

**Jammu and Kashmir and the India-Pakistan Dialogue: The Prospects Ahead
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Approach to Solve Kashmir Problem

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If we are serious about finding a real way out, then we have to face the bitter facts and then explore parameters for the solution. But, the foundations for these parameters need to be based on justice and universal democratic values.

At the second Pugwash Workshop held in Switzerland in 2003, J. N. Dixit, who is now India's National Security Advisor had asked both India and Pakistan that Jammu and Kashmir was more than a territorial dispute for both countries and, therefore, a profound political approach transcending the attitudes and advocacies of the past had to be adopted. He also said at the same workshop that India should accept that "issues related to J&K" constitute a core issue in Indo-Pak relations. There can be agreement that this is a core issues but from different points of view, for Pakistan and India. He further said India should not hesitate to acknowledge that, to some extent, the disturbances inside J&K are a result of alienation of the people from the Government of India and the Government of Jammu & Kashmir.

We may differ with Mr. Dixit in the phraseology, but his suggestions to the government of India still carry the weight. We hope that he is doing enough translating these suggestions into action, as he is himself now at the helm. We appreciate Mr. Dixit's position that Kashmir is something more than a territorial dispute. Yes, it is not a territorial dispute between the two countries but a human problem involving the future of 12.5 million people. It cannot be equated with India's problems with China, where you can implement the formula of "status quo" and "ground positions."

Let us accept that the status of the state of J&K is not a settled issue. It has a history. The dispute related to the status of the State-legal, political and moral. Above all the aspirations of the people of Jammu and Kashmir is the critical factor.

People of the state are not prepared to access the status quo arbitrarily imposed upon them. While India is pushing for a status quo, Pakistan has shown accommodation and has been votary of right of self-determination. We are firm that if people of Kashmir under a proper authority decide to remain with India, we will have no hesitation to be good citizens of India. But, India should also accept that it would abide by the people's verdict if it goes against its wishes.

The real issue relates to the right of the people of J&K to decide their destiny freely, in accordance with their historic aspirations and political dispensation. The dispute cannot be resolved bilaterally between India and Pakistan. There is a third party, the

most important party, and that is the people of J&K. It is the people of J&K who must decide their future freely.

The UN resolutions provide a framework to come out of the present imbroglio. Modalities are not crucial. Who will keep what amount of forces; can be worked out through negotiations. The principle is important that the people of J&K alone have the right to decide their future political status and linkages, however long and tortuous may be the period of denial of this opportunity.

Also it has to be acknowledged that there is no military or militant solution to the problem. Our youth were compelled to take guns, when political voices were curbed ruthlessly, over four decades. Our youth with their blood successfully brought Kashmir issue on the tables once again. But now sooner or later a political solution has to be worked out. And it is the people who are the final arbiter and their verdict must be allowed to be pronounced and accepted by all, irrespective of India's and Pakistan's concerns and interests.

Other places in the world, whether Saarland, Quebec, Ulster or East Timor, times have come when reference to the people became the only option. It is better to take the issues to people to minimize the costs of suffering.

We welcome the declarations of the leadership of India and Pakistan (Islamabad, January, 2004 and New York, September 2004) that a peaceful and negotiated solution will be found to the satisfaction of both sides. Now the next step could be to agree to refer the matter to the people of J&K and would respect the wishes of the people on the future status of the state. This statement of principle can open a new chapter, pave the way for cessation of hostilities and initiate serious work on modalities to give the people an opportunity to decide their future.

While going for a permanent solution, cessation of hostilities and effective CBMs within J&K can be taken. The CBMs should involve general amnesty, withdrawal of military and para-military forces to barracks in the first instance, and then a phased withdrawal from the state, demilitarization of both sides of the state, release of political detainees, abrogation of arbitrary and repressive laws, freedom of political activity, free access for the world media and relief agencies, opportunities for continuous interaction between all stake-holders in the whole of J&K and negotiated ceasefire by militant groups and their involvement in the peace process.

An analysis of the relevant UN resolutions and other schemes of dispute-resolution in other similar situations shows that it is important to differentiate between the substantive issue, i.e. the right of the people and ascertainment of their will, and the question of details of modalities for its implementation. A comprehensive solution is the only practical option. CBMs can be a part of it, but the focus has to be on the resolution of the central issue. Piecemeal arrangements are non-starters. We must aim at a comprehensive plan that may be implemented in a phased manner in accordance with an agreed time-frame.

Also India has to shed its obsession with the 'two-nation theory' and the alleged communal dimension with adverse repercussions for the Indian Muslims. Partition

did take place on the basis of a social contract that was accepted by the British, the Congress and the Muslim League. The two-nation theory was not invoked by the Muslim League alone. The partition of Bengal, Assam and Punjab took place on the demand of the Congress on the same principle. But that is history.

The right of self-determination of the people of J&K cant be denied only because their majority is Muslim in the same way that the people of East Timor were not brushed aside because their majority was Christian in a Muslim country. If India's democracy is mature enough, it should not bring in the canard of communalism when the issue is that of the fundamental right of a people, irrespective of their religion, caste or creed, to decide their future.

The other issue of the integrity of India and implications for other separatist movements is to be faced realistically. The question of the status of J&K is not at par with the claims of other separatist movements. It is a part of the 1947 agenda and even the Indian Constitution originally acknowledged its special and unique position. Respect for the will of the people is a cardinal principle of democracy and the UN charter.