

## Lives on the Line

Running more than 450 miles, the Line of Control (LoC)—separating the Indian- and Pakistani-administered territory of Jammu and Kashmir—passes through dense forests, climbs Himalayan peaks, and crosses streams and valleys. According to the U.S. Central Intelligence Agency, Kashmir is “the site of the world’s largest and most militarized territorial dispute with portions under the de facto administration of China (Aksai Chin), India (Jammu and Kashmir), and Pakistan (Azad Kashmir and Northern Areas).”<sup>1</sup> Neither India nor Pakistan have disclosed their deployment figures, but analysts estimate Indian security forces to be between 300,000 and 500,000 (there are no estimates for Pakistan).<sup>2</sup>

In January 2013, Kashmir saw the breach of a cease-fire agreement that had held for the better part of a decade. Four soldiers—two Pakistani and two Indian—were killed, and India asserts that one of its soldiers was beheaded. Pakistan countered that India has beheaded twelve of its soldiers since 1998. While Pakistan sought to downplay the affair, tempers ran high in India. Television and print journalists helped fan the flames through graphic coverage of the events, while the actual facts of the case remain in dispute.<sup>3</sup> Tensions only abated after a series of flag meetings between local commanders as well as diplomatic exchanges between New Delhi and Islamabad.

Fortunately, for this essay, it is unnecessary to seek out the precise cause of this tragic event or adjudicate the claims and counterclaims of both actors. The larger point is that, while the cease-fire has been restored, the situation along the LoC remains fraught. Incidents of this type will continue to occur, and as long as

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**The risk of a wider conflict along the Line of Control remains.**

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they do, the risk of a wider conflict remains. This danger is hardly negligible; after all, since their emergence from the ruins of the British Indian Empire, India and Pakistan have endured four wars (1947–48, 1965, 1971, and 1999), three of which were primarily fought over the disputed state of Jammu and Kashmir.<sup>4</sup> The 1999 war was the second such conflict between two overtly nuclear powers (the first was the 1969 war between the

Soviet Union and the People's Republic of China). This article aims to move from the current fixation on the past by making the case for a forward-thinking policy approach that would convert the Line of Control into an international border.

### **Whence it All Began**

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Pakistan, it must be recalled, was created to serve as the homeland for the Muslims of South Asia. Its proponents, most notably Mohammed Ali Jinnah, had argued that in a post-independence India, the Muslim minority would be subject to the whims of the Hindu majority (despite Indian nationalist leaders' professed commitment to secularism). Unable to arrive at any other working compromise and keen to dispense with its South Asian empire, British Prime Minister Atlee's government chose to partition the country on the basis of demographic concentrations and geographic contiguity of predominantly Muslim areas. Partition took place in August of 1947, and led to the creation of two wings of Pakistan—East and West—separated by India.

The hastily conceived partition process was riddled with problems. The British ruled a significant segment of India through its Viceroy, the representative of the British Crown. These provinces were ruled directly. However, more than 560 "princely states" had their own Indian rulers and remained nominally independent from Britain—as long as they recognized the United Kingdom as the paramount power in South Asia. Jammu and Kashmir was only one of these, but it was unique in possessing a Hindu monarch, a Muslim-majority population, and borders abutting both India and Pakistan.<sup>5</sup> Most of the princely states acceded, mostly peacefully, to either Pakistan or India between 1947 and 1949. Jammu and Kashmir, however, became bitterly divided between India and Pakistan.

The ruler of Jammu and Kashmir, Maharaja Hari Singh, had chosen not to accede to either India or Pakistan. Having shown scant regard for his Muslim population in the past, he feared for his own future should he throw in his lot with Pakistan. Nor did he find the prospect of joining India especially pleasing; India's prime minister, Jawaharlal Nehru, was known for his socialist leanings.

Hari Singh quite correctly surmised that joining India would mean relinquishing his wealth and his vast landholdings.<sup>6</sup>

In October 1947, a tribal rebellion erupted in the western portions of Jammu and Kashmir, forcing Hari Singh's hand. Pakistani authorities chose to exploit his troubles, almost immediately moving to assist the rebels with armaments, training, and logistical support.<sup>7</sup> Faced with the prospect of a Pakistan-backed takeover of his state, Hari Singh appealed to India for aid. Prime Minister Nehru agreed to help, but demanded in return both that Kashmir accede to India and that it do so with the support of Sheikh Mohammed Abdullah, the leader of the state's largest secular political party, the Jammu and Kashmir National Conference. Singh met these conditions, and India airlifted troops into Kashmir and stopped the tribal advance.

The Maharaja's decision to accede to India was all that was required to make the accession legally valid. However, on the advice of Lord Mountbatten, the British Viceroy, India chose to refer the case to the UN Security Council on the grounds that the Pakistan-aided invasion constituted a breach of international peace and security. At the UN, the issue quickly became entangled in the politics of the Cold War. Nevertheless, the Security Council passed two resolutions on Kashmir in 1948 and 1949. Stripped to their essentials, these required Pakistan to "vacate" its aggression in Kashmir. Once a UN-appointed commission had determined that Pakistan had complied, India would be required to reduce its troop strength in the region to the level sufficient to maintain law and order. After both obligations had been fulfilled, the UN would conduct a plebiscite to ascertain the wishes of the Kashmiris. But neither side implemented the mandated steps, and the deadlock persisted into the early 1960s.

In the aftermath of the Sino-Indian border war of 1962, a demoralized India, under U.S. and British pressure, consented to bilateral talks with Pakistan. Though initially promising, they eventually reached an impasse. Any further talks were forestalled by two subsequent Indo-Pakistan wars. The 1965 war ended a year later with the Soviet-brokered Tashkent Declaration, hoped to be a framework for lasting peace. The 1971 war resulted in Pakistan's loss of East Pakistan, now Bangladesh. Finally, in 1972, the two sides met at the Indian resort of Shimla and signed the Shimla Agreement, which, among other matters, changed the name of the UN "cease fire line" (CFL) to the Line of Control (LoC). Indian interlocutors claim that, according to a private understanding between President Zulfikar Ali Bhutto of Pakistan and Prime Minister Indira Gandhi of India, this change in nomenclature was meant to signal that the Kashmir issue would henceforward be dealt with bilaterally, and that the LoC would eventually become the international border. Pakistani commentators, however, challenge this interpretation and deny that Bhutto and Mrs. Gandhi reached any tacit agreement.

There have been a number of other efforts to reduce tensions and to resolve the Kashmir dispute since the early 1970s. The most significant of these is the “composite dialogue” which started in 2003 and effectively ended after the horrific November 2008 terrorist attack on Bombay (Mumbai).<sup>8</sup> Though the dialogue was subsequently revived, it has made little or no real progress.

## **Pakistan’s Flawed Claims**

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Pakistan believes that Kashmir is rightfully part of Pakistan, and in most Pakistani accounts, the Kashmir dispute is referred to as the “unfinished business of partition.” This claim is based on two arguments. First is that Pakistan was founded as a home for South Asia’s Muslims and thus should encompass Kashmir, which has a Muslim majority. The second is that the rulers of the princely states were supposed to be guided by demography and geography in making their decision regarding accession, and that Maharaja Hari Singh ignored them. We examine each of these arguments in turn.

### **The Two Nation Fallacy**

Pakistan’s founders based their demand for a separate Muslim state in South Asia on the so-called “Two Nation Theory,” which holds that Muslims and Hindus comprise primordially distinct nations. Although Muslim adherents to this theory did not all at first believe that the theory demanded two separate states, between 1940 and 1946 growing doubts concerning the Indian National Congress’s commitment to the rights of religious minorities convinced Jinnah, among others, that Muslims needed a state of their own. Although Pakistanis now see the Two Nation Theory as Pakistan’s national ideology, its mobilization as a justification for a separate state for South Asia’s Muslims exposed its internal incoherence.

First, the communal logic of the Two Nation Theory ironically had no appeal in the Muslim-majority provinces that would become West Pakistan. Muslims in those areas had no fear of Hindus, and their social and economic well-being depended on communal harmony. The Two Nation Theory (which was founded on fears of Hindu oppression) and the idea of a Muslim Pakistan found the greatest support in India’s United Provinces (now Uttar Pradesh and Uttarakhand), where Muslims were in the minority. But the United Provinces remained firmly within India. (Many Muslims from this area later fled to Pakistan during Partition, forming the controversial ethnic group of the Urdu-speaking Muhajirs, which means literally “immigrants”.) To persuade political leaders in the western provinces to support the Pakistan project, Jinnah had to engage in a variety of political acrobatics, including keeping the concept of Pakistan as vague as possible.

When partition at last took place, perhaps as much as a third of India's Muslims chose to remain in India rather than migrate. Their lack of interest in Pakistan struck a mighty blow to the claims of the Two Nation Theory. And once Pakistan had become a reality, the Two Nation Theory became a further liability. After all, Pakistan was home to a sizeable Hindu minority (in East Pakistan), as well as smaller groups of ethnic minorities. Pakistan's new political leaders, however, clung ever more tightly to the concept because it was the keystone in Pakistan's claim to Kashmir. After all, Kashmir was the only Muslim majority state in India. By the logic of the Two Nation Theory, Kashmir was an integral part of Pakistan. (In fact, the "k" in "Pakistan" stands for Kashmir; the word "Pakistan" came about from the acronym PAKSTAN, representing the five northern regions of the Indian subcontinent.)<sup>9</sup>

In part because of Pakistan's dogged retention of the Two Nation Theory as its national ideology and of the adoption of the Urdu language as the most suitable linguistic expression of this concept, East and West Pakistan almost immediately experienced friction. Whereas the East was religiously diverse, with Hindus making up about twenty percent of its population, it was nearly completely ethnically Bengali. In contrast, the West, though predominantly Muslim, was ethnically divided. Not surprisingly, the Bengali-speaking population of East Pakistan quickly began to resent what it rightly perceived as West Pakistani high-handedness on a range of issues.<sup>10</sup> Matters came to a head after Pakistan's first free and fair election in 1970. Unhappy with the results of the election, which called for meaningful power-sharing with their Bengali counterparts, West Pakistan's civilian and military leaders colluded in refusing to seat the new parliament. As separatist sentiment grew in East Pakistan, West Pakistan resorted to a strategy of brutal military repression. Nearly ten million refugees poured into India.

The Indian leadership quickly concluded that the international community would offer little more than tea and sympathy. New Delhi thus forged a political and military strategy with the goal of an independent East Pakistan. To that end, it quickly organized, trained, and armed indigenous insurgents, provoking Pakistan to launch an attack in early December 1971. Armed with a treaty of "Peace, Friendship, and Cooperation" with the Soviet Union (which would protect its northern border in the event that China opened a second front), Indian forces employed a blitzkrieg strategy to swiftly defeat the Pakistani army. Shortly thereafter, Bangladesh emerged as an independent state.<sup>11</sup>

Clearly, the bonds of Islamic solidarity had not proven strong enough to hold East and West Pakistan together. Instead, other aspects of identity, most notably language and ethnicity, had proven far more compelling. If Islam alone could not keep Pakistan together, what right, if any, does Pakistan have to assert a claim to Kashmir on the sole basis of shared faith?

### **Demography and Geography**

The second basis of Pakistan's claim to Jammu and Kashmir is also flawed. Pakistanis insist that the princely state of Kashmir should have acceded to

**Pakistan's claim to Kashmir is based on two arguments, both of which are flawed.**

Pakistan on the basis of demography and geography, but there was no rule governing how sovereigns should cast their lot. Even if guidelines existed, however, Kashmir was ethnically and communally diverse. The residents of the Ladakh region in eastern Kashmir were mostly Buddhist, with cultural ties to Tibet. The Jammu region in the southwest had a Hindu majority. In fact, Muslims dominated only in the so-called Valley of Kashmir, to the northwest. Geographically, Pakistan argued that Kashmir should accede to Pakistan because most of the roadways and

railways that connected Kashmir largely went through Pakistan.

In the end, the sovereign's decisions were meant to be binding. However, the sovereigns of three princely states (Kashmir, Hyderabad, and Junagadh) had not made their decision of accession at the time of partition. The largest of these states was Hyderabad. Its Muslim ruler, who governed a Hindu-majority state deep within Indian territory, refused to accede to either India or Pakistan but instead sought independence. As violence against the minority Hindu population of Hyderabad mounted, India moved in and forcibly seized the state in September 1948. Despite its sovereign's preference for independence, Pakistani maps sometimes depict Hyderabad as a Pakistani possession.

Junagadh also was ruled by a Muslim sovereign presiding over a Hindu majority. Although Junagadh was within Indian territory, it was not far from the border, and its sovereign cast his lot with Pakistan. India refused to accept this and forcibly annexed it in November of 1947. Pakistan continues to claim Junagadh.

Pakistan's claims to Kashmir are undermined by its arguments about these other two princely states. For example, Pakistan says that India should have honored the preferences of the rulers of Hyderabad and Junagadh, yet Pakistan utterly rejects the decision of Kashmir's sovereign. Of course, the converse of this argument undermines India's claim to Kashmir as well. After all, if Maharaja Hari Singh's decision to accede to India was binding, presumably India should have respected the preferences of the sovereign of Junagadh. (Hyderabad, however, was another matter. Lord Mountbatten had made clear in his final injunction to the rulers of the princely states that some "geographic compulsions" would have to be taken into account.) But even this does not mean Pakistan has any right to Kashmir.

It is worth reminding observers that the people of the disputed areas are at the crux of the Kashmir question. What might the peoples of Kashmir want? Here too, Pakistan has undermined any legitimate claim it may have had to represent the Kashmiris. Pakistan has failed to develop the portion of Kashmir under its rule or invest in its own Kashmiri citizens. India has fared much better in this area. An equally severe blow to the so-called morality of Pakistan's claims is the simple fact that, since 1947, Pakistan has dispatched cadres of Islamist militants to kill Indians in Kashmir—whether they are civilian, police, or military. The civilian casualties of this proxy war number in the tens of thousands, although estimates are contested.<sup>12</sup> In light of these facts, it is difficult to understand how Pakistan believes it has any defensible claim to the portion of Kashmir under Indian administration. It is equally puzzling why the international community has continued to nurture Pakistan's preposterous claims.

### **The United States Should Lead**

Despite the Kashmir conflict's lengthy history and torturous course, it is clear that all efforts to resolve the dispute have failed. Yet, the conflict continues to regularly bring both countries to the brink of war and permanently imperil the lives of Kashmiris and non-Kashmiris on both sides of the LoC.

The most recent clash in Kashmir emphasizes the need for a radical new approach to this conflict. We believe that such an approach depends on changing the formal status of the Line of Control: it must transform from a temporary boundary to a legally recognized international border. Granting the LoC the status of an internationally recognized border will delegitimize Pakistan's revisionist claim on the region. It will also treat any violation of the border as an act of aggression against another sovereign state, rather than as a crisis that could slide into a larger conflict or as a mere extension of an ongoing boundary dispute. Most importantly, changing the status of the LoC will enable India to treat its portion of Kashmir as fairly as any other part of India. This will also implicitly suggest that Islamabad should make moves to integrate that portion of Kashmir under its administration more robustly.

**Pakistan has neglected and abused those populations in Kashmir under its own administration.**

The United States needs to take the lead on this issue, to state it bluntly, as it is the only state that has the requisite clout to bring about such an outcome. The reasons are numerous and straightforward. As long as Kashmir remains the

subject of an international dispute, Pakistan's military establishment, and parts of its civilian state apparatus, will continue to pursue Pakistan's revisionist claim on the region by any means necessary—including a dangerous reliance on an array of Islamist terrorist groups.

Second, as long as the area remains under pressure from terrorist groups, New Delhi is unlikely to address the claims of Kashmiris under its administration. After all, no country wants to be perceived as changing its foreign or domestic policies as a result of terrorist coercion. If the international dispute is reduced to a purely domestic matter, India will gain the political space necessary to allow it to reconsider some of its more controversial policies and integrate Kashmiris into the nation. While Kashmiris are of course citizens of the Indian state, they remain deeply resentful and wary that they can ever become fully enfranchised citizens.

**Why has the international community continued to nurture Pakistan's preposterous claims?**

At the same time, Pakistan's antics on the international stage to draw attention to Indian malfeasance in Kashmir obfuscate the degree to which Pakistan has neglected and abused those populations in Kashmir under its own administration.<sup>13</sup> Even official narratives recognize the political retardation of those portions of Kashmir under Pakistani control.

Even narratives sympathetic to Pakistan's official narrative note that in addition to "this external dimension of the Kashmir dispute, internally the failure to resolve the question of the final status of the State has retarded the constitutional development of the liberated territories of the State, i.e. Azad Jammu and Kashmir and Gilgit-Baltistan."<sup>14</sup>

Once the dispute is shorn of its international moorings, the United States and the international community should encourage both New Delhi and Islamabad to invest in its respective Kashmiri populations and take steps to ensure that they are fully vested in the futures of their respective states. This may include economic and human development initiatives to expand the access of their respective Kashmiris to their national and international labor markets. In India's case, there are laws that prohibit non-Kashmiris from buying land in Kashmir. This may need revision to allow for investment in the state. Expanding road and rail linkages will be necessary to make movement from and to the regions affordable on each side. (In the case of India, this will be a challenging road to walk. In the past, such ventures have been viewed as domestic colonization.) Continued investment in political development and electoral infrastructure is also critical to ensure that the peoples have democratic recourse as a viable alternative to violence.

Third, by reducing the India–Pakistan conflict over Kashmir to one between New Delhi and Srinagar (the capital of Indian-administered Kashmir) on one hand and Islamabad-Muzaffarabad (the capital of Pakistan-administered Kashmir) on the other, the United States and other concerned members of the international community will find it easier to quietly encourage India to fulfill its constitutional obligations to its Kashmiri citizens. At the same time, with the conflict stripped of its international patina, the international community can also focus its attention on the tension between Islamabad and Muzaffarabad. While the plight of Pakistani Kashmiris is less well known than that of Kashmiri citizens of India, it too deserves attention. In 2006, in a rare report on Pakistani Kashmir, Human Rights Watch observed that the Pakistani government has a brutal record of repressing democratic freedoms, muzzling the press, and engaging in routine torture in “Azad Kashmir.”<sup>15</sup>

Finally, India faces other crises besides those involving the LoC. Organized criminal activity as well as Maoist, ethnic, and ever-growing Islamist militancy plagues many of its states. If India can do right by those Kashmiris under its rule, it will send a powerful message to other frustrated communities that their future lies in a democratic India committed to embracing communal and ethnic diversity.

We recognize that such an approach may seem radical, and given Pakistan’s uncanny ability to place itself at the forefront of U.S. interests, Washington may be hesitant to make a move that is bound to antagonize its erstwhile ally. However, U.S.–Pakistan relations are undergoing a fundamental “reset.” Pakistan is less and less capable of exercising a veto on U.S. policies toward South Asia and beyond. Its economy is in disarray and its interim government has sought an IMF loan for \$5 billion. Pakistani commentators note that “only political stability, timely elections and smooth set-up of the new government would provide Pakistan the positive image needed” to secure the loan.<sup>16</sup> Pakistan continues to face a hydra-headed terrorist threat from the Pakistani Taliban, enduring internal insecurity stemming from deepening sources of sectarian and communal violence, as well as ethno-national separatist aspirations in Balochistan. Moreover, the country’s febrile democratic institutions are in a deadly embrace with Pakistan’s all-powerful army, which resists the creeping civilian role in the state’s governance.

Despite the speculation of U.S. decline in the global system of power, the United States remains the world’s dominant power. Should the United States take the lead on Kashmir, it should be able to muster the requisite support from

**The United States is the only state with the requisite clout to lead on this issue.**

other leading powers. None of its principal allies, including the United Kingdom, which still retains an interest in subcontinental matters, is likely to stand in the way of a shift in U.S. policy. Other key U.S. allies—such as France, Germany, and Japan—will invariably follow the U.S. lead. Furthermore, several of them have important commercial interests in India. They would be loath to adopt a posture that could jeopardize them. Russia, which has long enjoyed robust diplomatic and military ties with India, is also unlikely to stand in the way.

Even China, Pakistan's oft-touted "all-weather ally," has shown limited patience for Pakistan's foreign and domestic politics alike.<sup>17</sup> Equally important, China has demonstrated over recent decades that while it supports simmering Indo-Pakistan conflict, it has no interest in the two states going to war. Increasingly, even China has indicated its support for the territorial status quo and does not support reconfiguring territorial allocation between the states. In 2008, China voted at the UN Security Council to declare Pakistan's terrorist proxy, Lashkar-e-Taiba/Jamaat-ud-Dawa, to be a terrorist organization.<sup>18</sup> Taken together, these suggest that China could be amenable to supporting a UNSC initiative to make the LoC the international border. China could even be a critical partner in helping Pakistan recognize this is the most obvious way of "resolving" this issue. Pakistan is unlikely to get a better deal in the future.

### **Toward an International Border?**

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Such a move will not be without risk. In the past, Pakistan has punished the United States by escalating its support for the Taliban and affiliated militants in Kashmir, by closing down the ground routes through which the United States has moved war material through Pakistan and into Afghanistan, and by opposing U.S.-armed drone strikes in Pakistan's Federally Administered Tribal Areas (FATA). Such moves are symptomatic of the larger differences in U.S. and Pakistani interests in the region, which are likely to deepen rather than contract as 2014 nears.

As the United States further disencumbers itself from its military obligations in Afghanistan, and thus its concomitant reliance on Pakistan, it will come increasingly into a position to dramatically rethink its relations with the countries and peoples of South Asia. Such a restructuring of interests and relations in South Asia should include stating its official recognition of the battered Line of Control as the international border in Kashmir and undertaking the necessary steps in international forums to secure this outcome. Such a step will be difficult, but it will also be courageous. The lives of millions in both India and Pakistan may well be at stake.

## Notes

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