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SPECIAL POLITICAL AND  
DECOLONIZATION COMMITTEE  
AGENDA: INDO-PAK BORDER DISPUTE



# Social Political and Decolonization Committee

## Agenda: Indo – Pak Border Dispute

Relations between India and Pakistan have been complex due to a number of historical and political events. Relations between the two states have been defined by the violent partition of British India in 1947, the Kashmir conflict and the numerous military conflicts fought between the two nations. Consequently, even though the two South Asian nations share linguistic, cultural, geographic, and economic links, their relationship has been plagued by hostility and suspicion.

After the dissolution of the British Raj in 1947, two new sovereign nations were formed—the Dominion of India and the Dominion of Pakistan. The subsequent partition of the former British India displaced up to 12.5 million people, with estimates of loss of life varying from several hundred thousand to 1 million. India emerged as a secular nation with a Hindu majority population and a large Muslim minority while Pakistan was established as an Islamic republic with an overwhelming Muslim majority population; although its constitution guarantees freedom of religion to people of all faiths.

Soon after their independence, India and Pakistan established diplomatic relations but the violent partition and numerous territorial claims would overshadow their relationship. Since their independence, the two countries have fought three major wars, one undeclared war and have been involved in numerous armed skirmishes and military standoffs. The Kashmir conflict is the main centre-point of all of these conflicts with the exception of the Indo-Pakistan War of 1971 and Bangladesh Liberation War, which resulted in the secession of East Pakistan (now Bangladesh).

There have been numerous attempts to improve the relationship—notably, the Shimla summit, the Agra summit and the Lahore summit. Since the early 1980s, relations between the two nations soured particularly after the Siachen conflict, the intensification of Kashmir insurgency in 1989, Indian and Pakistani nuclear tests in 1998 and the 1999 Kargil war. Certain confidence-building measures — such as the 2003 ceasefire agreement and the Delhi–Lahore Bus service – were successful in deescalating tensions. However, these efforts have been impeded by periodic terrorist attacks. The 2001 Indian Parliament attack almost brought the two nations to the brink of a nuclear war. The 2007 Samjhauta

Express bombings, which killed 68 civilians (most of whom were Pakistani), was also a crucial point in relations. Additionally, the 2008 Mumbai attacks carried out by Pakistani militants resulted in a severe blow to the ongoing India-Pakistan peace talks.

According to a 2013 BBC World Service Poll, 11% of Indians view Pakistan's influence positively, with 45% expressing a negative view, while 19% of Pakistanis view India's influence positively, with 54% expressing a negative view. Since the election of new government in Pakistan in mid-2013, significant steps are being taken to improve relations, in particular the consensus on the agreement of Non-Discriminatory Market Access on Reciprocal Basis (NDMARB) status for each other, which will liberalize trade.

Kashmir was a Muslim-majority princely state, ruled by a Hindu king, Maharaja Hari Singh. At the time of the partition of India, Maharaja Hari Singh, the ruler of the state, preferred to remain independent and did not want to join either the Union of India or the Dominion of Pakistan. He wanted both India and Pakistan to recognize his princely state as an independent neutral country.

Despite the standstill agreement with Pakistan, team of Pakistani forces were dispatched into Kashmir. Backed by Pakistani paramilitary forces, Pashtun Mehsudtribals invaded Kashmir in October 1947 under the code name "Operation Gulmarg" to seize Kashmir. They reached and captured Baramulla on 25 October. Instead of moving on to Srinagar just 50 km away and capturing its undefended airfield, they stayed there for several days. Kashmir's security forces turned out to be too weak and ill-equipped to fight against Pakistan. Fearing that this invasion would bring about an accession to Pakistan, the Maharaja now turned to India and requested India for troops to safeguard Kashmir. Indian Prime Minister Nehru was ready to send the troops, but the acting Governor General of India, Lord Mountbatten of Burma, advised the Maharaja to accede to India before India could send its troops. Hence, considering the emergent situation he signed the instrument of accession to the Union of India on 26 October 1947 (see the two-page document's photo below).

Charles Chevenix Trench writes in his 'The Frontier Scouts' (1985):

In October 1947... tribal lashkars hastened in lorries - undoubtedly with official logistic support - into Kashmir... at least one British Officer, Harvey-Kelly took part in the campaign. It seemed that nothing could stop these hordes of tribesmen taking Srinagar with its vital airfield. Indeed nothing did, but their own greed. The Mahsuds in particular stopped to loot, rape and murder; Indian troops were flown in and the lashkars pushed out of the Vale of Kashmir into the mountains. The Mahsuds returned home in a

savage mood, having muffed an easy chance, lost the loot of Srinagar and made fools of themselves.

In the words of Gen Mohammad Akbar Khan (Brigadier-in-Charge, Pakistan, in his book "War for Kashmir in 1947"): "The uncouth raiders delayed in Baramulla for two (whole) days for some unknown reason."

While the invading Pakistanis spread across the State and looted Baramulla town just 50 km from the state capital, Srinagar, for several days starting 25 October 1947, the Maharaja signed Instrument of Accession to the Dominion of India on 26 October 1947. Sheikh Mohammad Abdullah had already reached Delhi a day earlier on 25 October to persuade Nehru to send troops. He made no secret of the danger the State faced and asked Nehru to lose no time in accepting the accession and ensuring the speedy dispatch of Indian troops to the State. (Sheikh Abdullah corroborates this account in his *Aatish e Chinaar* (at pages 416 and 417) and records (at page 417) that V.P. Menon returned to Delhi on 26 October with signed Instrument of accession.) These are photos of the two-page Instrument of Accession. The Instrument was accepted by the Governor-General of India the next day, 27 October 1947. With this signing by the Maharaja and acceptance by the Governor-General, the princely state of Jammu and Kashmir became a part of Dominion of India as per the Indian Independence Act 1947 passed by the British parliament.

By this time the raiders were close to the capital, Srinagar. Indian troops were airlifted from Delhi, landed at Srinagar airport in Kashmir on 27 October 1947 and secured the airport before proceeding to evict the invaders from Kashmir valley.

The Indian troops managed to evict the aggressors from parts of Kashmir but the onset of winter made much of the state impassable. After weeks of intense fighting between Pakistan and India, Pakistani leaders and the Indian Prime Minister Nehru declared a ceasefire and sought U.N. arbitration with the promise of a plebiscite. In 1957, north-western Kashmir was fully integrated into Pakistan, becoming Azad Kashmir (Pakistan-administered Kashmir). In 1962, China occupied Aksai Chin, the northeastern region bordering Ladakh. In 1984, India launched Operation Meghdoot and captured more than 80% of the Siachen Glacier.

Pakistan now maintains Kashmiris' right to self-determination through a plebiscite and the promised plebiscite should be allowed to decide the fate of the Kashmiri people. India on the other hand asserts that with the Maharaja's signing the instrument of accession, Kashmir has become an integral part of India.

Due to all such political differences, this territorial claim has been the subject of wars between the two countries in 1947 and 1965, and a limited

conflict in 1999. The state remains divided between the two countries by the Line of Control (LoC), which demarcates the ceasefire line agreed upon in the 1947 conflict modified in 1972 as per Simla Agreement.

## **WARS**

The Indo-Pakistani War of 1947–1948, sometimes known as the First Kashmir War, was fought between India and Pakistan over the princely state of Kashmir and Jammu from 1947 to 1948. It was the first of four Indo-Pakistan Wars fought between the two newly independent nations. Pakistan precipitated the war a few weeks after independence by launching tribal lashkar (militia) from Waziristan, in an effort to secure Kashmir, the future of which hung in the balance. The inconclusive result of the war still affects the geopolitics of both countries.

On 22 October 1947, Muslim tribal militias crossed the border of the state, claiming that they were needed to suppress a rebellion in the southeast of the kingdom. These local tribal militias and irregular Pakistani forces moved to take Srinagar, but on reaching Uri they encountered resistance. Hari Singh made a plea to India for assistance, and help was offered, but it was subject to his signing an Instrument of Accession to India. British officers in the sub-continent also took part in stopping the Pakistani Army from advancing.

The war was initially fought by the J&K State Forces led by Major-General Scott and by tribal militias from the North-West Frontier Province (now Khyber Pakhtunkhwa) and the Federally Administered Tribal Areas. Facing the assault and a Muslim revolution in the Poonch and Mirpur area of Kashmir, the ruler of the princely state of Kashmir and Jammu, who was a Hindu, signed an Instrument of Accession to the Union of India. The Indian and Pakistani armies entered the war after this. The fronts solidified gradually along what came to be known as the Line of Control. A formal cease-fire was declared at 23:59 on the night of 1/2 January 1949.

The Indo-Pakistani War of 1965 was a culmination of skirmishes that took place between April 1965 and September 1965 between Pakistan and India.

This war started following Pakistan's Operation Gibraltar, which was designed to infiltrate forces into Jammu and Kashmir to precipitate an insurgency against rule by India. India retaliated by launching a full-scale military attack on West Pakistan. The seventeen-day war caused thousands of casualties on both sides and also witnessed the largest tank battle since World War II. The hostilities between the two countries ended after a



ceasefire was declared following diplomatic intervention by the Soviet Union and USA and the subsequent issuance of the Tashkent Declaration. Both India and Pakistan claimed victory. However, most neutral assessments agree that India had the upper hand over Pakistan when ceasefire was declared.

Much of the war was fought by the countries' land forces in Kashmir and along the International Border between India and Pakistan. This war saw the largest amassing of troops in Kashmir since the Partition of British India in 1947, a number that was overshadowed only during the 2001–2002 military standoff between India and Pakistan. Most of the battles were fought by opposing infantry and armored units, with substantial backing from air forces, and naval operations. Many details of this war, like those of other Indo-Pakistani Wars, remain unclear. In Pakistan, following the incident, defence day is celebrated on 6 September.

The Indo-Pakistani War of 1971 was the direct military confrontation between India and Pakistan during the Bangladesh Liberation War in 1971. Indian, Bangladeshi and international sources consider the beginning of the war to have been Operation Chengiz Khan, when Pakistan launched preemptive air strikes on 11 Indian airbases on 3 December 1971, leading to India's entry into the war of independence in East Pakistan on the side of Bangladeshi nationalist forces, and the commencement of hostilities with West Pakistan. Lasting just 13 days, it is considered to be one of the shortest wars in history.

During the course of the war, Indian and Pakistani forces clashed on the eastern and western fronts. The war effectively came to an end after the Eastern Command of the Pakistani Armed Forces signed the Instrument of Surrender, on 16 December 1971 in Dhaka, marking the liberation of the new nation of Bangladesh. East Pakistan had officially seceded from Pakistan on 26 March 1971. Between 90,000 and 93,000 members of the Pakistan Armed Forces including paramilitary personnel were taken as Prisoners of War by the Indian Army. It is estimated that between 300,000 and 3,000,000 civilians were killed in Bangladesh. As a result of the conflict, a further eight to ten million people fled the country at the time to seek refuge in neighboring India.

The Kargil War also known as the Kargil conflict, was an armed conflict between India and Pakistan that took place between May and July 1999 in the Kargil district of Kashmir and elsewhere along the Line of Control (LOC). In India, the conflict is also referred to as Operation Vijay which was the name of the Indian operation to clear the Kargil sector.

The cause of the war was the infiltration of Pakistani soldiers and Kashmiri militants into positions on the Indian side of the LOC, which serves as the de facto border between the two states. During the initial stages of the war, Pakistan blamed the fighting entirely on independent Kashmiri insurgents, but documents left behind by casualties and later statements by Pakistan's Prime Minister and Chief of Army Staff showed involvement of Pakistani paramilitary forces, led by General Ashraf Rashid. The Indian Army, later on supported by the Indian Air Force, recaptured a majority of the positions on the Indian side of the LOC infiltrated by the Pakistani troops and militants. With international diplomatic opposition, the Pakistani forces withdrew from the remaining Indian positions along the LOC.

The war is one of the most recent examples of high-altitude warfare in mountainous terrain, which posed significant logistical problems for the combating sides. To date, it is also the only instance of direct, conventional warfare between nuclear states (i.e., those possessing nuclear weapons). India had conducted its first successful test in 1974; Pakistan, which had been developing its nuclear capability in secret since around the same time, conducted its first known tests in 1998, just two weeks after a second series of tests by India.

## **INDIAN VIEW**

India has officially stated that it believes that Kashmir to be an integral part of India, though the then Prime Minister of India, Manmohan Singh, stated after the 2010 Kashmir Unrest that his government was willing to grant autonomy to the region within the purview of Indian constitution if there was consensus [by whom?] on this issue. The Indian viewpoint is succinctly summarized by Ministry of External affairs, Government of India —

India holds that the Instrument of Accession of the State of Jammu and Kashmir to the Union of India, signed by Maharaja Hari Singh (erstwhile ruler of the State) on 25 October 1947 and executed on 27 October 1947 between the ruler of Kashmir and the Governor General of India was a legal act and completely valid in terms of the Government of India Act (1935), Indian Independence Act (1947) as well as under international law and as such was total and irrevocable.

The Constituent assembly of Jammu and Kashmir had unanimously ratified the Maharaja's Instrument of Accession to India and adopted a constitution for the state that called for a perpetual merger of Jammu and Kashmir with the Union of India. India claims that the constituent assembly was a representative one, and that its views were those of the Kashmiri people at the time.

United Nations Security Council Resolution 1172 tacitly accepts India's stand regarding all outstanding issues between India and Pakistan and urges the need to resolve the dispute through mutual dialogue without the need for a plebiscite.

United Nations Security Council Resolution 47 cannot be implemented since Pakistan failed to withdraw its forces from Kashmir, which was the first step in implementing the resolution. India is also of the view that Resolution 47 is obsolete, since the geography and demographics of the region have permanently altered since its adoption. The resolution was passed by United Nations Security Council under Chapter VI of the United Nations Charter and as such is non-binding with no mandatory enforceability, as opposed to resolutions passed under Chapter VII.

India does not accept the two-nation theory that forms the basis of Pakistan's claims and considers that Kashmir, despite being a Muslim-majority state, is in many ways an "integral part" of secular India.

The state of Jammu and Kashmir was provided with significant autonomy under Article 370 of the Constitution of India.

All differences between India and Pakistan, including Kashmir, need to be settled through bilateral negotiations as agreed to by the two countries under the Simla Agreement signed on 2 July 1972.

Additional Indian viewpoints regarding the broader debate over the Kashmir conflict include –

In a diverse country like India, disaffection and discontent are not uncommon. Indian democracy has the necessary resilience to accommodate genuine grievances within the framework of India's sovereignty, unity, and integrity. The Government of India has expressed its willingness to accommodate the legitimate political demands of the people of the state of Kashmir.

Insurgency and terrorism in Kashmir is deliberately fuelled by Pakistan to create instability in the region. The Government of India has repeatedly accused Pakistan of waging a proxy war in Kashmir by providing weapons and financial assistance to terrorist groups in the region.

Pakistan is trying to raise anti-India sentiment among the people of Kashmir by spreading false propaganda against India. According to the state government of Jammu and Kashmir, Pakistani radio and television channels deliberately spread "hate and venom" against India to alter Kashmiri opinion.

India has asked the United Nations not to leave unchallenged or unaddressed the claims of moral, political, and diplomatic support for terrorism, which were clearly in contravention of United Nations Security Council Resolution 1373. This is a Chapter VII resolution that makes it mandatory for member states to not provide active or passive support to



terrorist organizations. Specifically, it has pointed out that the Pakistani government continues to support various terrorist organizations, such as Jaish-e-Mohammad and Lashkar-e-Taiba, in direct violation of this resolution.

India points out reports by human rights organizations condemning Pakistan for the lack of civic liberties in Pakistan-administered Kashmir. According to India, most regions of Pakistani Kashmir, especially Northern Areas, continue to suffer from lack of political recognition, economic development, and basic fundamental rights.

Karan Singh, the son of the last ruler of the princely state of Kashmir and Jammu, has said that the Instrument of Accession signed by his father was the same as signed by other states. He opined that Kashmir was therefore a part of India, and that its special status granted by Article 370 of the Indian Constitution stemmed from the fact that it had its own constitution.

In 2008, the death toll from the last 20 years was estimated by Indian authorities to be over 47,000.

### **PAKISTANI VIEW**

Pakistan maintains that Kashmir is the "jugular vein of Pakistan" and a currently disputed territory whose final status must be determined by the people of Kashmir. Pakistan's claims to the disputed region are based on the rejection of Indian claims to Kashmir, namely the Instrument of Accession. Pakistan insists that the Maharaja was not a popular leader, and was regarded as a tyrant by most Kashmiris. Pakistan maintains that the Maharaja used brute force to suppress the population.

Pakistan claims that Indian forces were in Kashmir before the Instrument of Accession was signed with India, and that therefore Indian troops were in Kashmir in violation of the Standstill Agreement, which was designed to maintain the status quo in Kashmir (although India was not signatory to the Agreement, which was signed between Pakistan and the Hindu ruler of Jammu and Kashmir).

From 1990 to 1999, some organizations reported that the Indian Armed Forces, its paramilitary groups, and counter-insurgent militias were responsible for the deaths of 4,501 Kashmiri civilians. During the same period, there were records of 4,242 women between the ages of 7-70 being raped. Similar allegations were also made by some human rights organizations.

In short, Pakistan holds that –

The popular Kashmiri insurgency demonstrates that the Kashmiri people no longer wish to remain within India. Pakistan suggests that this means that Kashmir either wants to be with Pakistan or independent.

According to the two-nation theory, one of the theories that is cited for the partition that created India and Pakistan, Kashmir should have been with Pakistan, because it has a Muslim majority.

India has shown disregard for the resolutions of the UN Security Council and the United Nations Commission in India and Pakistan by failing to hold a plebiscite to determine the future allegiance of the state.

Pakistan was of the view that the Maharaja of Kashmir had no right to call in the Indian Army, because it held that the Maharaja of Kashmir was not a hereditary ruler and was merely a British appointee, after the British defeated Ranjit Singh who ruled the area before the British conquest.

Pakistan has noted the widespread use of extrajudicial killings in Indian-administered Kashmir carried out by Indian security forces while claiming they were caught up in encounters with militants. These encounters are commonplace in Indian-administered Kashmir. The encounters go largely uninvestigated by the authorities, and the perpetrators are spared criminal prosecution.

Human rights organizations have strongly condemned Indian troops for widespread rape and murder of innocent civilians while accusing these civilians of being militants.

The Chenab formula was a compromise proposed in the 1960s, in which the Kashmir valley and other Muslim-dominated areas north of the Chenab river would go to Pakistan, and Jammu and other Hindu-dominated regions would go to India.

Former Pakistani president General Pervez Musharraf on 16 October 2014 said that Pakistan needs to incite those fighting in Kashmir, "We have source (in Kashmir) besides the (Pakistan) army...People in Kashmir are fighting against (India). We just need to incite them," Musharraf told a TV channel.

A survey carried out across both Jammu and Kashmir and Pakistan-occupied Kashmir by London-based Thinktank Chatham House, its author claims 'is the first ever of its kind', shows that only 2% of the respondents on the Indian side favor joining Pakistan.

## **CHINESE**

China states that Aksai Chin is an integral part of China and does not recognize the inclusion of Aksai Chin as part of the Kashmir region.

China did not accept the boundaries of the princely state of Kashmir and Jammu, north of Aksai Chin and the Karakoram as proposed by the British. China settled its border disputes with Pakistan under the 1963 Trans Karakoram Tract with the provision that the settlement was subject to the final solution of the Kashmir dispute.

Armed Forces (Special Powers) Acts (AFSPA), are Acts of the Parliament of India that grant special powers to the Indian Armed Forces in what each act terms "disturbed areas".

One such act was passed on 11 September 1958 and applied to the Seven Sister States in India's northeast. Another passed in 1983 and applied to Punjab and Chandigarh and was withdrawn in 1997, roughly 14 years after it came to force. Another such act was passed in 1990 and applied to Jammu and Kashmir.

The Acts have received criticism from several sections for alleged concerns about human rights violations in the regions of its enforcement alleged to have happened.

Politicians like P. Chidambaram and Saifuddin Soz of Congress have advocated revocation of AFSPA whilst Amarinder Singh is against their revocation.

The Articles in the Constitution of India empower state governments to declare a state of emergency due to one or more of the following reasons:  
Failure of the administration and the local police to tackle local issues  
Return of (central) security forces leads to return of miscreants/erosion of the "peace dividend"

The scale of unrest or instability in the state is too large for local forces to handle.

In such cases, it is the prerogative of the state government to call for central help. In most cases, for example during elections, when the local police may be stretched too thin to simultaneously handle day-to-day tasks, the central government obliges by sending in the BSF and the CRPF. Such cases do not come under the purview of AFSPA. AFSPA is confined to be enacted only when a state, or part of it, is declared a 'disturbed area'. Continued unrest, like in the cases of militancy and insurgency, and especially when borders are threatened, are situations where AFSPA is resorted to.

By Act 7 of 1972, the power to declare areas as being disturbed was extended to the central government.

In a civilian setting, soldiers have no legal tender, and are still bound to the same command chain as they would be in a war theater. Neither the soldiers nor their superiors have any training in civilian law or policing procedures. This is where and why the AFSPA comes to bear - to legitimize the presence and acts of armed forces in emergency situations which have been deemed war-like.

According to the Armed Forces Special Powers Act (AFSPA), in an area that is proclaimed as "disturbed", an officer of the armed forces has powers to:

After giving such due warning, Fire upon or use other kinds of force even if it causes death, against the person who is acting against law or order in the disturbed area for the maintenance of public order,

Destroy any arms dump, hide-outs, prepared or fortified position or shelter or training camp from which armed attacks are made by the armed volunteers or armed gangs or absconders wanted for any offence.

To arrest without a warrant anyone who has committed cognizable offences or is reasonably suspected of having done so and may use force if needed for the arrest.

To enter and search any premise in order to make such arrests, or to recover any person wrongfully restrained or any arms, ammunition or explosive substances and seize it.

Stop and search any vehicle or vessel reasonably suspected to be carrying such person or weapons.

Any person arrested and taken into custody under this Act shall be made present over to the officer in charge of the nearest police station within 24 hours, together with a report of the circumstances occasioning the arrest.

Army officers have legal immunity for their actions. There can be no prosecution, suit or any other legal proceeding against anyone acting under that law. Nor is the government's judgment on why an area is found to be disturbed subject to judicial review.

Protection of persons acting in good faith under this Act from prosecution, suit or other legal proceedings, except with the sanction of the Central Government, in exercise of the powers conferred by this Act.