessly compromised, in part because of ethnic divisions in the state. Abdullah alienated the minority regions of Jammu and Ladakh by emphasizing the distinctiveness of Kashmiri identity and undertaking land reforms at the expense of the elites in these regions. With support from parties on the Hindu Right, Jammu and Ladakh lobbied the central government either to divide Jammu and Kashmir or to rescind its autonomous status. When Abdullah responded to these challenges by promoting independence for the entire state of Jammu and Kashmir, he was imprisoned by the Government of India.

Over the next two decades, India's ruling Congress Party supported pro-India factions of the National Conference, who generally rigged elections to stay in power. Genuine electoral participation was restored to the state in 1975, when Abdullah was released from prison and allowed to govern Kashmir. However, a decade later, Abdullah's son and successor, Farooq Abdullah, was removed from office and then coerced into allying with the ruling Congress Party as a condition for returning to power in 1987.

The 1987 elections, which removed competition from the state's politics and may also have been rigged, are often viewed as having triggered the insurgency. The state was, in any event, ripe for rebellion. Literacy had spread without employment keeping pace, and many of the new literati had been educated in Islamic *madrassas*. In 1989, Kashmir exploded in violence when Indian security forces responded to the kidnapping of a cabinet minister's daughter with brutal repression. Initially led by the pro-independence and nonsectarian Jammu and Kashmir Liberation Front

Ethnic Diversity

Jammu and Kashmir consisted of four or five regions distinguished by language, culture, and history. Although it contained a Muslim majority overall, two regions, the Hindu-majority, Dogri-speaking region of Jammu and the Tibetan Buddhist region of Ladakh, did not. India controls these two regions and the Muslim-majority Kashmir Valley, home of Kashmiri speakers. Pakistan controls Gilgit, or the Northern Territories, and certain areas adjoining the Valley that contain both Kashmiri and Punjabi speakers. In 1981 the religious breakdown of the various regions in Indian Kashmir was as follows.

Ethnic Region	% of Total Population of Kashmir	Muslims as % of Population
Kashmir Valley	52.37	94.96
Jammu	45.39	29.60
Ladakh	2.24	46.04
All regions	100.00	64.19

Source: Ashutosh Varshney, "Three Compromised Nationalisms" in Raju G.C. Thomas, ed., *Perspectives on Kashmir*. Boulder: Westview Press, 1992, p. 207.

*Ripe for rebellion,
Kashmir exploded
in violence in 1989*

(JKLF), the movement was soon taken over by the Pakistan-supported and Islamist Hizb-ul-Mujahedin. As the Afghanistan war ended, the insurgency drew in pan-Islamist groups based in Pakistan and Afghanistan whose ranks included Arabs, Afghans, and Pakistanis.

Militant groups operating in Kashmir have been guilty of extensive human rights abuses. While the worst atrocities are believed to have been the work of non-Kashmiri militants, all groups have been guilty of attacks on civilians. Some militant groups have targeted Kashmiri Hindus, who have largely fled the Valley, and all have sought to frustrate the electoral process by threatening retribution against voters and candidates who participate in elections held by India.

Kashmiri self-determination. The Islamization of the Kashmir insurgency has made any effort to resolve the Kashmir problem through the principle of self-determination even more problematic. While secular Kashmiri nationalists like Sheikh Abdullah and the JKLF alienated non-Kashmiri ethnic groups, the Hizb and other Islamist groups have attempted to impose orthodox Islam on the historically syncretist Kashmiri culture, making it difficult to know how much support the militants have, even among pro-independence Kashmiris.

The exodus of Kashmiri Hindus from the Valley has strengthened the conviction of the Indian political elite that claims to self-determination on the basis of a region's majority religion violate the rights of minorities in that region. It has also fed the bitterness of Hindu refugees from Pakistan elsewhere in India, adding to the concern among Hindu liberals and Indian Muslims outside Kashmir that if India lost Kashmir, Indian Muslims would suffer from a severe right-wing Hindu backlash. These concerns are especially acute with the rise of the Bharatiya Janata Party (BJP), which leads the current ruling coalition. The BJP won power in 1998, promising to rescind Kashmir's autonomous status and to develop a nuclear arsenal. The BJP government's decision to fulfill the second promise internationalized the conflict again.

Nuclearization and Confrontation

The nuclearization of the India-Pakistan rivalry has brought new international attention to the Kashmir dispute. The 1998 tests by India and Pakistan were followed by economic and military sanctions on both by most industrialized countries. Both countries felt pressured to demonstrate that they were taking measures to reduce tensions between them. However, since no major power was willing to express an opinion on the substantive issues dividing the parties, nothing was necessary to achieve the perception of behaving responsibly other than being willing to engage in talks.

Two facts shape every proposal made. First, India is trying to defend the status quo, while Pakistan seeks to change it. Therefore India proposes trade and confidence-building measures, while Pakistan insists on settling "core" differences first. Second, India is more powerful militarily, but this is of little use against nuclear weapons or guerrilla activity. Consequently, Pakistan has proposed a no-war pact that would not cover Pakistani support for militants operating in Kashmir, while India has proposed a pact barring the first use of nuclear weapons, which would restore Indian military superiority.

International pressures led to a meeting in February 1999 between Pakistani prime minister Nawaz Sharif and Indian prime minister Atal Behari Vajpayee at Lahore, Pakistan. The meeting produced a joint declaration that focused on measures to reduce the likelihood of accidental nuclear war and emphasized in general the need for both countries to promote development and to pursue peaceful resolution of the Kashmir "issue."

The Kargil conflict. However, several months after Lahore, a major conflict occurred in the Kargil region of Indian Kashmir between Indian troops and infiltrators from the Pakistani side, who probably included soldiers from the Pakistani army. Pakistan's motives in the Kargil incident are unclear, but they probably included the military leadership's desire to undermine the Lahore declaration and pressure India into negotiating on Kashmir.

India is trying to defend the status quo, while Pakistan seeks to change it

Pakistan probably also calculated that the fear of nuclear conflict—or of international condemnation for risking nuclear conflict—would keep India from expanding the war as it had in 1965. In this they were correct. While Indian troops suffered heavy casualties for two months and the Indian Air Force undertook bombing missions perilously close to the Line of Control, this boundary was not crossed. The crisis ended when U.S. President Bill Clinton pressured Sharif into withdrawing the infiltrators.

Kargil and its aftermath disrupted the peace effort for two years. For India, the American role in ending the Kargil conflict was a mixed blessing since it demonstrated Pakistani involvement in the insurgency but also brought in U.S. mediation, which India has consistently rejected. India escaped this dilemma when Nawaz Sharif, discredited by his decision to withdraw the infiltrators, was overthrown in a military coup in October 1999. Shortly after the coup, an Indian Airlines flight was hijacked to Afghanistan; India had to release several militants captured in Kashmir in exchange for the passengers on the flight, and these militants were then allowed to cross into Pakistan. India used the coup and hijacking as reasons to refuse to deal with Pakistan until civilian rule was restored.

For the next year and a half, India sought to allay international concerns regarding Kashmir by attempting to negotiate both with the civilian separatist front, the All-Party Hurriyat Conference (APHC), and with the militant Hizb-ul-Mujahedin. These efforts failed when India refused either to include Pakistan in the talks or to put secession on the table. In late 2000, India announced a unilateral ceasefire against the militants, hoping to entice them into talks or at least to convince the world that it was trying to negotiate. When this unilateral ceasefire failed to obtain results after six months, India simultaneously lifted its ceasefire and invited Pakistan's military ruler, President Pervez Musharraf, to New Delhi.

A failed 2001 summit. As with Pakistan's motives in Kargil, India's reasons for inviting Musharraf are obscure. India may have wished to balance lifting its unilateral ceasefire with a visibly conciliatory gesture. India probably also believed that a Pakistani military

regime weakened by sanctions and international censure might be more willing to make—and be able to deliver—significant concessions. If so, they were to be disappointed.

The Vajpayee-Musharraf summit meeting, held at Agra in July 2001, failed to produce even a joint statement defining the countries' differences. A draft declaration negotiated by the two sides was never issued because India refused to concede that the legal status of Kashmir was “in dispute” or that it was the “principal issue” between the two, while Pakistan refused to acknowledge that it was sponsoring “cross-border terrorism” in Indian-held Kashmir. Since Pakistan's principal goal was to negotiate the status of Kashmir, and India's principal goal was to end Pakistani support of militancy, each party was set against discussing the other's main concern. After the summit, India increased military efforts against the insurgency and moved its negotiating position farther away from Pakistan.

The events following September 11 only accelerated the trend toward confrontation. India announced its support for U.S. policy first, hoping to isolate Pakistan. However, Pakistan's strategic location and domestic instability caused the United States to downplay Indian concerns until a suicide bomb attack on the legislative assembly in Indian Kashmir on October 1 led India to warn Washington that it might feel compelled by domestic pressure to retaliate against Pakistan.

Diplomatic exchanges between the United States and India since October 1 have been studiously ambiguous. The United States responded to Indian concerns by calling for restraint on both sides—but without clarifying whether Pakistani support for the insurgency was included in this call—and by emphasizing that it was fighting “terrorism” everywhere—without indicating how it would regard the Kashmir insurgency in this fight. India too responded with general assurances of its support for the U.S. campaign, but it kept the option of military action open while securing Russian support for its position.

The situation could change in dramatic and unpredictable ways with the collapse of the Taliban regime in Afghanistan. This could reduce Indian concerns

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significantly by weakening the Kashmir insurgency. However, a takeover by the Northern Alliance—which India favors and Pakistan opposes—could lead the Pakistani military to undertake risky actions itself, and Taliban fighters driven from Afghanistan could migrate to Kashmir, raising Indian concerns again. There has never been a more urgent time for international attention to Kashmir.

Policy Recommendations

The analysis so far suggests on the one hand that active diplomatic intervention is necessary to break out of the current impasse and on the other that there are no realistic final solutions acceptable to both parties at present. The two most practical solutions—ratifying the status quo or allowing Kashmir to secede from India—are each unacceptable to one of the parties. Other more creative solutions offered by analysts are hopelessly impractical and would also be rejected by one or the other side. Proposals to turn Kashmir into a joint protectorate of India and Pakistan, for example, are a complete nonstarter for India, which currently possesses most of Kashmir, while proposals to establish a grand confederation between India and Pakistan would be equally unacceptable to most Pakistanis, who would view it as effectively undoing the Partition.

Any diplomatic intervention will therefore have to be limited to defining a framework for stabilizing the situation in a way both countries can accept as consistent with their long-term goals. A starting point would be to call on India to accept that Kashmir is an issue of international concern and that the insurgency in Kashmir has some domestic causes, while insisting that Pakistan accept responsibility for fueling the insurgency and destabilizing the situation. Since at present most countries accept India's insistence that the conflict be solved bilaterally while remaining silent on Pakistan's support for the insurgency, the position recommended here would maintain the balance between the two positions while promoting dialogue.

Such a dialogue might, with covert encouragement from the outside, focus on ways to channel Kashmiri separatism into political rather than military avenues.

A start would be for India to remove the present ban on electoral participation by parties with a separatist agenda, at least in Kashmir, in exchange for some verifiable measures that prevent militants from crossing the ceasefire line. This could be done with or without formal acknowledgment by India of a dispute, or by Pakistan of its responsibility for militant activity in Kashmir.

This solution has the virtue of forcing each side to live up to its own rhetoric. India claims that Kashmiris have been granted self-determination through the electoral process but has never allowed separatist forces to run for election. Pakistan claims only to demand Kashmiri self-determination but has always insisted on being a party to negotiations and, like India, has refused to allow parties that are not loyal to run for election in its portion of Kashmir. This solution would ensure that Kashmiri separatism receives a fair political hearing, while eliminating military force as a route to a final outcome. Rather than allowing Pakistan and India to promote their own Kashmiri allies as the province's true representatives, this solution would also identify which of the many groups claiming to represent Kashmiris actually do so.

Achieving even this compromise would require active diplomatic engagement, as it carries serious risks for both sides. India might have to decide whether to limit this change in electoral laws to Kashmir or to extend it to the entire country. Either choice contains risks. Pakistan would have to decide whether to crack down on Islamist groups or merely to police the ceasefire line. Any government in Pakistan would face the threat of serious domestic unrest from either decision. To negotiate through these pitfalls, four things need to be remembered.

First, there are few, if any, pure victims in the Kashmir conflict. Neither India nor Pakistan has a clear case in its favor, and Kashmiris have dealt poorly with their own minorities. There are no good solutions to the conflict, and maybe no just ones.

Second, the political leaders of India and Pakistan have held together countries that are, by any criteria, difficult to govern. If they believe that giving up on Kashmir would destabilize their societies, this should be taken seriously. Outside powers, who will not bear

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the consequences of a mistake, ought to approach the situation with humility.

Third, the United States and other major powers have very little leverage over the two countries, especially India. Both India and Pakistan are large and militarily powerful, and they have both demonstrated their willingness to withstand international censure before. India, in particular, prides itself on having survived three years of economic sanctions and five decades of American displeasure. Given the stakes involved in Kashmir, India is more likely to abandon its effort to improve ties with the United States than alter its policy on Kashmir to please Washington.

Economic incentives might help stabilize the dispute; they will not obtain permanent substantive concessions.

Finally, simply urging the two sides to talk is the worst of all possible responses. Pressures on the two to discuss their differences were followed by active conflict in 1965 and 1999 and could soon bring the same result. Unless the major powers can convince Pakistan to end its support for the insurgency and India to accept some international role in stabilizing the dispute, another round of talks would simply cause one or both to attempt to coerce the other into making concessions.

For Further Reading

An exhaustive list of sources on Kashmir as well as up-to-date news on the area can be found at <http://www.kashmirgroup.freemove.co.uk>, a site maintained by a British scholar working on Kashmiri politics. The following sources were used for the present report.

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