

Kashmiris

Profile

Kashmiris are the people living in the territory of Jammu and Kashmir, in the extreme north-west of India. Two-thirds of this territory is currently administered as the Indian state of Jammu and Kashmir and has an estimated population of 9 million. The remainder of the region is controlled and administered by Pakistan.

The constitutional position of Kashmir is made complex by the fact that both India and Pakistan challenge the legality of the other's title to territory, with an effective partition of Kashmir along the cease-fire line as agreed in 1949, with some modification as a consequence of the India-Pakistan war of 1971. That part of the territory which lies within India also includes the region of Ladakh. The land and people of Jammu and Kashmir, a multi-religious, multi-ethnic and multi-cultural region, are known today for the viciousness of the conflict that raged there from the 1980s.

While the case for a political settlement needs to be pursued, there is also a pressing need for India to recognize and deal with the genuine grievances of the Kashmiri people, living in Jammu, Kashmir and Ladakh. This territory has some of the most diverse peoples from India, with a mix of religions, languages and cultures. The Muslim majority population lives in the Kashmir valley, while the plains of Jammu are dominated by Hindus, who make up the largest minority in the state of Jammu and Kashmir while being in a majority in Jammu. The third largest group are Buddhist Ladhakis, who live in the region of Ladakh.

Historical context

The roots of the conflict in Jammu and Kashmir go back to the partition of India in 1947. The main constitutional instrument for determining the future position of the princely states such as Kashmir was the Indian Independence Act of 1947, section 7(1)(b) of which provided that:

'The suzerainty of His Majesty over the Indian states lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of the Indian states, all functions exercisable by His Majesty at the date with respect to Indian states, all obligations of His Majesty at the date towards Indian states or the rulers thereof and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian states, by treaty, grant usage, sufferance or otherwise'.

Despite the presence of a number of complexities surrounding the issue of succession, the strict legal position appears to be that with the lapse of the treaties and agreements with the British government, sovereignty reverted to the princely states, which then had the option of accession, merger and integration with the dominions of India or Pakistan. In practice, however, the vast majority of states decided to accede to India or Pakistan before the Indian Independence Act came into force on 15 August 1947. In the case of the state of Jammu and Kashmir, the Hindu ruler of a Muslim majority state

vacillated in making a decision as to whether to accede to India or Pakistan. His hesitation and indecisiveness provided the opportunity for an 'invasion' of the territory by the so-called 'Azad Kashmir Army' made up of some of the indigenous peoples of Pakistan. Under the pressure of this invasion the ruler of Jammu and Kashmir decided to appeal to India for help and acceded to India. Indian troops were rushed into the territory and stopped the advance of the indigenous army from Pakistan. The 'line of control' established as a result of this action became the border between India and Pakistan, and also the line dividing the territory of Jammu and Kashmir between the Indian and Pakistani jurisdictions.

Since the accession of Jammu and Kashmir to India, it has been claimed by Pakistan that the final destination of the territory remains conditional until the people of Jammu and Kashmir themselves have had an opportunity to determine their political destiny through a referendum. Jammu and Kashmir was subsequently to become a victim of the proxy war between the states of India and Pakistan, with the Kashmiri people becoming the main victims of this conflict. A UN sponsored resolution to hold a referendum in the territory around the issue of self-determination has never been implemented, with both Indian and Pakistani governments blaming each other for lack of the necessary political will.

Meanwhile political events overtook the UN resolution with first the war of 1965 between India and Pakistan, then by another in 1971, resulting in the creation of Bangladesh and the signing of the Simla agreement (1972). Under its terms it was agreed that the two countries would attempt to resolve the issue of Kashmir bilaterally, with the line of control being converted into an international border. The agreement also enabled both countries to discuss economic, social and cultural forms of cooperation for the benefit of the territory and the people. However, this has not happened as a result of endless suspicion, hostility and recriminations between the two governments. Since the late 1980s the situation in the Indian-held portion of Jammu and Kashmir has deteriorated considerably, with massive abuses of human rights, and with India accusing the Pakistan government of funding and sponsoring a terrorist war aimed at destabilizing the country. The breakdown of talks has been perhaps the most significant set-back in the search for a long-term solution to the dispute in Jammu and Kashmir.

The main problem, and the starting-point for all the troubles in the territory has been the real and perceived grievances of the Muslim population. From the time of independence Kashmir has remained a poor region of India, despite being well endowed by way of natural resources and picturesque scenery which provides a natural attraction for tourists. This lack of economic development has fuelled resentment against the Indian state and has led to a hardening of view within the Muslim majority population that they were being discriminated against. Specific grievances include the fact that Urdu has not been made a nationally recognized language of India, that investment in education is among the lowest for the whole country, and that industrial investment has been virtually non-existent. The prime source of possible revenues-tourism-has become a casualty of the persistent terrorist activities and the military presence in the state.

Politics in the state of Jammu and Kashmir has tended to be dominated by the central government in New Delhi, and this has added to popular resentment against the Indian state. Devolution proposals and moves towards greater autonomy have been few and far between, and have foundered on the intransigence of Indian politicians, who have always been suspicious of Pakistani involvement in the separatist movement in Jammu and Kashmir. Another factor that has complicated the situation has been the general inefficiency and corruption of the successive state governments, especially those formed with the backing of the federal government in New Delhi.

Ethnic diversity within the state is most notable with regard to the 3.2 million highlanders from Kashmir proper, 90 per cent of whom are Muslims, and the lowlanders from Jammu, the majority of whom are Hindus. Most of the state's industry is concentrated in Jammu, but most of the development funds are spent in the Kashmir valley, where 60 per cent of the population is engaged in horticulture, although

tourism used to flourish around Srinagar Lake. The two areas compete for economic resources, and an attempt has been made to keep a delicate balance between them, reflected in the state administration moving to Jammu in winter and to Srinagar in summer.

There have also been tensions in the remote northern area of Ladakh between the Muslims (who are a minority in the area) and the majority Buddhists. Ladakh occupies about one third of the area of Kashmir but contains only 135,000 people. Buddhist Ladakhis claim that they have not had an adequate political representation in the Jammu and Kashmir state legislature, that there were very few Ladakhis in the administration, and that commerce was dominated by traders from the Kashmir valley. In addition there have been religious tensions, fanned by the Muslim separatist feelings in Srinagar. There have been demands that Ladakh be separated from Jammu and Kashmir and be given the status of a union territory, ruled directly from New Delhi.

The Kashmiri cause has seen the rise of an armed insurgency movement that started in Kashmir and that has continued unabated to this day. The movement was supported by a large number of foreign 'mujahideen' who entered the Kashmir valley after the Soviet withdrawal from Afghanistan. Most Kashmiri politicians including Hurriyat leaders and prominent leaders like Yasin Malik of the Jammu and Kashmir Liberation Front (JKLF) have now renounced violence and have taken a strong political stand for resolution by dialogue. While the Pakistani viewpoint is that the insurgents are indigenous freedom fighters and locals, India believes most of the insurgents to be foreign elements aided, supported, trained and funded by Islamic hardline groups in Pakistan and having the implicit support of the government of Pakistan. The building of a fence along the line of control by India has been claimed by Pakistan to be a violation of the Shimla Accord while India believes that it would help control the extent of infiltration by foreign elements into Kashmir and help normalize the situation in the valley.

Militant groups have not spared the symbols of Indian democracy. India claims that two Pakistani groups-Jaish-e-Mohammed and the Lashkar-e-Toiba-were instrumental in attacking the Jammu and Kashmir State Assembly in 2001. It is also believed that Jaish-e-Mohammed had carried out the hijacking of Indian Airlines IC 814 to Kandahar in 2001 which forced the government to release two top militants from Indian jails. Both the militants later turned up in Pakistan and floated jihadi organizations there. There has been a back-channel peace process going on between the two parties. The Indian perspective is:

1. India maintains that for a UN mandated Plebiscite to be effected and to be monitored by any third neutral party, Pakistan must first vacate its claim on its part of Kashmir that it calls Azad Kashmir;
2. The ratification of the Maharaja's instrument of Accession to India by the Constituent Assembly was part of the democratic process within due process of law;
3. The process of parliamentary ratification is based on the perpetual merger of the state with the Indian Union;
4. India has never accepted the basis of partition and therefore does not believe in Pakistan's claim to Kashmir based on religious grounds;
5. India has accused Pakistan of genocidal acts and acts of mass repression in Bangladesh and in its tribal areas in Baluchistan;
6. India has maintained the autonomy of the state of Jammu and Kashmir by incorporating Article 370 in its Constitution.

India claims that the majority of militancy in Pakistan is state-aided, state-sponsored, state-funded and state-supported and that the Pakistani state and army is culpable for pushing in foreign elements to keep up the levels of violence. This is supported by Pakistan's recent unprovoked attack in the Kargil sector.

Current issues

A change in the political climate promised to have impact on the position of Kashmiri Muslims. The coalition led by the Hindu Nationalist Party (Bartia Janta Party) lost the general parliamentary elections held in April-May 2004 and was succeeded by the Indian National Congress. Notwithstanding a change in the Federal government, security forces continued to pursue policies *inter alia* of extra-judicial killings, detentions and torture. The implication of such policies was particularly tragic for India's Kashmiri Muslims. Arbitrary practices of arrests, detentions and torture were deployed against the Muslims in Jammu and Kashmir; Courts in Jammu and Kashmir were reluctant to hear cases involving militant crimes and failed to act expeditiously on *habeas corpus* cases. The conflict between Muslim Kashmiris and the Indian armed forces has been brutal resulting in more than 40,000 deaths within the past 15 years; there continues to be more violence and bloodshed.

This extra-judicial killings by security forces is matched by violence conducted by Muslim separatist groups, apparently supported by foreign elements. Some of the recent prominent acts of violence in Kashmir have been:

In July, 2005, several army personnel were killed and injured by a series of suicide attacks in Srinagar-the Hujbul Mujahideen took responsibility for the attack;

Militants killed a moderate politician Ghulam Nabi Lone in On October 18, 2005 who was the state education minister. The militant group called Al Mansurin claimed responsibility for the attack.

Militants gunned down 35 Hindus in Doda and Udhampur districts in Jammu and Kashmir in May, 2006.

Several Hindu pilgrims and tourists were killed on their way to visit the Vaishnodevi shrine and/or when visiting THE Dal Lake for tourism purposes.

On 11 July 2006 in Mumbai (formerly Bombay) bomb blasts killed 209 people and seriously injured nearly 1000. These blasts were blamed on Islamic extremists aggrieved at the treatment of Muslims in Kashmir and other parts of India. Indian security services blamed Al-Qeeda supporters based in Kashmir for having committed these atrocities.

The acts of State violence and counter-violence by insurgents groups have left a strong sense of distrust between the Kashmiri Muslims and the Indian state and population at large. A recent Human Rights Watch report states that there is 'compelling evidence that elements of the Pakistani government have sponsored a significant flow of arms to Kashmiri militants, as well as an extensive training program'. The British newspaper, the Guardian, had a news story that stated that there was evidence to show that Pakistani militants were openly raising funds and training new recruits and that the ISI's Kashmir cell was instrumental in funding and controlling the militant outfits. According to the Guardian, this position was confirmed by Richard Bennett, a British military and intelligence analyst, who stated that the ISI has been involving in arming and training generations of Islamic extremists and has been instrumental in co-ordinating terrorist attacks both within Kashmir and in some of India's major cities. The Economic Freedom of the World Report 2006 (released by the CATO Institute in conjunction with the Fraser Institute of Canada) recently categorized the state of Jammu and Kashmir as 'partly free' while it categorized Pakistan-administered Kashmir as 'not free'.

A positive step has been the reduction of armed forces of both countries on the line of control in 2002 and the beginning of negotiations by the parties. Both India and Pakistan have agreed on maintaining a

general ceasefire from November 2003 and which reduced tensions in the region. This agreement was the first between the sides in 15 years. Since February, 2004 and throughout 2005-2006, the Pakistan government has tried to exert pressure on Kashmiri militants to observe a ceasefire in the valley. This has been highly challenging for all sides, with continuing and substantial acts of violence. In December 2006, Pakistan's military ruler, General Pervez Musharraf proposed a four-point peace plan, whereby Pakistan would be willing to give up its long-standing claims of Kashmir independence. In return, the Indians was to provide a phased withdrawal of troops in the region and self-governance for Kashmiris. These proposals have not been materialised. During 2006 - 2007, there have been several incidents where Indian security forces reverted to torture and extra-judicial killings of the Kashmiri Muslims. The extension of the ceasefire to armed elements from Pakistan has also not been successful as most of the armed militant groups refuse to agree to the terms of the ceasefire. In February 2007, 68 people were killed as a consequence of the bomb blasting (and subsequent burning) of the train carriage, carrying people from India to Pakistan: amongst the dead were mostly Pakistani citizens. The incident is further strained the relations between the two-countries and prejudiced the fragile peace in Kashmir.

Following the state government's transfer of 40 hectares of forest land to Hindu organizers of an annual pilgrimage to the Amarnath caves, tens of thousands of Muslim protestors took to the streets of Srinagar in June 2008. Several people were killed and hundreds wounded in clashes with police. The divided Kashmiri separatist movement united over the issue, accusing the federal and state governments of conspiring to settle Indian Hindus on the land in a bid to shift Kashmir's demographics. Despite counter-demonstrations organized by the Hindu nationalist BJP in Jammu, the government reversed its decision on the land transfer late in the month. The reversal sparked outrage among Hindu nationalists who launched protests across many areas of India.