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FOREWORD

NDU Journal is a prestigious publication of National Defence University, the country's apex institution of defence and strategic studies. It covers wide spectrum of subjects based on the research papers of the faculty and participants of National Defence and Armed Forces War Courses. The issues are debated at length at the University; research is conducted on important concerns and articles of strategic value are published in this journal.

Major General Tariq Nadeem Gilani in his article has given a comprehensive account of the evolution of war fighting. The author has discussed the place of war fighting concept in the hierarchy of warfare. The article is not limited to the subcontinent; global trends are also discussed.

National Strategy Paper is one of the major research activities, conducted by the National Defence course participants of the University. It is a Group Research Paper, written by eight authors on "Governance of Specially Administrated Areas and their Impact on National Security" to evaluate the existing governing system of FATA and Northern Areas in the context of National Security. The authors have recommended policy response in this regard.

Lieutenant Colonel Dr. Muhammad Khan's article on "Kashmir Dispute and the Prospects of Indo-Pak Peace Process" undertakes an in depth analysis of salients of Kashmir issue, the dynamics of the limberness made by both countries, progress of composite dialogue and eventual beneficiaries of the peace process. The author has also given some recommendations for the future.

Colonel Michael V. Schleicher's article on "NATO in Afghanistan: A Political and Military Alliance at War" gives an account of the challenges and the objectives of NATO. The article projects that 'the world, and not just NATO, has a lot at stake in the continuation of the ISAF mission.'

Colonel Lincoln Keonyemere Jack Ogunewe's article on "Security of Refugees in Africa: A Way Forward" analyzes the security problems confronting refugees in Africa and recommends appropriate measures to address them.

Muhammad Saleem Sethi's Article on "Foreign Aid Syndrome and Aid Effectiveness: Case Study Pakistan" describes how the foreign aid has hampered the economic growth of Pakistan. The author has also discussed how it has adversely affected the resource mobilization and increased the debt burden.

Lieutenant Colonel Hammad Qadir's article on "Water- A Source of Conflict in South Asia" gives a detailed account of water conflicts of South Asia with a brief history. Though the preventive treaties like Indus Basin Treaty, Ganges Water Sharing Treaty and Mahakali Treaty do exist, yet serious water conflicts may happen in the future. The author has also suggested some measures to avoid such conflicts.

While providing a brief overview of the diverse topics, selected for NDU Journal, I also avail the opportunity to inform our readers that all the articles in the Journal have been peer reviewed by the highly competent national and international reviewers. We look forward to receive valuable comments and suggestions for further improving our publication.

Major General Azhar Ali Shah
Director General
Institute for Strategic Studies; Research & Analysis

EVOLUTION OF WAR FIGHTING CONCEPTS IN THE SUBCONTINENT

Major General Tariq Nadeem Gilani

Warfare has evolved from prehistoric era through more than 5000 years of recorded history to the present time. Its evolution has one common denominator that it has conformed to the spirit of its era, the “Zeitgeist”. A German expression, “Zeitgeist” is the most apt phrase meaning “the general intellectual, moral and cultural climate of a period” which explains the evolution of warfare. The strides made in science and technology have on the one hand brought finesse and sophistication in the technique of killing, while on the other helped the humans to evolve softer ways to subdue or tame the enemy. The history of evolution of warfare will be better understood if we keep these two dynamics at the back of our mind. War fighting concepts is a novel subject that has not been discussed much in our military circles. It is however an important one and deserves much more attention, than it has got so far. My effort would be to focus on the evolution of the war fighting concepts without dwelling in detail on individual concepts. I will first establish the place of War Fighting Concepts in the Hierarchy of Warfare, then trace the evolution of War Fighting Concepts in India and Pakistan and finally give some projections into the future.

Place of War Fighting Concepts in the Hierarchy of Warfare

War fighting concepts refer to the methods developed for fighting wars keeping in view the zeitgeist, the technologies and weapon systems available and the nature of enemy. These can also be termed as the “ways” within the Ends – Ways – Means trinity of strategy. War fighting concepts may be based on the existing means or may devise their own means calling for major restructuring and reorganization of armed forces. Within a nation’s hierarchy of military planning, military strategy is responsible for ensuring the fulfilment of the defence aim. The strategic options may include offensive strategy, defensive – offensive strategy, strategy of denial, space or destruction oriented strategy, etcetera. Following the trinity

model of strategy, the selected strategic option would be incomplete without an appropriate war fighting concept. War fighting concepts can relate to both strategic as well as operational level of war.

Based on the war fighting concepts, the Joint Staff (JS) Headquarters (HQ) and the services organise the forces, equip them and develop detailed doctrines for conduct of operations. War fighting concepts are not static. These have to be dynamic, if not in flux. Some of the war fighting concepts evolved during the last seventy five years include the Blitzkreig, Follow-on-Forces attack, deep strike, Effects Based Operations, Net Centric Warfare, etcetera.

The war fighting concept employed by the United States (US) forces during the invasion of Iraq in 2003 was “Shock and Awe”. Also called “rapid dominance” it was based on the use of overwhelming fire power, battlefield awareness and dominant manoeuvres to paralyze an adversary’s perception of the battlefield and destroy its will to fight. Implementation of the concept allowed a relatively small number of United States (US) forces to defeat what had originally been presented as a much larger opposing force.

Concepts have also evolved in the nuclear domain during the last 60 years based on the zeitgeist of the time. Initially, when USSR was struggling with the nuclear weapons technology, the United States adopted the strategy of “massive retaliation”. When the Soviet nuclear stockpile reached comparable proportions, United States feared that the conflict may snowball into “mutually assured destruction”. The United States then shifted to the doctrine of “flexible response” retaining the option to respond selectively. Still unsure of the United States superiority in a war with USSR, President Reagan gave the concept of Strategic Defence Initiative – commonly known as the “Star Wars”.

One war fighting concept does not cover the whole spectrum of warfare, but serves as a solution for a particular environment, a particular sector or may address a particular issue. For example, the North Atlantic Treaty Organisation (NATO) concept of Graduated Application of Force in the European theatre was their war fighting concept against the Warsaw Pact, while the adopted war fighting

concept against the Iraqis in 2003 was “Shock and Awe”. As was witnessed, while “Shock and Awe” won the conventional victory for the Americans, it did not prove useful in the subsequent Low Intensity Conflict (LIC) phase in Iraq.

Evolution of War Fighting Concepts in the Subcontinent

Before independence in 1947, both Indian and Pakistani armed forces were organised and trained by the British. Therefore, on independence, there was symmetry in their organisations and concepts. Later, as the Indians went closer to the Soviet Union and we became pro-west, there was a slow divergence in evolution of doctrines and war fighting concepts of both armies.

Let us analyse the evolution of Indian war fighting concepts, first. After independence, the Indians mostly acquired the Soviet weapons and equipment, but they also kept open a window towards the West by training their officers in the United States and European military schools. As a result, the Indians neither tied themselves to the Soviet military doctrines, nor to the western concepts. Benefiting from both the schools of thought, they have been able to indigenise many foreign concepts over the years. The underlying thought in development of strategic and operational concepts viz a viz Pakistan has been their numerical superiority, greater strategic depth and their internal weakness in Kashmir with the fear that Pakistan might undertake an audacious offensive action to exploit this vulnerability. We can briefly examine some of the known Indian concepts.

- **Concept of Simultaneity.** In 1980’s India adopted Soviet concept of multi tiered offensive intended to engage front line defensive forces simultaneous with engagement of sequentially reacting reserves through deep ground manoeuvres and vertical penetration. The efficacy of the doctrine was always questionable due to imbalances in organisational makeup of the armed forces.
- **Sundarji Doctrine.** Exercise Brass Tacks (Jul 1986) was aimed at employment of large scale mechanised

forces supported by massive air power to achieve maximum degradation of enemy system of forces and absorb significant territory.

- **Shaping of the Battle Field.** As the Indian armed forces improved their fire power capability through long range artillery and airpower, they adopted the United States concept of shaping of the battlefield. The concept implies seriously degrading the capability of the defender to fight in a coherent manner before committing forces to decisive operations and warrants considerable application of firepower.
- **Limited War.** Indians insist that there exists a strategic space between the outbreak of a conventional conflict and crossing of nuclear threshold and a limited conventional war is still an option. Limited war is not a war fighting concept per se, but it does provide the framework within which concepts for war fighting can be developed.
- **Graduated Application of Force.** This is not an original Indian concept. However, it is believed that capitalizing on the advantage of superior ratios in Navy and Air force, the Indians may initiate hostilities through single service or bi-service application of forces. Graduated application of force also allows better escalation management when fighting under nuclear overhang.
- **Cold Start Doctrine.** Indian military strategists feel that Indian military superiority against Pakistan has been rendered irrelevant due to the global environment. They have formulated “Cold Start Doctrine” to impose a short, swift and intense war on Pakistan to achieve their politico-military objectives. The capability to execute this concept will be related to the time taken by the changes made in the structure of formations, their relocation, training and induction of planned equipment.

On the Pakistani side, the introduction of United States aid in mid 1950s and training of our officers in the United States military schools led us to gradually adopt the United States doctrines and terminologies. The attempt to adopt the United States concepts remained superficial as the required intellectual inputs were not given for indigenisation of the foreign concepts. The evolution of concepts in the Pakistan Army can be traced as under:

- **1965 War.** The earliest traces of a strategic concept are found in 1965 war, where Pakistan intended to create strategic effects through offensive operations in Kashmir and planned to deny any ingress to the Indians in the plains of Punjab.
- **1971 War.** The strategic war fighting concept for 1971 war is explained by the statement “Defence of the East Lies in the West”. The concept was formulated in late 1950s and became the corner stone of Pakistan’s defence policy. However, it remained stagnant despite the changed internal and external environment. Irrespective of the inadequacies of the concept, ironically, when the time came for its implementation, we lacked the political will to initiate offensive operations from West Pakistan.
- **Land-Air Battle.** Land-Air Battle is originally a United States concept that has been studied for adoption in Pakistan armed forces. However, we have remained short of fully adopting it due to inadequacy of resources.
- **Current War Fighting Concept.** What is Pakistan Army’s current war fighting concept in case of a war with India? There is no clear answer to this question, as our war fighting concept has not been laid down as such in any document. While we do find tactical doctrines in the shape of General Staff Publications (GSPs) like Armoured Division in Battle, or Infantry Battalion in Battle, etc, the operational level war fighting concepts have not been developed. Another source for the operational level war fighting concepts can be our Army and Corps operational instructions.

These instructions do help us in understanding the intent of the commander, but do not deal with the war fighting concept or the doctrine of fighting battles at operational level. At places, the formations have developed their own training notes for different operations. These training notes are based on individual experience of formations and are fairly useful. However, these have neither been authenticated through scientific and decision support applications, nor deal with tri-services issues.

Projections into the Future

To evolve the war fighting concepts for the future, one has to understand the nature and character of the future war. This is where most of the armies fail and end up preparing for the last war. Despite having the most developed intelligence network and the most elaborate think tanks ever owned by a state, United States of America was surprised by the nature, magnitude and timings of the 9/11 attacks.

The events of recent decades indicate that the armed struggles are aimed less at changing borders or capturing spaces and more at affecting change in the policies and behaviours of target governments and people. As a consequence of 9/11 attacks, Al Qaeda wanted United States of America to leave the Muslim lands and abandon support to Israel; the Indian Operation Parakaram against Pakistan in 2001-02 was aimed at coercing Pakistan to quit its support to the freedom struggle in Kashmir; cross border strikes by the United States on our Western border are aimed at coercing us to do more, and so on.

The zeitgeist of today is shaping the nature and character of future war. The indicators are that the future wars will remain limited with a propensity towards asymmetry. Let us focus our attention on the development of war fighting concepts in the future.

Global Trends

Keeping in view the differential in resources, the states with superior armed forces and technologies are likely to employ conventional forces with high – technology means of surveillance and target acquisition, precision strikes, intensive intelligence operations and propaganda. On the other hand, the states with lesser military capabilities and the non-state actors will lay more emphasis on concepts based on asymmetric warfare and unconventional operations. The developed countries dread the spectre, where non state actors may synthesise latest technology with asymmetric warfare doctrine.

The nations worldwide and even the non-state actors are spending huge resources on development of war fighting concepts appropriate to the environment. Saleem Hamdan, Osama bin Laden's ex driver has identified Al Qaeda's war fighting concept of late 1990s as: (Bin Laden said) "we must carry out painful attacks on the United States until it becomes like an agitated bull, and when the bull comes to our region, he won't be familiar with the land, but we will." (Jonathan Mahler, "Enemy Number One", Time Magazine Volume 172, No. 4, August 4, 2008, 20). We can see how prophetic the concept has been. Al Qaeda's war fighting concept has further evolved over the last seven years. The United States forces which were able to quickly overwhelm Iraqi military forces through "Shock and Awe" had to make major changes in their initial concept to reconcile with the zeitgeist of Iraq.

Modern armed forces have commissioned dedicated organisations for developing war fighting concepts. In United States of America, the United States Joint Forces Command is responsible for transformation of United States military capabilities and is considered the transformation laboratory of United States armed forces. The directorate which evolves and experiments the concepts is the Joint Concept Development and Experimentation Directorate.

In Australia, the Australian Defence Force (ADF) has made a joint organisation, namely the Directorate of Future War fighting, responsible for defining the Australian Defence Force of the future.

The concepts developed by the Directorate are analysed by the ADF's Experimentation program before adoption by the military. Indian Army has a directorate each for perspective planning and systems under the Deputy Chief of Army Staff Planning and Systems in the Army Headquarters. In addition to the dedicated organisations, institutions like War College and schools of instructions also play an important role in devising and refining the war fighting concepts.

Trends Specific to the Subcontinent.

When it comes to the difficulty of forecasting the nature and character of future war, India and Pakistan are no exception. I will now discuss the trends in development of war fighting concepts in India and Pakistan with the proviso that Nuclear Overhang is a single most important factor impacting the future war scenarios.

We notice a regular outflow of many original or adopted war fighting concepts from the Indian military. We have already discussed a number of war fighting concepts originating from the Indian military. Operation *Sadbhawna* aimed at winning the hearts and minds of the people in Indian Occupied Kashmir is another such example. We have also heard about the concept of strike and pivot corps, operations on multiple thrust lines and the concept of a complementary effort with Reconstituted Division in the Indian Army. A few years back, the Indians experimented the concept of over-running an infantry strong point with an armoured brigade after pulverising the strong point with extensive firepower from Air force, Artillery and Combat Aviation.

Irrespective of the success or otherwise of these concepts, their mere presence indicates dynamism in evolution of military thought and war fighting concepts. The scarlet thread of Indian War Fighting Doctrine in the conventional plane has two strands: Application of superior long range fire power for meaningful effects and restricting the depth of manoeuvre to respect the nuclear overhang. In the unconventional plane, again the Indian concept is two fold: One - Create space for offensive Low Intensity Conflict (LIC) in Pakistan, and Two - Address her vulnerability in Kashmir

through pacification operations and deter Pakistan from supporting the freedom movement by raising the bogey of terrorism.

Pakistan is facing multiple threats to its security in the shape of conventional threat from India, Low Intensity Conflict from elements of Al Qaeda and Taliban, threat of sub nationalist tendencies and the threat of cross – border military action by Extra Regional Forces. To compound the threat spectrum, there is covert involvement of other states and agencies in destabilising Pakistan. The multiple threats to Pakistan's security call for variety of responses, each requiring an appropriate war fighting concept. Pakistan military's track record in developing war fighting concepts is not very commendable. While we do possess doctrines for employment of tactical units, we have not spent our intellectual efforts on developing operational level concepts. Holding of Exercise Zarb-e-Momin, re-orientation of our military strategy and reorganisation of the Army in late 1980s were major steps forward in evolution of our operational thought. Since then, the operational concepts have not witnessed much innovative thought.

Our achievements in evolving organisational improvements are relatively better. We optimised articulation of Artillery resources through the raising of Artillery division; the concept was promptly followed by the Indians. Our re-organisation of operational logistics and creation of the Chief of Logistics Staff, though still being refined, has greatly contributed towards enhancing our war fighting potential. Our operations on the western border have highlighted many weaknesses in our concepts and tactical doctrines regarding Low Intensity Conflict. In the motivational plane, Pakistan Army's motivation theme was to fight in the name of Islam. However, the situation is different once we are engaged in an intra state conflict at the strategic level. At the same time, we were used to fighting a well defined enemy across a demarcated line, but now neither the enemy is identifiable, nor is there a Forward Line of Own Troops (FLOT). This zeitgeist calls for a paradigm shift in our operational thinking and war fighting concepts.

Pakistan military's dilemma therefore is at least two fold. While the threat of Low Intensity Conflict and terrorism has gained

operational level significance, the conventional threat despite having reduced in imminence, has enlarged in quantum. Some of us believe that our nuclear deterrence against India allows us to completely focus on the internal front. This is a fallacy, because nuclear capability does not deter Low Intensity Conflict or limited operations across the Line of Control (LOC) and international border. Most of the Indian war preparations are Pakistan specific, which does not allow us to lower our guard. (Lesson of history: Response should be based on enemy capability and not intention, which may change any time.)

Starting from mid 1950s, for a long time, we held superior weapons and technologies viz a viz India. Gradually, we have not only lost the edge, but India has also acquired many force multipliers. With the transparency of battlefield provided by Remotely Piloted Vehicles (RPVs), radars and satellites and the accuracy of engagement offered by Precision Guided Munitions (PGMs), the viability of fixed defences and movement of strategic formations will be seriously challenged. A numerically and technologically superior enemy cannot be defeated with symmetrical concepts as those of the enemy itself. To win a war against India we need to evolve novel and unique war fighting concepts.

Conclusion

It is our foremost responsibility to forecast the nature and character of the current and future wars. Having identified their contours, different war fighting concepts would be required for different sets of environments. Modern armed forces have dedicated organisations responsible for developing war fighting concepts. We need to follow the same pattern and should not neglect formulation of war fighting concepts at Joint Staff as well as individual service level. To this end, we should commission a Directorate of Transformation and Concepts in the Joint Staff Headquarters as well as in each Service Headquarters. These directorates should be organised and equipped for perspective planning as well as evaluation and experimentation of concepts with appropriate specialists and computer aids.



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NATIONAL STRATEGY PAPER
GOVERNANCE OF SPECIALLY ADMINISTERED AREAS
AND THEIR IMPACT ON NATIONAL SECURITY

Introduction

National Security is a vital and overriding concern for any country and contrary to traditional perception it is not confined to defence from external military threats. In fact as a concept it is much more comprehensive and encompasses economic, social, political and a number of other aspects. In the past nations while preparing for defence against military threats were mainly concerned with hostile intentions of other nation states. Now the focus of National security planners is more on threats emanating from within the country, so that they do not provide an opportunity for others to exploit such areas of weakness.

Our nuclear and conventional capabilities address the external dimensions of national security to a large extent. Now a greater degree of internal cohesion is required which implies better inter provincial harmony and addressing of unresolved issues that give rise to fissiparous tendencies. Finally special regions being administered through separate governance systems also need to be brought into the mainstream so that they do not feel left out and discriminated against.

FATA is one area which after sixty years of independence still retains a separate status much to the detriment of its people. The Government has failed to integrate this area due to administrative inertia on the one hand and resistance by vested interests on the other. As a result the area lags behind the rest of the country in all forms of development. After the Soviet invasion of Afghanistan in 1979, the Government of the day exploited its ungoverned status for facilitating the free flow of arms and freedom fighters through this area to Afghanistan without fully realizing the long term consequences this would have for the area. Now after 9/11 we are suffering the aftermath of the previous policy and continued neglect.

Azad Jammu and Kashmir has the status of a separate state but the Northern Areas are formally neither part of AJK nor Pakistan. We need to re-evaluate how we can formally integrate the Northern Areas without compromising our Kashmir stance, before the resentment of the people here assumes crisis proportions.

Aim

To evaluate the existing governance systems of FATA and Northern Areas in the context of National Security and recommend a policy response.

INTERNATIONAL PERSPECTIVE

The International Perspective on the Governance of Special Areas is intended to provide a context for the detailed analysis that follows regarding prospects for further integration of the FATA and Northern Areas. It will also be highlighted that governance of Special Areas is not unique to Pakistan and therefore much can be learnt from looking at how other nations deal with “Special Areas”. Each Nation State governs Special Areas based on history, culture and national security imperatives. Both internal and external factors can affect how the governance relationship is manifested.

With a view to briefly cover the characteristics and generally recognized categories of Specially Governed Areas, following three examples have been selected to draw inferences for the purpose of study:

- The Navajo Nation in the United States offers a unique look at the consequences of Special Status in the developed world.
- Bodoland in India offers a view of how Special Status can be granted to meet urgent national security imperatives.
- South African Territories, governed under the Traditional Leadership model, are an example of

integration of tribal systems in modern governmental structures.

Finally, some general conclusions have been drawn from these case studies as they may be of use in examining the Pakistani case.

Characteristics of “Special Areas”. These are found world wide and have the following common characteristics:-

- Tend to be isolated areas such as islands, mountainous regions or areas that are not connected to the main land mass of a nation state.
- Usually have ethnicity, language, religion, race or social systems distinct from the nation state to which they are associated.
- Special status is achieved in many different ways and can be the result of political movements, armed struggle, military defeat or decolonization.
- Most “Special Areas” cannot be self-sustaining and remain associated with a nation state for security or economic reasons.

Categories of Special Areas. These are generally grouped into three categories.

- Dependent Territories.
- Non-Independent Territories.
- Autonomous Areas.

Dependent Territories. They are generally legacies of decolonization. 59 are listed by the United Nations and nearly all are associated with European and North American nations and normally:

- They do not possess full political independence or sovereignty of a nation state.

- They are distinguished from sub-national entities such as provinces or states.
- They usually have a separate judicial system and a distinct governance system

Non-Independent Territories. These areas have special status as they are usually disputed or occupied territories such as the West Bank and Kashmir.

Autonomous Areas. These areas are usually integrated into the state structure but have a recognized degree of autonomy or freedom from external authority from the central government. Generally autonomous areas:-

- Tend to be geographically distinct and/or populated by a national minority with a unique culture within a state.
- Are usually found in federal states.

Navajo Nation

The Navajo Nation is a sovereign nation that lies within the territorial boundary of the United States. Its existence reflects the will of the Navajo Tribal Nation to remain independent and maintain their distinct culture and tribal society.

- It was established by the Navajo Treaty of 1868 after the United States Army defeated the Navajo Tribe and confined them to their native lands.
- They are one of many indigenous Native American tribes and continue to speak the Navajo language and follow Navajo culture and traditions.
- The Navajo Nation has its own government and its important features include:-
 - It exists under a “Trust Relationship” between the Navajo Nation and the United States in which the tribe is a trustee that is protected by the Federal Government.

- This relationship is regulated by the Bureau of Indian Affairs which is under the Secretary of the Interior, a member of the President's cabinet.
- Inside the Nation, the Navajo govern themselves under the Navajo Code which was last updated in 1962.
- They have formed an executive, a tribal council and a judiciary with tribal courts. These courts are only for Navajo's, and non Indians arrested in the jurisdiction of the nation are turned over to state and federal authorities. The US Supreme Court is the court of final review for the Nation and the US Constitution is the law of the land.
- All Navajos are US Citizens in accordance with the American Indian Citizenship Act of 1924.
- The Navajo Nation has no direct representation in US Congress.
- This is interesting because nation members can vote in US National and State elections.

Analysis. Although there is no direct threat to US national security created by Sovereign Status of the Navajo Nation, it does have a dire effect on US citizens that live there. This is because:

- It has the worst economic conditions in the US. These conditions are equal to the developing world by many standards.
- Average income for Navajo Nation residents is half that of the national average.
- 50% live below the poverty level. (12% national average).
- There is a 44 % unemployment rate in the Nation (4.8% national average).
- It has a commodity based economy, and 51% of income comes from mining.
- It is a remote area with no infrastructure.

- No large scale manufacturing or farming industry.

Bodoland

It is an Autonomous Tribal Area of India, located in the State of Assam. It reflects the will of the Bodo tribal people for a separate, self governing status within the State of India. Salient features of this special area are:-

- The Bodo Tribe began agitation in the 70's and 80's as they saw their tribal way of life and political influence in their lands threatened by internal and external immigration.
- After a fifteen year insurgency Bodoland was recognized officially in a peace agreement between Government of India and Bodo rebels.
- It was designated as an autonomous region in 2003 in an agreement between the Indian Government, the State of Assam and Bodo rebels.
- Bodoland is an economically depressed area that is geographically isolated from India by its location in extreme North East India.
- The region is highly unstable and home to a number of insurgencies against the Indian Government.
- Bodoland has a distinct tribal culture, language and traditions based on Bodo ethnicity.
- Tribal affiliation strongly influences society and political structures.

System of Governance and Its Analysis. Bodoland has formed its own government and is one of only four autonomous areas in India and is recognized in the 6th Schedule of the Indian Constitution. This schedule specifies powers to be given to tribal councils in selected areas in India.

- The Bodo Land Tribal Council has legislative, administrative and executive powers over 40 areas of governance in Bodoland Territorial Areas District.

- The impact of increased autonomy and “Special Status” has been to end the Bodo’s violent struggle against the State of India, resolving an internal security threat.
- A possible negative impact is that other tribes in region now seek similar autonomous status through agitation and violence.
- Bodo Nationalist and other tribes seek separate state or nation state status.
- There has been no significant improvement of economic conditions which in the long term could return instability to the region. Bodoland remains dependent on major inflows from the Indian government for its economic security.

South African Houses of Traditional Leader

This model assists in governing six rural South African Provinces. In this system Traditional Tribal Leadership is integrated into the Constitution of South Africa and reflects legitimacy of tribal governance in rural areas of the country. In Apartheid South Africa, separate provinces enjoyed powers devolved to them by the central government. After Apartheid ended the “New South African Constitution” of 1994 curbed provincial powers, and consequently of tribal elements. Some tribal elements, especially in rural areas, agitated for secession and threatened the unity of South African federal state. 1996 South African Constitution was amended to include traditional tribal leadership at all levels of Government. These areas have a tribal based society with unique languages and culture. Of significant importance is the role of customary law in the governance and regulation of society.

Salient Features of Governance System. The South African Constitution vertically integrates traditional tribal leaders into government at all levels. The governance model is unique in that it has co-opted tribal leadership into national governance mechanism and it has the following salient features:

- South Africa has established the Cabinet Post of Head of Traditional Leaders.
- The Constitution also establishes a National House of Traditional Leaders and six Provincial Houses of Traditional Leaders.
- At the district and local level tribal leaders, who have always had a strong role, are now empowered to act in consonance with municipal governments.
- At each level these leaders act as advisory boards and decision making bodies on tribal affairs and customary law is used for conflict resolution.

Analysis. The implementation of this system has had a direct impact on the national security of South Africa in the following ways.

- At a very sensitive time in South African history it halted Post-Apartheid separatist tendencies.
- It has served to legitimize central government in remote areas where the writ of the state is difficult to extend due to remote location and lack of resources.
- The system recognizes tribal society found in rural areas. Instead of attempting to forcibly dismantle tribal systems; it has incorporated tribal leadership into the national governance system.
- It has served to politically stabilize rural areas, setting conditions for better governance and economic development.

Major Conclusions. Some conclusions that emerge from the foregoing discussion and provide a useful back drop in examining the integration of the FATA and Northern Areas are as follows:

- Almost without exception most “Special Areas” are characterized by separatist tendencies. Pakistan’s Special Areas however run counter to this trend.
- Populations living in Special Areas, even in a country as free and rich as the USA, tend to be politically and economically marginalized. Special Areas with

- relative economic advantage over the Nation State, like Hong Kong or Macau, are rare.
- Constitutional recognition of Special Status is important in harmonizing governance systems within a nation. Ambiguity in status is a root cause of poor administration of these areas.
 - Physical isolation exacerbates political isolation of populations living in “Special Areas”. Areas that remain isolated tend to challenge the writ of the state politically, in some cases violently.
 - Tribal social and political systems are recognized internationally as legitimate forms of governance.
 - Integration of tribally based systems or creation of tribally based entities can be effective. However, governance systems in these areas must be effectively integrated into the governance system and the Nation State proper. Large scale differences in legislative and especially judicial systems threaten rule of law.
 - Full and rapid integration of “Special Areas” can reduce their autonomy. Full implementation of national governance in these areas may meet with resistance to central authority.

International Models’ Relevance to Pakistan. Our Special Areas share characteristics with many similar entities found worldwide. However, their exhibited desire for further integration, linkages to the main Nation State through religion and culture and their legal status as integral parts of the Pakistani State set conditions that are conducive for fuller integration and diminishing their status as Special Areas.

GOVERNANCE SYSTEM – FATA

General. FATA with its peculiar history and customs/traditions gives it a unique character, distinctly different from other such areas of the world. We inherited the system of Governance in FATA from the British which has been in place in its original form, except for minor modifications. After 9/11 when the

Government of Pakistan changed its Afghan policy, the shift in stance could not be absorbed, specially by those in FATA where a whole generation had grown under the culture of Jihad. This resulted in the rise of militancy and extremism in the region.

Preview. The prevailing situation in FATA, and its Governance system is a threat to National Security, which needs evaluation focusing on following:-

- Historical Perspective.
- An Overview of FATA.
- Existing Governance and its Analysis.
- People's Perception of Governance of FATA.
- Major Conclusions.

Historical Perspective Without going into the earlier times, we concentrate only on the British era during which the present system evolved. After annexing Punjab in 1849, the British initially followed what they called Closed Door Policy for FATA region. According to this policy, they occupied the plains, leaving hills to the tribesmen. From 1876 onwards, they adopted Forward Policy of sending expeditions into Afghanistan passing through the mountains of FATA. These expeditions did not succeed and were abandoned subsequently. Therefore, the British Government entered into agreement with the tribesmen, agreed to their free status, and introduced a special governance system under the FCR in 1901.

Main reasons for keeping the special system of governance by the British were to:-

- To keep the lines of communication open up to Afghanistan border, as part of the Great Game.
- Dissuade the tribesmen from invading the settled area.
- Non-interference in tribal internal affairs; the British having no interest in development of the region.

After independence, a Jirga was held at Bannu in January 1948 in which FATA acceded to Pakistan and the Quaid-e-Azam

who was present in this Jirga, agreed to retain free status of the tribes. Same was subsequently incorporated in all the constitutions of Pakistan. In the 1973 Constitution, Article 247 addresses the administration of FATA. The existing system can be changed by the President of Pakistan, with consent of the tribal Jirga. However no consideration was given to change the system, as it posed no serious problem, though it led to underdevelopment of the area, besides criminal activities and providing sanctuary to fugitives from justice. But weaknesses in system have surfaced post 9/11 and the war against terrorism.

FATA – An Overview

Geography and Population. Pakistan has a long International border with Afghanistan alongside FATA. Total area of the region is 27,220 sq km which makes 37 % of the area of NWFP. According to the census of 1998; its population is 3.2 million, with present estimation of over 4.0 million.

Customs and Traditions. The people of FATA have distinct customs and traditions. At its centre is Pukhtoonwali which is the Pukhtoon's code of conduct, with roots in its history & geography and intertwined with religion. In case of conflict, it is Pukhtoonwali which prevails. It is best manifested in case of:-

- **Badl.** Means revenge, which a man from FATA will not forego even after a hundred years, because otherwise he will face;
- **Payghore.** Means taunt or ridicule, which he takes seriously, as it is the;
- **Nang.** Means honour or pride for which he is ready to give his life.

Economic Conditions. FATA had remained neglected for a long time, with poor economic conditions. Some of its manifestations are:-

- Abject poverty, with 60 % people living below poverty line.

- Approximately 40 % people have no regular income.
- Only 6 % of the land is cultivable.
- People live on small scale agriculture, transport, arms manufacture and trade.
- There being no worthwhile infrastructure.
- People engage themselves in illegal trade activities.
- **Socio-Economic Indicators.** Important Socio-Economic indicators of the region include:-
- **Literacy**
 - Male 29%
 - Female 3%
- **Health.** 7800 Persons per Doctor.
- **Per Capita Income.** Half of National Average.
- **Capital Development Expenditure.** 1/3 National Average, though in the past few years, this has increased significantly.

Governance System FATA

Administrative Arrangement.

- FATA comprises seven Agencies and six Frontier Regions. The region is governed directly by the President through Governor NWFP as his agent.
- In the centre, the State and Frontier Regions' Ministry (SAFRON) takes care of the affairs of FATA through Governor NWFP and the Political Agents. Day to day affairs and administration of the six Frontier Regions is looked after by the NWFP Government through District Coordination Officers and Assistant Political Agents.
- The system has been erected on four pillars, all equally important and absence of any of these would result in malfunction of the system. These pillars are:
 - Political Agent (PA)
 - Frontier Crimes Regulations (FCR)
 - Maliks
 - Frontier Corps (FC)

Financial. Federal findings for FATA are disbursed through the FATA Secretariat under Governor NWFP. The Political Agents administer these funds along with the locally generated revenue, which has no provision for audit.

Law and Order. Political Agent is responsible for maintaining law and order through levies/Khasadars, the Maliks/Lungi holders and the Frontier Corps.

Land Settlement. The land belongs to the tribes, with no land settlement carried out in FATA, except in certain places of North Waziristan and Kurram Agency.

FCR. FATA being outside the jurisdiction of the supreme and high courts, the administrative and judicial authority is exercised by the Political Agent under FCR, which is a substantive and procedural law. Disputes are settled through jirgas, mostly constituted by the PA who gives the final verdict. He is both judge and the jury. The appellate court against the verdict of P A which used to be office of the Commissioner has been replaced with a Tribunal of Secretary Law and Secretary Home of NWFP Government. The concept of Territorial Responsibility makes the FCR highly unpopular. PA enjoys vast powers of fine and imprisonment. Despite its unacceptability, FCR is strongly entrenched in the tribal system and will take time and a well orchestrated strategy to be replaced with new system.

Political System. Though dependent on NWFP Government for its day to day affairs, FATA has no representation in the NWFP Assembly. Agency Councils were established in 2003, with 50% nominated and 50% elected representatives, but these could not become effective. FATA is represented in the Parliament through twelve MNAs and eight Senators, but they can not legislate for FATA.

Funds & its Beneficiaries. Development funds for FATA have increased substantially. Over Rupees 26 billion were released by Federal Government in the last five years. However there being

great flexibility in the system for misappropriation, effects of these funds are not realized in the form of visible improvements. Moreover, a large sum of money generated locally through fines and taxes is allegedly largely misused.

Elements Resisting Change. Beneficiaries of the system are individuals, who may also resist the change. They are:

- Political/Administrative Hierarchy
- Political Agents
- Maliks and Lungi Holders
- Drug Traffickers and Criminals

Situation Post 9/11 and Impact of GWOT

In the situation Post 9 / 11, a large number of foreign fighters entered FATA from Afghanistan, specially in the North and South Waziristan Agencies, due to local religious orientation and the presence of Mujahideen of Afghan Jihad period. A large segment of local youth also joined in. Their frequent cross border movement brought these elements in direct conflict with Law Enforcing Agencies; specially the FC. As the threat exceeded the capacity of FC, the Army was employed in 2004. Since then, a number of military operations have been conducted but situation is still far from stable. It may be highlighted that the presence of Extra Regional Forces and the lack of appropriate Pushtun representation in Afghan Government are main contributory factors to the support of militants and the resulting instability of the region. Brief resume of security situation in different Agencies and Frontier Regions of FATA is as follows:

- An uneasy calm prevails in North and South Waziristan following the operations in 2007 and early part of 2008. Tehreek-e-Taliban of Pakistan headed by BaithUllah Mahsud, with stronghold in Waziristan have also made ingress into the adjoining settled areas as well as Orakzai Agency.
- Miscreants are also active in Bajour and Mohmand Agency and are running parallel authority to the PA.

- Repeated Jirgas have failed to produce any worth while results.
- Law and order situation in FRs has also worsened; specially in Darra Adam Khel.
 - Security situation in Khurrum Agency has seriously deteriorated due to Shia – Sunni clashes. The PA and the Jirga have only succeeded in partial stability.
 - Khyber Agency, which is otherwise peaceful, is passing through a phase of partial instability due to activities of Lashkar e Islam. The main reason is relocation of FC to other agencies.
 - Drug trafficking and smuggling from / to Afghanistan remains unchecked; especially on Afghan side.

Important Inferences. From the prevailing circumstances the inferences drawn are:

- Presence of Extra Regional Forces and inappropriate composition of Afghan Government will continue to have profound impact on security situation in FATA.
- Lack of economic incentives is motivating FATA youth to join the miscreants or involve in drug trafficking and smuggling.
- PA and Maliks are not only losing hold in miscreant's prone agencies / FRs, but also in Kurrum, Orakzai and Khyber Agencies.
- Authority of Government is challenged in all agencies of FATA either by the miscreants or the sectarian forces or by the self proclaimed Lashkars.
- LEAs are overstretched.
- Political dead lock and military option / presence of Army in FATA has spread militancy.

Need for Change. The present security situation raises concern about bringing a change to the existing system. It was probably for this reason that the Special Task Force headed by Sahibzada Imtiaz

did not recommend changing the system in their report prepared for the President in 2007.

However, it may be highlighted that changing of governance system has long term objectives and the situation post 9/11 provides an opportunity for the change, as:-

- It has brought the region and its governance in sharp focus.
- International support would be available for the change.
- With entry of the regular army in the region, the previously No Go areas have been accessed.

It may also be emphasized that whereas the change needs to be brought about gradually and tactfully, stabilization of the present situation before embarking upon the change is imperative.

Analysis of the Existing Governance System

Strengths. Critical analysis of the Governance system reveals that the apparently outdated governance system does carry certain advantages, which are:

- The system is compatible with tribal customs and traditions.
- Though not always fair, but justice is accessible, timely and with least cost.
- Collective territorial responsibility keeps crimes under control.

Weaknesses. These advantages are far outweighed by weaknesses of the system, which are:

- The system inhibits proper and full writ of the state, which is exploited by the non state actors.
- FCR is incompatible with present times.
- Too much of financial, administrative and judicial powers are concentrated in the office of PA.

- The system is highly prone to corruption and mismanagement.
- Political system suffers from dichotomy of representation.

People's Perception towards Governance of FATA

A recent survey by an NGO, Community Appraisal and Motivation Programme (CAMP) has brought to light how people in FATA perceive their Governance System. It is a comprehensive survey asking as many as 114 questions from 1050 respondents, 150 from each of the seven agencies, with wide dispersion, covering people of different social and educational background, age and income groups and both men and women. Important results of this survey include the following:-

- **Perception of FCR.** A large section of people i.e. 58 % view FCR as unchecked powers of the PA, meaning that it is unpopular law.
- **Collective Territorial Responsibility.** This is rejected by a large majority of 87.8 %.
- **Influence of Jirga.** 63.6 % people think that it is the local Rewaj which influence the decision of the jirga.
- **Preference for Agency Councils.** A large segment of society, 72.9 % wants the Agency Councils to be fully elected bodies. A very small percentage i.e. 0.5 prefers nominated body.

Major Conclusions.

Socio-Economic

- Special status led to neglect of the area, thus increasing poverty.
- The status has been exploited by terrorists, criminals and anti-state elements.
- There is growing despondency.

Political

- Public representatives are used by the Government for political manipulation in return for personal benefits.
- While the tribes retain their free status and the Maliks their privileges, but masses are deprived of their fundamental rights.
- The system is conducive to militancy and extremism.
- In militancy prone areas, power has shifted from Maliks to militant commanders.

Governance

- Existing system is personality oriented with individual beneficiaries.
- The system is inefficient and highly prone to corruption.
- FCR has outlived its efficacy, but being part of tribal psyche, it will take time to be replaced

Major Inference. Hence, it may be inferred that the system needs a change, with people's participation and through graduated approach. However, before the change, it is imperative that the present situation is stabilized.

THE NORTHERN AREAS

This Part covers the Northern Areas of Pakistan. As the problem of Northern Areas, carries a strong influence of the larger Kashmir Issue, therefore, relevant linkages are also covered to establish the contextual base for an objective examination. It encompasses the following:-

- The Historical Perspective
- Constitutional and Legal Perspectives
- The Governance System
- Major Conclusions

Historical Perspective

The genesis of the existing governance arrangement, like the greater Kashmir Issue, is also rooted in history and leads back to the period of Independence. In the process of Independence, focus remained on areas directly under the British Rule and not much thought was given to ‘Princely States’ some of which, had complex internal arrangements, like the State of Jammu and Kashmir where minority was the ruling class. The larger state itself was created partly through Kashmir being sold to Maharaja against all norms of human rights and partly through subjugation of various principalities of the Northern Areas during the 19th and early 20th Century; a subjugation that remained prone to revolts and rebellions. Consequently, with prospects of Pakistan, the natural misgivings resulted into two major regions of discord:-

- **First** was the Poonch Rebellion, which led to proclamation of Republic of Azad Kashmir on 24 Oct 1947 by the Kashmiri leadership.
- **The Second** was the Gilgit Rebellion, which after successfully regaining control of the Gilgit Wazarat, led to formal offer of accession to Pakistan. Pakistan’s flag was hoisted on 2 Nov 1947 with Sardar Muhammad Alam taking over as the first Pakistani Administrator.

These discords escalated into a conflict between the nascent states of India and Pakistan and brought Jammu and Kashmir to the United Nations, where till date it remains an unfinished agenda.

Constitutional / Legal Perspective Kashmir & NA

As on Independence, Jammu and Kashmir had become an international dispute with UN Resolutions calling for ceasefire and

plebiscite, an initial orientation within Pakistan was set accordingly, which has since been maintained. In this, Northern Areas that had acceded directly to Pakistan and were, historically and geographically, never a monolithic part of the State of Jammu and Kashmir, got intrinsically gelled to the Kashmir Issue for gains in the immediate context.

Consequently, within Pakistan, the Constitutional status of Northern Areas, as well as, that of Azad Jammu and Kashmir has remained abstract. Article 1 of the Constitution that defines the territories of Pakistan makes no direct mention of these Areas. An indirect reference is established through Sub-clause (2) (d) of the Article, which mentions “such States and territories as are or may be included in Pakistan, whether by accession or otherwise”

Karachi Agreement

- The present arrangement between Pakistan, Azad Jammu and Kashmir and the Northern Areas is primarily based on the Karachi Agreement, which was signed on 28 April 1949. In this, Subjects within purview of Pakistan included Defence, Foreign Policy, UNCIP Matters, Supplies and affairs of Gilgit & Ladakh. While the AK Govt and Muslim Conference were to manage remaining affairs including publicity and preparation for plebiscite.
- Karachi Agreement thus was more focused on the larger Kashmir Issue and the plebiscite with only a broad mention of Northern Areas as ‘Gilgit & Ladakh’. Also, in the three signatories, Northern Areas are not directly represented.

UN Resolutions. In the overall context, UN Resolutions on Jammu and Kashmir also hold great significance. It must, however, be appreciated that:-

- The key UN Resolutions were passed about sixty years back.

- These Resolutions are under Chapter VI of the UN Charter and thus remain contingent upon the goodwill of parties involved.
- Given the current geo political realities, India is unlikely to yield the requisite goodwill.
- This notwithstanding, these Resolutions do provide the historical evidence of the disputed status and also bear testimony to the fact that the dispute still exists.

The Indian Paradigm

- Though the contextual frame is different, here it would also be pertinent to take a quick look at the Indian Paradigm. The Indians have integrated the Occupied Kashmir vide Article 370 of their Constitution. Significant to note is that this Article still remains a temporary provision as clearly reflected by the title.
- The Article, however, allows representation of the State of J&K in the Indian Parliament.
- It also allows the Indian Parliament to make laws for the State.

Northern Areas Governance System

For Northern Areas, the governance system is a very peculiar arrangement. In this, though Northern Areas were linked to the Kashmir Issue but were physically detached from AJ&K through the Karachi Agreement. While the State of AJ&K was given a complete self-governance structure, Northern Areas governance arrangement got based on a bureaucratic arrangement. This System was not reflective of the popular aspiration and sentiment; and thus right from outset got based on a rather flawed frame of reference.

The subsequent development of the system also makes an interesting study. Few significant chronological landmarks in its development are:-.

- **1947.** Pakistan takes over control (through Political Agent).
- **1950** Control transferred from NWFP to Ministry of KANA.
- **1951** Tribal Areas of Darel and Tangir acceded to Pakistan.
- **1972.** Political Agent re-designated as Resident Commissioner.
- **1974.** Jagirdari System abolished, Northern Areas Council introduced.
- **1994.** Administrative and judicial reforms were introduced. Resident Commissioner was replaced by a Chief Secretary. Legal Framework Order 1994 and the Rules of Business were instituted.
- **1999.** Northern Areas Legislative Council empowered to legislate on 49 subjects.
- **2004.** Nomination and election of Dy CE was introduced by Northern Areas Legislative Council.
- **2005.** Reserved seats introduced (6 for technocrats and 1 for women to bring total women seats to 6).
- **2006.** Six advisors appointed.
- **2007.** LFO amended as Northern Areas Governance Order 1994 to provide:-
 - Local empowerment including re-designation of appointments.
 - Increased legislative function including vote of no confidence.
 - Improved governance.
 - Supreme Appellate Court.

This chronology is a clear manifestation of an overall ‘trickle’ approach, with some ‘bursts’ in between, that has been adopted towards Northern Areas. Though a major package was offered, as per local perceptions, most of these reforms are considered as either lacking in essence or limited in scope and not addressing their basic political want – that is a constitutional recognition and status. Consequently, Northern Areas have remained in a constitutional limbo. This, overtime, resulted into a number of court battles.

Pertinent Legal Cases / Judgments. In this context, three pertinent cases and Legal Judgments are relevant:-

- First is the decision by AJ&K High Court in the case of Malik MUHAMMAD MISKEEN versus GOP. The case pertained to the Status of Northern Areas and the fundamental *rights of its citizens*. *The crux of the decision was that AK Government to immediately assume the administrative control of the Northern Areas and to annex it with the administration of Azad Jammu and Kashmir.*
- **Supreme Court AJ&K.** This decision was appealed by Federation of Pakistan in the Supreme Court of AJ&K. The Decision of the Supreme Court was:
 - NA was part of J & K State but is not a part of AJ&K.
 - High Court did not possess the necessary jurisdiction.
 - Judgment of the High Court was thus vacated.
- **Supreme Court of Pakistan.** This decision in turn led to another constitutional petition in the Supreme Court of Pakistan. The case is known as Al-Jehad Trust Versus Federation of Pakistan. In this case, the Apex Court:
 - Observed that people of Northern Areas are citizens of Pakistan for all intents and purposes.
 - Directed the Federation of Pakistan to ensure that the people of Northern Areas enjoy their fundamental rights – “namely, to be governed through their chosen representatives and to have access to justice through an independent judiciary”.

Governance System – Northern Areas. With this back-ground, as a quick recap, Northern Areas are being primarily:

- Governed as Federally Administered Area.
- Governed under the Northern Areas Governance Order, 1994, which has been last amended in December, 2007.
- Chairman NA. Federal Minister for KANA is the Chairman of the Northern Areas and heads the government.
- Chief Executive. The Chief Executive (CE) is elected from amongst the members of the Assembly on basis of a majority vote.
- Advisors. Three to six Advisors are also appointed who hold office during pleasure of the Chairman and not the CE.
- Northern Areas Legislative Assembly. The Northern Areas Legislative Assembly is an elected body with limited legislative function. It comprises 24 directly elected representatives with 6 women representatives and 6 seats reserved for technocrats thus making a total figure of 36.
- Judicial Set-Up. Northern Areas has a three tiered independent judiciary which include:-
 - Supreme Appellate Court (Was set up consequent to 2007 Amendment).
 - Chief Court.
 - Subordinate Judiciary.
- Socio-Economic Indicators. Overall, Northern Areas lags behind in socio-economic development. To manifest this, few comparative indicators with AJ&K are shown:-

Ser.	Indicator	NA	AJ&K	Remarks
1	Per Capita Income	\$121 – \$ 435*	\$ 847	Price Parity Basis Non Poor*
2	Literacy Rate	35 %	65 %	
3	Infant Mortality Rate	70	56	Per 1000 Live Births
4	Child Immunization	42 %	88 %	Under 5 yrs of age
5	Hospital Beds	0.4 Bed	0.5 Bed	Per 1000
6	Access to Tap Water	52 %	74 %	
7	Access to Electricity	42%	84%	

Evaluation of the Northern Areas Governance System

- The system for Northern Areas got embedded, by default, as events unfolded on independence.
- A conscious linkage with Kashmir was also made to accrue advantage in case of plebiscite.
- Subsequently, there were apprehensions that integration may compromise the legal position vis-à-vis the Kashmir Dispute.
- Within the system, certain areas of concerns still exist. In this, a strong perception persists that people of Northern Areas have still not been provided constitutional recognition and Kashmir Issue continues to eclipse their plight.
- Despite amendments to LFO, sense prevails that Northern Areas remains a subject of Ministry of KANA with a non local Minister acting as the head with actual powers.

- Consequently, Northern Areas continues to remain in the bureaucratic stream and at a low national priority and has seen limited socio-economic development.
- As Northern Areas has no political representation in any legislative assembly of Pakistan, their constitutional rights are not protected.
- Devolution plan has not been extended to the Northern Areas.
- Even in comparison to AJK, population of Northern Areas feels deprived because of incomparable governance structures.

Major Conclusions. Conclusions drawn from the Analysis are:-

- Like AJK, the Constitutional status of Northern Areas is also abstract despite the Karachi Agreement.
- Recent amendments have addressed some basic issues but people of Northern Areas remain uncomfortable in their continued linkage to the Kashmir Issue and denial of constitutional recognition and integration.
- There is also a remote sense that a negative resolution of Kashmir Issue may result in loss of Northern Areas.
- A Strong sense of deprivation also exists not only in socio-economic sense but more so in the context of their political rights.
- Northern Areas has an arduous terrain with sparse, poor and hardy population. With very limited local opportunities, such environment has the potential to provide opportunities to nationalists and extremist elements in face of disillusionment.
- Present constitutional obscurity also allows strong potential for subversive propaganda.
- In such contextual frame, step-wise integration of Northern Areas is in the interest of Pakistan and demands more pragmatic approach.

To sum up:-

- Northern Areas System of Governance falls short of the aspirations of the local population and has resulted into a sense of deprivation.
- In Northern Areas popular sentiment exists for a provincial or an equivalent status.
- Geo strategic importance of the area necessitates action as any potential of destabilization in this critical hinterland located at the confluence of China, India and Afghanistan, is not acceptable and must be stitched well in time.

WAY FORWARD

In the preceding parts, an analysis has been carried out of the governance arrangements and experience of special areas both from an international and a Pakistani perspective. International experience indicates that barring a few exceptions, specially administered areas being outside the national mainstream; inevitably remain deprived and underdeveloped as compared to the rest of the country.

A study of FATA demonstrates that years of neglect and segregation from the rest of the Country has contributed to the state of deprivation and turmoil there. This however is not the only reason for the present crisis as the presence of extra regional forces and the situation in Afghanistan has also had a major impact in FATA. Similarly the Northern Areas suffered deprivation due to its special status derived from our Kashmir policy. Coming to the Way Forward, it will be covered in two sub-parts. The first part will relate to FATA, whereas, the second part will deal with issues concerning the Northern Areas.

FATA

International trends clearly indicate that there is a global concern regarding ungoverned areas in a country since they represent threats to the national security of other nation states. FATA has become the focus of world concern as it is globally

perceived as an ungoverned area which has become a safe haven for terrorists. Therefore if the government is seen as unwilling or unable to ensure good governance here, it can provoke foreign military intervention. Even after the Global War on Terror (GWOT) ends, FATA is likely to still remain in the eye of the storm since it is internationally perceived as a major centre for narcotics trade as well. GWOT however also represents an opportunity for better integrating this area with the rest of the country, since international donors may be amenable to funding a smooth transition.

Having analyzed the governance system of FATA, it is clear that the long term solution lies in its eventual integration with NWFP.

FATA's Integration with NWFP: An Analytical View

- This will enable better and quicker integration of the marginalized tribesmen into the national mainstream.
- Merger with NWFP is a logical step, since FATA is administered by the Governor NWFP and the personnel manning the tribal administration come from this Provincial Government.
- With political parties becoming fully operative, progressive political personalities will reclaim political leadership from extremists who so far have taken advantage of the political vacuum.
- Empowerment at the grass root level will result from the eventual extension of the Local Government Devolution Plan to FATA.
- The extension of the NWFP official development machinery to FATA will ensure that development funds are utilized more effectively.
- The tribal population will get full fundamental rights and eventually they will no longer be subject to FCR. However it also needs to be kept in mind that while the FCR is a harsh system, it does deliver speedy justice. Therefore if the introduction of normal law results in delayed justice and a corrupt legal mechanism, the tribesmen will become disillusioned and frustrated with the new system.

Options for Integration of FATA. The integration of FATA with NWFP can be achieved through two possible options. One is to adopt a gradual approach while the other is to effect the merger in one go. However, regardless of the option adopted it will be vital that the process of integration is preceded by a stabilization phase.

Stabilization Phase. Some of the measures that should be taken during this stabilization phase to create the necessary environment for change are as follows:-

- A political consensus building effort should be initiated to take political parties onboard including other stakeholders such as the media, ulema and various elements of the state security apparatus.
- A Tribal Areas Advisory Council should be established to assist and advise the Governor NWFP on tribal affairs as well as serve as an additional channel of communication with the Tribal population. This Council would comprise of FATA parliamentarians and other eminent persons.
- A political dialogue with tribal stakeholders for holding a jirga and cessation of hostilities is necessary and thus such a dialogue is currently on which has resulted in some Agreements between them and the Government. However it would be more beneficial to institutionalize this process through a specific jirga which inter-alia would discuss the following issues:
 - Re-establishment of the writ of the State.
 - Presence of foreign militants in the area and the need to eliminate it.
 - International security concerns related to FATA especially relating to cross border movement by militants to Afghanistan.
 - Dewatering of heavy weapons.
 - Facilitation of development work and prevention of any obstruction.
 - Compensation for collateral damage.

- Presence of the Army and Law Enforcing Agencies in the area, so that Government negotiators are perceived to be backed up by a potent force thereby strengthening their bargaining position. Moreover the right of the Government to set up check points in the area whenever warranted should be clearly established on an indisputable basis.
 - Formation of a Jirga committee should take place to ensure compliance of jirga decisions and in keeping with traditional jirga practice, monetary and other penalties should be specified for violation of jirga decisions by tribesmen.
-
- Political Parties Act should be extended to FATA to dilute the influence of militant leaders. This needs to be done as soon as possible so that the political cadres get sufficient time to work in the area and thus dilute and reorient tribal unity along political lines.
 - Agency Councils should be activated and assigned responsibility for development work. At this stage it should however also be ensured that the Maliks are also appropriately included in these Councils.
 - A development initiative should be launched with priority on education, health, water supply, roads and employment creation.
 - International partners in GWOT may be persuaded regarding the need to now adopt a politico-military approach since the current emphasis on a military solution has failed to yield the desired results. Within the overall parameters of such an approach individual countries should have the flexibility to have their individual strategies.

After having achieved the objectives of stabilization phase, the integration process of FATA with NWFP would be initiated for which there are the following two options?

Option I - Phased Merger

The first option is to merge FATA with NWFP, in a phased manner by initially selecting those tribal areas which are more amenable to integration.

Analysis. The advantages of following such a phased approach are as follows:-

- Integrating a single tribal agency and softer portions of other agencies to begin with will be easier to manage than trying to incorporate entire FATA in one go.
- Building a favourable consensus will be simpler given the fact that there will be fewer people involved.
- NWFP Government will be able to extend its government structure and oversight to selected portions of FATA without straining its administrative capacity and resource base too much.
- It will be easier to create visible development impact in a part of FATA instead of trying to create such an effect in the whole of this area.
- Based on the experience gained from a phased approach the government will be able to better manage the integration of the remaining areas subsequently.
- The successful integration of the initially selected areas will have a powerful demonstration effect.
- On the negative side a phased approach will imply a longer integration period and will also provide more opportunity to vested interests that may wish to sabotage or retard this process.

Option II – Simultaneous Merger of Entire FATA Simultaneously

The second option is “To merge the entire FATA with NWFP so that all tribal areas become part of the NWFP simultaneously.”

Analysis. The advantages of this option are:-

- It would take lesser time to complete the integration process. However since it is a more risky option, in the long run, this advantage may not actually accrue as the process may get stalled.
- It will garner support among the international community as it implies early establishment of government writ in the entire area.

This Option would however involve the following difficulties:-

- Given the geography and complexities of FATA, it will be difficult to effectively supervise its integration.
- It will not be possible to create a visible development impact in the whole of FATA in a short period of time.
- It will result in dilution of effort.

Recommended Option. In view of the foregoing, the recommended course of action is to initiate the phased merger of FATA with the NWFP.

Implementation Strategy

Some elements of the implementation strategy for successfully implementing this option are as follows:-

- The consensus building exercise will need to continue beyond stabilization so as to ensure a

smoother transition to the next phase. In addition a systematic media campaign should also be launched to create a favourable public opinion.

- In this approach, those areas that are more amenable to integration should be targeted. The F.R.s of Lakki, Bannu and Peshawar as well as the Orakzai Agency are recommended for integration in the first phase.
- A Constitutional Amendment will be required for which a consensus among the political parties will be necessary to ensure its passage in Parliament. Secondly the prior approval of the Tribal Jirga is a Constitutional prerequisite for integration.
- Suitable amendments in the FCR will be initiated as a first step of the transition to regular law which needs to be handled carefully to avoid creating a legal vacuum or upsetting the fine balance of existing tribal administration. A possible thrust of these amendments could be to:-
 - Provide the right of appeal to the Peshawar High Court in cases decided under the FCR especially in the more serious cases.
 - The reduction in severity of some prescribed penalties.
- Representation to FATA in the Provincial assembly would be provided through an amendment in law. Similarly the law will also have to be amended to provide appropriate representation for FATA in the parliament.
- Provincial administrative and judicial structures and procedures of NWFP will have to be adapted and extended to FATA.
- Local empowerment would be provided through Devolution of Local Government.
- Socio economic development will need to be stepped up with a view to creating a visible impact.

- For this increased financial allocation in the ADP for FATA will be necessary giving priority to education, health, water supply and road projects.
- Special quotas would be retained for genuine residents of FATA.
- Employment generation would also need to be a major focus through promotion of micro credit schemes and SMEs.
- Regular trade with Afghanistan should be facilitated by opening up additional trade routes besides Torkham. This would mean not only providing the requisite facilities at the border but also viable road links in this regard.
- The potential of the area especially in the mining sector needs to be developed by facilitating the exploitation of mineral deposits such as copper, coal, gold and marble etc.

Northern Areas

Having dilated upon the way forward in the context of FATA, it is now proposed to suggest a possible roadmap for the Northern Areas in order to remedy the current situation of Government inattention to the requirements of the local people. There is a growing sense of resentment among the people of Northern Areas on being deprived of their political and economic rights for the last 60 years by linking their status with the outcome of the Kashmir dispute.

Dire Need for Change

- Pakistan has in recent years taken some constructive initiatives to resolve the Kashmir Dispute peacefully by initiating out of the box proposals and CBMs. However the trends and drivers clearly indicate increasing Indian clout in the global context thus making the prospect of a pro Pakistan solution of the Kashmir dispute in the near future unlikely. Hence linking the Northern Areas with our Kashmir policy

indefinitely can have serious implications on our national security, thus warranting a bold departure from the present policy.

- Although this area is by and large trouble free however, there is a potential crisis in the making. This is particularly worrisome given the fact that the Northern Areas are located in a sensitive border region making it vulnerable to ingress by extremists on the look out for new sanctuaries as a result of GWOT. A discontented population in such a region is susceptible to intervention and subversion by foreign powers. It is therefore essential that instead of waiting for a crisis to develop, we take timely remedial action in this case.

Options for Better Governance System: Northern Areas.

In order to address these concerns the following three options are proposed.

Option- I Constitutional Status as a Federally Administered Special Area

While staying within the ambit of Pakistan's stated stance on Kashmir, for administrative reasons, provide Northern Areas with constitutional status as a Federally Administered Special Area, until complete resolution of the Kashmir Issue. This constitutional arrangement will provide the population of Northern Areas with representation in Parliament and self-governance locally through further empowerment of the Northern Areas Administration and Legislative Assembly.

Analysis. This option will imply all provincial powers and benefits for Northern Areas without weakening our Kashmir stance or provoking public criticism. Moreover this way by not formally making Northern Areas a separate province, it will be easier for the Government to deflect demands by other ethnic groups wanting their own separate provinces. Among the prominent benefits of this option is the grant of Constitutional status and representation in Parliament

Option II- Temporary Status of Province for Northern Areas

This option requires that while staying within the ambit of Pakistan's stated stance on Kashmir, address people's aspirations by providing temporary provincial status to Northern Areas till resolution of the Kashmir Issue so as to ensure fundamental rights and improved socio-economic conditions through enhanced administrative capacity.

Analysis

- This option is in line with the general aspirations of the people.
- It is unlikely to compromise Pakistan's stance on the Kashmir issue.
- Northern Areas will get representation in Parliament and the Federal Cabinet.
- Northern Areas as a Provincial Government will have the same powers and autonomy as other provinces.
- Benefits of the Devolution of Local Government will be extended.
- A separate Province could however encourage similar demands by sub nationalities and ethnic groups in other provinces.
- The inter-provincial discussions on the National Finance Commission Award could be complicated further by the addition of another province.

Option III- Merger of Northern Areas with AJK

The third option is that "while staying within the ambit of Pakistan's stated stance on Kashmir make Northern Areas part of AJK till resolution of the Kashmir Issue. This would provide empowerment and political representation leading to improved socio-economic conditions".

Analysis

- Northern Areas will get Constitutional rights under the AJK Constitution.
- Northern Areas will get representation in the Government of AJK.
- It will please those elements in AJK who consider Northern Areas as their part.
- Our present stance on the Kashmir dispute will be formalized.
- This option will disappoint the people of Northern Areas who prefer to be part of Pakistan.
- Northern Areas stand to gain more from being part of Pakistan since AJK is itself short of resources.
- The linkage with AJK may however result in loss of Northern Areas in case the eventual solution of the Kashmir is unfavorable for us.
- This is not convenient geographically since the communication links between AJK and Northern Areas are fairly tenuous.

Recommended Option

Option I of giving Northern Areas the Constitutional Status of a Federally Administered Special Area is considered to be most suitable under the circumstances.

Implementation Strategy

Elements of the implementation strategy for recommended option are as follows:-

- Consensus Building among the political parties and moulding of a favourable public opinion through the media is needed. Moreover stakeholders such as religious groups, Kashmiri Liberation organizations and Government of AJK will need to be taken on board through direct negotiations.
- Constitutional amendment would be needed to formally incorporate this area into Pakistan

- Provision of representation in Parliament would require amendment of the law to accommodate Northern Areas representatives. It would also be useful to have a special Parliamentary Committee on Northern Areas to facilitate the integration.
- Conversion of Northern Areas administration into a provincial government would inter alia involve the harmonizing of its judicial system with that of Pakistan.
- Increased socio economic development would be facilitated through increased financial allocations. Emphasis will have to be placed on employment creation through promotion of Small Medium Enterprises. Special quotas will need to be retained along with up gradation of communication infrastructure.
- Extension of devolution plan will be gradual so as to allow the consolidation of the Provincial Government structure.

Conclusion

Given the vital importance of internal political cohesion for National Security, the National Defence University (NDU) during this year has focused attention on vulnerabilities of specially administered areas. The results of this study have revealed that the delay in integrating FATA and Northern Areas has been costly for the nation. Our short history also indicates that we have tended to ignore emerging issues till they develop into full blown crises and we have often paid a heavy price for this neglect. It is with this background that the NDU has tried to make this modest input to national policy planners so that they can consider appropriate policy responses before it is too late.

KASHMIR DISPUTE AND THE PROSPECTS OF INDIA – PAKISTAN PEACE PROCESS

Lieutenant Colonel Dr. Muhammad Khan

Introduction.

In all eventualities, the road to peace in South Asia lies in the final settlement of the Kashmir dispute, the longest unresolved issue on the agenda of the United Nations Security Council. After years of unswerving persuasion by Pakistan, on the sidelines of 12th SAARC Summit, held in Islamabad in January 2004; the Bhartiya Janta Party (BJP) led Indian government agreed to move forward on Kashmir dispute through negotiations with Pakistan in a peaceful manner. This commitment was followed by a reiteration from the succeeding Congress dominated United Progressive Alliance (UPA) government. Upon growth of enough confidence between two nuclear rivals, Pakistan proposed a region based solution of Kashmir having self governance of the people of Kashmir with some sort of joint sovereignty of all three parties to the dispute. Unfortunately; except for initial and a few occasional affirmative statements, there have been no nifty move forward towards resolution of the dispute from Indian side in tangible terms as yet, which to some extent may be attributed to domestic instability of Pakistan, eversince the major developments were made on the issue.

Infact the derivation of volatility and antagonism in South Asia stems from the unsettled dispute of the Kashmir between India and Pakistan. The surrogate arose out of the issue has brought bilateral relations between the two states to its rock bottom and contributed directly to the nuclearisation of the region. Following the nuclear explosions by India and Pakistan in May 1998, the former US President Mr. Bill Clinton once called Kashmir as, "the most dangerous place on earth."

¹ The Kashmir dispute, came on the United Nations agenda in 1948, is being recognized to be one of the most intractable and dangerous political disputes facing the international community. A bellicose history, religious rivalry and a general sense of antipathy

towards each other have put India and Pakistan at loggerheads for the past six decades. Since 1990, it has been transformed into a perilous war zone through an armed insurgency against Indian rule. It has further undermined the prospects for regional integration and raised fears of a “deadly Indo-Pakistan conflict”² in any future scenario of nuclear exchange.

Geographically the former Princely State of Jammu and Kashmir, is delimited by three nuclear powers of the world; China, India and Pakistan. The disputed nature of Kashmir has a linkage with the unwarranted partition of the subcontinent in 1947,³. In a blatant violation of UNSC resolutions and repeated pledges of its own leadership, India is neither willing to hold plebiscite nor ready to bilaterally resolve the issue as per the wishes of its subjects⁴, resultantly there has been three wars between India and Pakistan. Since their renewed struggle for the right of self determination in 1989, India sought to suppress their movement with massive use of force, killing more than 80,000 Kashmiris⁵ through massive deployment of its 700,000 troops in the state with absolute power of shoot to kill. Jawayria Malik in her article; ‘Kashmir: India’s Reign of Terror’, describes the Indian brutalities on Kashmiris as; “at present, the concentration of Indian army in Jammu and Kashmir is as massive as four soldiers stands for one Kashmiri, a ratio to be found nowhere in the world. From January 1989 to December 2007, nearly 100,000 Kashmiris have been killed by Indian troops in Kashmir and as many disappeared during Indian forces’ custody in various interrogation centers and torture cells. About 113,882 civilians have been arrested without any reason, 22,591 women widowed, 1756 gang-raped and the children orphaned estimate to 107,051, People rendered homeless are beyond calculation as vaguely 105,536 buildings/homes have been destroyed brutally. There is hardly any house in occupied Kashmir, which has not sacrificed one or two or more of its members for the cause of liberation”⁶.

Infact Indian state terrorism in Occupied Kashmir has become even more pronounced in the post 9/11 phase, once India used the global sentiment to paint the Kashmiri freedom struggle as terrorism and its own repression of that indigenous freedom struggle

as a mean to fight against terrorism. In an attempt to malign Pakistan, India has stepped up its propaganda of so-called cross border terrorism⁷. These allegations are designed to shift focus from the massive violation of human rights being perpetrated by the Indian security forces in the occupied state. While making such baseless allegations, India refused to allow a neutral mechanism to investigate these charges. Pakistan has all along emphasized the need to further strengthen and enhance the monitoring of the Line of Control (LoC) by the United Nations Military Observers (UNMO), but India has refused to accept this offer too. The composite dialogue process between India and Pakistan, resumed in 2004 has remained inconclusive so far, primarily on account of unyielding Indian approach.

Aim

The paper seeks to elucidate salient of Kashmir issue in its historical perspective, the dynamics of the limberness made on the issue by Pakistan vis-à-vis Indian stringency, progress made by both sides during protracted composite dialogue, eventual beneficiary of the peace process and evaluation of future prospects on the dispute.

Evaluation of Options and Contemporary Models for Solution

As per UN resolutions, Kashmiris were given two options; either to join India or accede to Pakistan. Being geographically contiguous to each other, Kashmir and Pakistan had historical linkages of interdependence, whereas no such connection existed between post partition India and Kashmir. All natural routes to Kashmir are through Pakistan. For India the only ground linkage was through Pathankot, a tehsil of Muslim majority district of Gurdaspur in united Punjab. It was an unnatural route given to India, by making changes in the original plan of partition, to provide her a technical contiguity with the state of Kashmir in the shape of a few miles of common border. Factually the access of Kashmir to the outside world has been through Pakistan both historically and geographically.

Principally there existed neither constitutional nor any moral grounds for accession of the state with India in October 1947.⁸ Even Maharaja Sir Hari Singh had no mandate for accession (if at all he did that; since historians and analysts refute presence of any formal accession till October 27, 1947), as the Treaty of Amritsar; Kashmir Sale Deed of March 1846 lapsed on August 15, 1947, under the provision of Indian Independence Act passed by British Parliament on July 17, 1947⁹. Furthermore neither the will of the Kashmiri people nor the geographical contiguity of the state favoured the state's accession with India. Besides UN resolutions, then Indian Prime Minister, Mr. Jawaharlal Nehru made a firm promise with the people of Kashmir and the international community that Kashmiris would be free to decide their future through a free and fair plebiscite under United Nations.

Unfortunately the United Nations could not implement its resolutions as these are under Chapter VI of its Charter, hence non-enforceable. The UN can only intervene if both parties agree for mediation¹⁰. Over the period of time, non-compliance of UNSC resolutions on Kashmir resulted into many more derivative options like: 'the independence, United Nations Trusteeship, Status Quo,¹¹ and a number of other options primarily interconnected with the division of the State along various linguistic, ethnic or religious lines¹². Among these, 'Chenab Formula', envisaged division of the state along the line of the River Chenab, was negotiated most often since the beginning of 1960s¹³, but because of Indian incongruity could not be agreed upon. 'Condominium' of India and Pakistan over the State of Jammu and Kashmir with maximum autonomy for the State was advanced in early 1960s, but could not win the popular sentiment on both sides of divide.

In their brief history of post independence, there have been a number of wars and conflicts between India and Pakistan. While war between the two is still possible at a lower level, the nuclear dimension has closed the window for a major conflict. Protracted unpleasant bilateral relations have neither allowed India to realize its potential at the optimal level nor could Pakistan address its vital issues, crucial to improve the living standard of its 160 million masses. In spite of Pakistan's commitment to Kashmiris remain intact,

its actual capacity to push the issue through a combination of diplomatic and military means has drastically decreased, owing to multiple factors that have precipitated post September 11, 2001. On the contrary, the unfortunate incident (9/11) has allowed India to negatively propagate the UN mandated struggle for the right of self determination in Indian Occupied Kashmir as terrorism and Pakistani moral and political support as of sponsoring the terrorism.

Contemporary Models for Solution. The beginning of Indo – Pak peace process paved the way for intellectuals, scholars, politicians and other nongovernmental organizations to give their inputs on the modalities to proceed ahead on the core issue of Kashmir. A number of conferences, seminars and dialogues organized to highlight the necessity of peaceful resolution of the issue at various forums; regionally as well as globally. These debates achieved the objective of getting Kashmiri leaders of various shades together on one platform to engage with each other on the dynamics of the Kashmir dispute; while discussing various modalities and models of its resolution, taking ground realities in consideration. In the contemporary world, there exist a number of disputes, having similitude with the Kashmir issue and during the turbulent 20th century, quite a number of those were resolved as well.

Resolution of these contemporary issues proffer models to follow the suit for the solution of intricate Kashmir issue. Prominent being the Northern Ireland and Andorra models. There exists homogeneity between these two and Kashmir dispute, having divided societies and regions with two claimants¹⁴. The issue of Northern Ireland was however, resolved on the basis of concessions given by both claimants (United Kingdom and Republic of Ireland), who agreed not to interfere; should the people of Northern Ireland, make any decision for their future. A similar set of arrangements could be worked out for the Kashmir dispute, if India and Pakistan show their willingness. Andorra model on the other hand offer a proviso of joint sovereignty for a gradual move towards greater sovereignty having representation in the United Nations as a member state¹⁵. Such a solution will address the Kashmiri's aspirations without a loss of face to any of the claimant, a sort of win-win situation for all parties to dispute. A number of other

models like; Trieste, Aland etc could also be considered as precedence, provided India shows some plasticity.

Pakistani Limberness towards Dispute Resolution. Under a transformed resolve, Kashmiri's armed struggle ultimately forced India to engage into a dialogue process with Pakistan. In spite of nuclear explosions by both countries in 1998, and an exchange of sturdy statements thereafter, the hostile neighbours at last agreed on negotiations. Indian Prime Minister visited Pakistan in February 1999 (a good will visit, part of bus diplomacy) and concluded agreements to be followed as a future course of action in the dialogue process. Unfortunately, the diplomatic and political initiative demonstrated by the leadership of both countries in the form of Lahore Declaration - 1999, was seriously blocked because of Kargil conflict-1999, subsequent to which, there remained an atmosphere of mistrust and repulsive relations till 2001.

In July 2001, as a result of hectic back channel diplomacy and international pressure, negotiations were held between top leadership of both sides to refurbish peace and confidence of each other over Kashmir during the Agra Summit in India. Having been the hub of power, President Musharaff, showed a lot of elasticity and promised that Pakistan would accept any solution of the issue which is acceptable to the people of Kashmir. In all probability, Prime Minister Atal Behari Vajpayee and President Pervez Musharaff were very close to an understanding in the form of a draft joint statement, once Indian hawks prevailed to sabotage the Agra Summit.¹⁶ Lamentably, thereafter, India restarted her old rhetoric and even raised the issue of cross border terrorism more vivaciously. Failure of the Agra Summit was overshadowed by the ill-fated incident of 9/11, which drastically changed the international security scenario.

Reproachful Effects of 9/11 on Peace Process. Following the incident of 9/11, both the complexion of Pakistani support to the Kashmiri's right of self determination and politics within Kashmir have undergone a significant change. Under the changed international security scenario, unequivocally named as global war on terror, India declared freedom struggle of Kashmiris as terrorism

and Pakistan's moral, political and diplomatic support as sponsoring the peril. Post-9/11, Kashmiris considerably reduced armed struggle and enhanced political vow to attain their right of self determination. In the process, local pro-Indian political actors sought to connect back to the Kashmiri masses as sympathizers. Considering it as an appropriate opportunity to demonstrate its military might against Pakistan, Indian government blamed Pakistani intelligences agencies for a terrorist attack on its Parliament on December 13, 2001. India mobilized its forces all along the international border and there remained war like situation, which lasted for almost one year. Because of its nuclear dimension, international community, especially United States kept a constant pressure on India and Pakistan for disengagement from military confrontation and to restart dialogue process for a permanent solution of the core issue of Kashmir.

Upon return of quietude on borders, in September 2002, through a step forward, Pakistan suggested a Four-Phased Approach to resolve the issue¹⁷. Phase one envisaged, 'Recognition of Kashmir as a Dispute'. Lamentably in the Post-9/11 environment, there came a stage, where less the for the portion under Pakistani administration; India almost declined to accept Kashmir as a dispute. To begin with, Pakistan pushed India to accept Kashmir as an issue. In a rational approach, until and unless a matter is not taken as an issue worth resolution, no forward movement would be possible. It was through unexhaustive Kashmiri struggle, frantic Pakistani diplomacy and brawny international pressure, which ultimately forced India to accept the existence of Kashmir as an issue worth resolving.

Phase two included, 'Initiation of a Dialogue Process'. After accepting the existence of Kashmir as an issue, the next logical phase, Pakistan proposed was the initiation of a dialogue process. It was but natural to know each other's view point on the issue through a dialogue. It took Pakistan almost one and half year to convince India using all available channels for the resumption of dialogue process on the core issue. Phase three, 'Shedding off Unacceptable Solutions' was sought to knock out all those options unacceptable to all three parties to dispute. After purging of unacceptable options,

all parties would be left with only those options which are worth negotiating and will ultimately be debated to reach at a final solution agreed upon by all parties. As in the past, even now no option is acceptable to India, less Kashmir becoming its part or utmost the status quo. The fourth and final phase as suggested by Pakistan was, 'Securing a win - win Situation'. Following the dialogue through previous three phases, all parties to dispute were to reach a final solution acceptable to each one of them. This was to be a win - win situation for each one of them. Formally Pakistan has been perusing India for some mutually acceptable option to reach a logical conclusion for the resolution of issue, but Indian response remained as rigid and measured as before, against any likely flexibility.

The Recommencement of Composite Dialogue Process.

After a long period of heightened tension and stalled dialogue, then Prime Minister of India, Mr. Atal Behari Vajpayee visited Islamabad from 3 – 6 January 2004 to attend the 12th SAARC Summit. Leaving behind the well-beaten tracks of bellicose posturing, President of Pakistan and Prime Minister of India signed a historic declaration on January 6, 2004, on the sidelines of the SAARC Summit. In the joint statement, the President of Pakistan and the Prime Minister of India agreed to commence the process of the composite dialogue¹⁸, with a commitment from both sides to find a permanent solution of the core issue, acceptable to all parties. Earlier, Pakistan had set the stage for the resumption of the dialogue process by announcing vital Confidence Building Measures (CBM) in the shape of declaration of a unilateral cease-fire across the LoC in November 2003. During these dialogues, the two sides agreed on a number of Kashmir-related CBMs, tangible being the intra-Kashmir bus service, opening of crossing points on the Line of Control, meeting points for divided Kashmiri families and greater interaction among Kashmiri leadership on both sides of the divide. The present peace process is rooted in that declaration, and has since led to a series of talks between Islamabad - New Delhi, Islamabad-Kashmiris and New Delhi – Kashmiris. The ensuing Congress led government of Dr. Manmohan Singh vowed to continue the peace process. In a statement about the future of Kashmir dispute, on May 20, 2004, he said, that, "short of secession, short of redrawing

boundaries, the Indian Establishment can live with anything. Meanwhile, we need soft borders, the borders are not so important”¹⁹. According to Dr Verghese Koithara, a former Vice Admiral of Indian Navy, this statement was a major shift in Indian official stance on its Kashmir policy, especially by Congress led UPA government²⁰.

Approaching the Issue from Regional Perspective.

Owing to the lack of conformity of parties to dispute, none of the option as mentioned above could be agreed upon as final solution to the issue. If an option was acceptable to one party, the other would tend to differ. Fundamental reason for the incongruity is that except status quo, all other options entail surrendering of territory to one party which is unacceptable to other. This has been an unending phenomenon since its start. In reality every option; less accession with India or status quo, demands India to lose its vehemently occupied territory, therefore; it could not be of the same mind as Pakistan. Actually this is the crux of the issue; as India knows that Kashmiri are struggling to get rid of its occupation. Indian failure to none compliance of UN mandated options or options arose thereafter in last six decades obligated Pakistan to propose a set of new options in order to avoid de-railing the composite dialogue process and development on the issue meeting a previous upshot. This new set of options from Pakistan was the ‘identification of regions’ on both side of LoC, with geography rather religion as its basis.

Following the initiation of a composite dialogue, President Musharraf emphasized the need for an out of the box thinking, with sincerity, flexibility and courage to address this dispute. On October 25, 2004, he floated a new suggestion to resolve the issue. He proposed that “India and Pakistan should consider identifying regions of Kashmir on both sides of the Line of Control, demilitarizing them and granting them the status of independence, joint control or some kind of UN control”.²¹ Currently Kashmir comprises five geographical regions having variations on the basis of religion or ethnicity. Presently two of these regions are under Pakistani control and three under Indian occupation²². These regions are: Azad Jammu and Kashmir, Northern Areas, (Gilgit -Baltistan),

the Vale of Kashmir, Jammu (having three Hindu and three Muslim majority districts) and the Ladakh with Dras-Kargil as Muslim and Leh as Buddhist majority area.

Practicability of Region Based Approach. During the course of prolonged erratic negotiations, all three parties to the dispute could not agree on any single option discussed above. Plebiscite, a basic option as granted by UN is unacceptable to India, whereas, Kashmiri and Pakistan would not accept LoC as a permanent border. Furthermore, religion based partition was not acceptable to India, leaving geographical basis of solution as the only left over option, which was presented by Pakistan in October 2004 as another move forward. This proposed solution shuns the secular protestation of India. Geographical identification of regions would be followed by demilitarization one by one, thus giving way to CBMs like; normalization of relations, building of enough trust between the two countries, opening of all entry points for the divided families, clans, and tribes and revival of traditional trade routes. This can be done in the framework of Indo-Pak military amity and understanding on wider issues of security concern of both countries. While initiating the idea, the president of Pakistan said, “We are at a stage where options acceptable to Pakistan, India and the Kashmiri are ought to be considered”²³. Although India did not respond officially to this solution, yet Indian writers and intelligentsia view the region based formula even having religious orientation, which perhaps they failed to comprehend that no one can undo the geography. United States of Kashmir (USK), an extension of region based formula, is yet another options discussed between Kashmiri leadership of both sides. However it is comparatively a new option. As per this option all regions of the state are to be united under one federation, named as United States of Kashmir (USK). However no worthwhile progress on the option has been made as yet.

Four Points Formula – An Elaboration of Region Based Approach. Sequel to region based strategy for finding a lasting solution to Kashmir issue, on December 5, 2006, President of Pakistan explained modalities for its implementation and practicability through a "four-point formula", encompassing²⁴:

Identification of the regions in Kashmir taking into account nuances and strategic implications; Phased demilitarization of all regions; Self-governance within each region of Kashmir and Joint supervisory mechanism (joint management/ sovereignty) with representatives from India, Pakistan and all parts of Kashmir, to oversee the plan's implementation. In the series of Pakistani flexibility, the four-point formula, in fact is an extension of its earlier proposal of a region based solution, put forward in October 2004. The First step would involve the identification of the regions in Kashmir on geographical basis.

This would allow free movement of the people of the state in various identified regions of the State primarily for consensus building among Kashmiri masses/ leadership. As identified by the author of formula, the geographical regions have “political, geographical and strategic homogeneity” keeping in view the aspirations of the people of these regions. Unjust and inhuman division of Kashmir over the last 60 years has kept them away from each other to make a unanimous decision for their future status. With their free movement in various regions of state, people will more frequently interact with each other to exchange views and make decision for their future. To obtain this, existing artificial borders would have to be made irrelevant for the inhabitants of the state, which mean that Kashmiri’s aspirations would reign supreme.

Identification of the regions in Kashmir would be followed by demilitarization both by India and Pakistan. As perceived, initially troops will be pulled out from villages and other populated areas to major garrisons outside the cities and subsequently out of the identified regions of the state to achieve complete demilitarization. Flexibility will be kept for the phase-wise demilitarization of the identified areas which can be negotiated between Pakistan and India after taking Kashmir’s genuine leadership into confidence²⁵. Once both India and Pakistan demilitarize the regions under their respective control, Kashmiri will freely interact with each other and unite while protecting their future interests including the interests of various ethnic and religious groups of Kashmir and settling of affairs of their land by those who belong to that region, living side by side, with diminishing influence

of India and Pakistan. Demilitarization would be biggest psychological relief for the people of the State.

Following the demilitarization, self-governance in the identified regions would form third step. As intended, self-governance would mean; the rule of the people of that region as per the aspirations of its masses. Clarity remained hallmark here; as autonomy or maximum autonomy is given to a periphery or a province under the constitution of a centre or federation, whereas self rule for Kashmiri meant; a Kashmiri rule outside the framework of the Indian Union. The aspect of self-governance has been kept open for debate as far as its limits are concerned. But in no case the concept of self-governance can be mistaken or mixed up with the Indian offer of the autonomy or maximum autonomy. In order to negotiate on the options, there would be a requirement to allow greater movement between the people of the divided state on Kashmiri identity papers. After all, in the fifties the Muzaffarabad - Srinagar bus service operated without passport requirements. Self rule on the politico geographical regions of Kashmir would not undermine Pakistan's principled stand provided India is ready to show proportionate flexibility.

Dynamics of Joint Sovereignty. The fourth stage; joint-Management or Joint supervisory mechanism, now more frequently embodied as a 'joint sovereignty', will aim to supervise the implementation of the self rule once established. As compared to other three points, relatively it is a new concept. It appears to be the complicated mechanism as it involves three parties; Pakistan, India and Kashmiris. There would be variations on the modus operandi for the implementation process among all three parties which may become a base line for emergence of region based self governing units. The mechanism would require a high level of coordination among three parties and is likely to prove the most convoluted. This step is the centre of the entire formula as it leads in clear terms to a win-win situation to all the three parties to the dispute. Once attained, this formula will be put through trial for a period of 5-10 years, after which all parties would get together to see its practicability or otherwise and then reviewing it for making with

requisite changes to make it more doable. After all the four point formula is one of the options, like many others²⁶.

Joint sovereignty would mean that both India and Pakistan would have equal jurisdiction over the territory, with residents having Kashmiri passports under the jurisdiction of both countries. Currencies of both Indian and Pakistani would be in circulation. The state would have its own legislature, with as much governance as possible decentralized to the local cities and villages. This is not entirely a new concept. There have been several areas historically that had joint sovereignty, including Andorra in Europe as mentioned above, the New Hebrides islands in the Pacific, West Berlin before German unification, and the Sudan under the United Kingdom and Egypt. It would not be a simple matter to implement, but if it can prevent a future conflict, the price is likely to be less. There is a need to put the concept of joint sovereignty on the table. It needs to be widely discussed and debated. World body (UNO) and sole super power (USA) need to help out in resolution of the issue seriously. From Pakistani perspective this is the “maximum, just and reasonable compromise that can solve this dispute, so that the people of subcontinent can finally live as neighbors in peace”.²⁷

Envisioning the Proposal through Indian Prism. In his first response to the four point’s formula, Indian Prime Minister said, “new ideas and thoughts expressed from Pakistan can help resolve all pending issues, which must be approached with an open and friendly mind”²⁸. Immediate response of the Indian Prime Minister signaled a positive change in the attitude of Indian top leadership for an ultimate resolution of the issue. Unfortunately after a few days, Indian unyielding attitude prevailed once again, [in incongruity with his Prime Minister’s buoyant vow](#); Indian [Minister of State for External Affairs Mr Anand Sharma said that, “it did not fit in the Indian parameters for a solution”](#)²⁹. Mr L.K. Advani, former deputy prime minister and now leader of opposition and head of Bhartiya Janata Party, the former ruling alliance and the initiator of ongoing peace process, has strongly opposed the formula by saying that "It is a peace offensive with an ideological thrust on undermining India's sovereignty ... and pave a way for another Partition"³⁰. Although sanguine analysts like C. Rajamohan has

welcomed the Pakistani proposals calling them very reasonable and closest to India's negotiated position on Kashmir. But overall on the intellectual front, most of Indian scholars view the Pakistani proposal in the form of four-point formula as having, "old wine in a new bottle"³¹. They see serious contradiction in this proposal, where independence is denied for Kashmiri people and self-governance along with joint management is being asked for, which further complicates the issue. [Being skeptical](#) about the timings of proposals Indian Government and intelligentsia felt that, Pakistan perhaps preempted the likely visit of Indian Prime Minister to Islamabad and scheduled forthcoming talks between the Hurriyat Conference leaders and Dr. Singh's points' man on Kashmir, Mr N. N. Vohra³².

In the post 9/11 scenario, there has been a pressure of international community on India and Pakistan for the resolution of Kashmir issue. In India the general impression has been that owing to the enhanced level of troop's deployment in its disturbed tribal areas in NWFP and Balochistan; Pakistan needs more troops. So the demilitarization from IHK would provide Pakistan enough flexibility to reduce its troop's level from the LoC in Kashmir and redeploy them along Pak – Afghan border / FATA area under US heavy pressure, which is possible only once India trim down its troops from IHK. There was yet another view that former Pakistani government needed some agenda to gain popularity and whose implementation required them to be re-elected for another term. In a way, domestic and global approval of former government was sought, keeping the formula as precursor.

Indian scholars and politicians have been prejudiced in their analysis that; these proposals are designed to benefit Pakistan rather having any single concession for India. They view the phased demilitarization (if implemented) by India as amounted to a gaping security hole, whereas it meant nothing for Pakistan, because its troops are not battling any insurgency in Kashmir. About the 'local self governance', outside the Indian constitution virtually means independence at least for India. Divergently, India also supports self-governance at three level; the village, district and then at the regional level, but all under the ambit of Indian constitution.

In order to ensure free movement of Kashmiri among various regions of the state, borders would have to be made irrelevant rather redrawing them. Indian perceives that this point cannot warranty a peace in a future scenario, for it does not explain the strategy to control illegitimate movement across of arms, drugs and foreign nationals. Regarding the core of the formula; the Joint Sovereignty, there are serious reservations of Indian government, think tanks and intelligentsia. Questions are being posed as if the affairs of Kashmir would be managed like a corporation with a joint board of directors keeping watch. Indian views this point as a non-starter for it defies the very logic of self governance. What role does joint management have in self governance? In summary, India views this flexibility a long term gain for Pakistan as a whole³³. Indian officials have yet another objection that post 9/11; Pakistan has communicated all options through media, which in any case is not an appropriate forum for dialogue to resolve obdurate issues like Kashmir.

It is pertinent to mention that, in 1963/64, Sheikh Abdullah in connivance with Mr. Jawaharlal Nehru, then Indian Prime Minister floated the idea of joint sovereignty, naming it as the condominium of India and Pakistan over Kashmir. The idea could not make headway because of three reasons: firstly, it was considered an Indian move to undermine Pakistani stand on Kashmir; secondly, it was encumbered by yet another proposal calling for a confederation between India and Pakistan and thirdly, because of the sudden death of Mr. Nehru, the Indian Prime Minister, who backed Sheikh Abdullah in advancing the proposal. Thus the idea could not get the requisite mellowness for winning a support among Kashmiri and Pakistan beside Hindu nationalists.

The same old Indian backed idea of joint sovereignty (condominium), once offered by Pakistan as part of new set of proposals with a new name (four point formula), Indian government, scholars and intelligentsia refused to accept, cataloguing it as 'an old wine in new bottle'. Probably, Indian has made it a prestige point to accept any proposal, initiated from Pakistan, Kashmiri or any third party, which is amount to give Kashmiris their right of self determination. Otherwise in terms of ground holding, India entails almost two third as compared to one

third by Pakistan. India would not like Pakistan and Kashmiri to share with it, the sovereignty of a land under its occupation since last six decades. Other than strategic and economic connotation, India had made Kashmir as a point of its supremacy and esteem, thus ready to pay any cost of its holding, which even may be in the form of a war with Pakistan or Kashmiris. It is obvious from the stubborn policy of a deadlock on Siachen Glacier, on which both parties reached close to a solution on a couple of occasions since 1990s. The concept of self rule although bears a different name, but practically it is almost an independence which, India considers as a beginning of its Balkanization.

Prudence of the Proposal. The current peace process is part of Pakistan's initiative started during Agra Summit - 2001, or to be more precise a continuation of Lahore Declaration aimed at persuading India to move ahead from its decades old unbendingly stated position. Advocating the need for flexibility in traditional positions on Kashmir, the author of the formula was convinced that "if Delhi showed flexibility, so would Pakistan"³⁴. By presenting this formula, actually Pakistani leadership has made their utmost effort to encourage the Indians to move forward on its Kashmir policy. Since India was not responding to plebiscite, therefore by offering a solution of Kashmir beyond the UN resolutions, Pakistan desire to go an extra mile for the permanent solution of the issue. It never meant a compromise or shift on its traditional stance. The proposal will buttress Kashmiris to determine their own political future and facilitate inter and intra-Kashmiri dialogue and Kashmiri-Islamabad and Kashmiri-New Delhi dialogue by encouraging unrestricted cross-LoC and inter regional movement. As a result of this dialogue, collective Kashmiri voice with some unanimous solution will come out. The formula thus addresses the immediate concerns of the Kashmiri masses and devises a step by step approach for the resolution of the issue.

In Indian Occupied Kashmir, the supple Pakistani approach has also made headway, once unyielding pro India Kashmiri Politicians welcomed the proposals, considering these as political breather for them. Almost all major political groups are now openly supporting the 'Pakistani line', in an attempt to renovate their

support bases. With small exceptions like, Syed Ali Shah Geelani and the United Jihad Council, led by Hizbul Mujahideen chief, Syed Salahuddin, who have their reservations on the proposals; rest all parties are now for demilitarization and self-governance. Mr. Omar Abdullah, former Indian minister of state for external affairs and President National Conference has asked the Indian government to come forward with a “positive response”³⁵ on new formula. He emphasized that once Pakistan had extended its hand of friendship through new suggestions, Indian government should also implement its past assurances and commitments for resolving the issue in accordance with the aspirations of the people of Jammu and Kashmir. Former Chief Minister and patron of People Democratic Party, Mufti Mohammad Sayeed has also emphasized Indian government to reciprocate positively on Pakistan’s flexible approach for the resolution of the issue.³⁶

Mirwaiz Umar Farooq, Chairman All Parties Hurriyat Conference, has also stressed India to respond positively to the suggestion of Pakistan for a final solution to the Kashmir problem. While acknowledging its seriousness toward resolving the issue, he assured full support of APHC to Pakistan on the proposal.³⁷ The raisin d’être of the popularity of the new concept is a ray of hope, the option contain in itself in the form of enhanced chances of leaderships for Kashmiri in their respective regions. Indian authorities could have assessed these proposals through the mirror of reality for long term stability, as it has failed to assimilate the Kashmiri masses into its integral population. A serious thought for implementation of these proposals could help India to subdue much of the popular anger, currently she is facing. On the Pakistani side of Kashmir, the ruling Muslim Conference has fully backed the formula,³⁸ whereas, some of the opposition parties have their reservations too. In Northern Areas, the idea has been generally hailed by masses and leadership. Some of Kashmiri intellectuals have apprehended that region based solution may gradually fade away the ‘Kashmiri Identity’. However once taken as a whole, there has been a positive come back on the formula by Kashmiri masses as well as leadership.

Inspite of apparent deviation from Pakistan's traditional stand on Kashmir, new proposals have been generally hailed by a sizeable portion of editorial writers and commentators³⁹. A vast majority of people have shown their reservations too. Religious parties opposed the proposal by saying that it is a dilution of Islamabad's stated position on Kashmir. Some opposition parties also propagated the option as a sell out of Kashmir to India or a U turn of Pakistan on the issue. Infact by offering these options, the author has asked the nation to think of more options that are workable and realistic. However, in case of Pakistan, the determination is there at the top, but it requires a reciprocal approach from the Indian top leadership. It is an opportunity to resolve the long standing issue. No doubt, while resolving such complicated issues, there can not be 100 percent support to any government from its masses.

Positives of New Approach. Among the dispassionate thinkers and bulk of masses, there is a deeper realization in India, that losing the present opportunity for normalizing Indo-Pak relations will entail heavy cost. Both countries now feel that status quo on Kashmir must change. India is against the redrawing of boundaries and willing to make the LoC as irrelevant. However, inspite of positive responses from Indian top leadership, officially India has not hinted any flexibility in her stance, rather the old rhetoric of cross LoC terrorism has been more pronounced in its official statements on most of the occasions. Indian writers and scholars compare these proposals as an effort to recycle the previous one like Dixen Plan, Graham's proposal and American Study Groups proposals. Most of the analyst considers the 'joint sovereignty as an unworkable phenomenon once having an involvement of Kashmiri and diametrically two opposite countries. They view the proposals as a strategy aimed to rid Kashmir of the presence of all Indian security forces.

The positive side of the picture is that, inspite of being wedged to its consistent stance on Kashmir, New Delhi has attempted to reach out to Kashmiri political parties, allowing Kashmiri leaders like; Mirwaiz Umar Farooq, Mr. Omar Abdullah, Yasin Malik and more recently to Mehbooba Mufti to visit and meet

the leadership of Pakistan and Azad Kashmir. A number of round table conferences and formal / informal meetings have taken place between Kashmiris and top Indian leadership including Prime Minister, Manmohan Singh. This positive development is the result of Pakistani initiative and flexibility. For an increased interaction among Kashmiris, India has agreed to open two more bus services across the LoC. The concept of 'joint sovereignty' has also been extensively debated behind the scene. Delhi has suggested that issues like water, tourism, trade and the environment could initially be jointly explored. The only major Indo- Pak disagreement on the proposals revolves around this point. General masses in India wish to resolve the issue peacefully. People believe that India and Pakistan must cease this opportunity to resolve the dispute as Kashmiris have suffered because of Indo-Pak bickering. It's about time that both countries to chose peace over rhetoric and bravado and invest more on people instead of increasing their defence budgets on conventional and non conventional nuclear arsenals.

On the global front, the lithe four point formula has been welcomed by major powers, UN, and other International organizations. International community considers that development in South Asia is linked with the solution of Kashmir. This chronic and unresolved issue is the major cause of nuclearization of South Asia. Oxford Analytica in its view declared that Pakistan's proposals have provided it more room for negotiations with Delhi in the current peace process, besides providing flexibility for considering alternative solutions to the dispute. It also added that, "Islamabad's apparent change in strategy may not be radical enough to impress New Delhi, since India occupies two-thirds of the state"⁴⁰. All neighbouring countries have also welcomed the developments, especially flexibility shown by Pakistan on Kashmir. Beijing too has welcomed the peace process and considers Indo-Pakistani rapprochement a major step toward regional peace and stability. It is worth mentioning that since nuclearization of South Asia in 1998, China has tailored an unequivocal position on Kashmir. The change in Beijing's Kashmir policy (from pro Pakistan to neutral) has a linkage to its 'global strategy and its own bilateral relations'⁴¹ with India and Pakistan unconnectedly. It has

growing interests in seeing a stable South Asia and is increasingly looking for better relationship with India over past few years.

In mid March 2008, it was claimed by a UK based Jammu and Kashmir Council for Human Rights (JKCHR) that under “rule 11 for a deletion under the process for simplification”⁴², Kashmir issue has been deleted from the agenda of United Nations Security Council for not being considered in the five preceding years. The Council also exposed that now Kashmir issue doesn’t remain on the UNSC agenda as a substantive item as it used to be from January 6, 1948 to August 22, 1996⁴³. It is a bolt from the blue that in the past thirty years, the issue has not been raised in UNSC from Pakistani government or President of Azad Jammu and Kashmir. A similar budge was set off by Indian lobby in the UN in late 1990s and early 2000s.⁴⁴ It was only made possible through hectic Pakistani diplomacy that the issue was re-included in the agenda of UNSC. Once again there would a requirement of an annual reminder and a strong diplomatic lobbying by Pakistan to ensure presence of the issue on the UN agenda. As a matter of fact, this would be only a therapy rather a permanent cure of the unremitting issue. Pakistan’s one sided flexibility has possibly set an impression at global level that it doesn’t pursue UN resolutions any more. India otherwise looking for an opportunity to become an ultimate beneficiary in the process.

Detrimental Role of European Union Parliament Report on Kashmir. While positive developments on Indo- Pak peace process are underway through a number of CBMs and tangibles actions, in mid 2006, a delegation of European Union Parliamentary, headed by its British member Baronnes Emma Nicholson prepared a 10-pages draft report on Kashmir, entitled, “Present situation and future prospects”. The draft report highlighted the human rights conditions in Jammu and Kashmir especially in Pakistani-administered portion. As per report, the major areas of the people’s sufferance are; poverty, illiteracy, lack of basic health care, economic decline, denial of justice and lack of democratic structure etc. The report also highlighted the situation arose after October 8, 2005, earthquake and its subsequent handling. It also enjoined Pakistan to arrange return of the Aksai - Chin area from the Peoples

Republic of China and withdraw its forces from Kashmir. The report denied holding of UN-mandated plebiscite in Kashmir. A critical analysis of the Emma Nicholson report on Kashmir reveals that it is an Indian biased report where facts and figures are far removed from the ground realities. In this report, Pakistan in consultation with Kashmiri leadership, proposed over 400 amendments, which itself is a proof of its being lacking the reality on Kashmir⁴⁵.

The report was adopted as an official EU document in May 2007. It has rather seriously dented the ongoing peace process by crazily supporting the Indian stance on Kashmir, while totally overlooking the human rights violation at the hands of Indian security forces since start of uprising in 1989. It has squandered on an invaluable opportunity to advance a constructive framework for both India and Pakistan towards seeking a durable and equitable solution of the Kashmir conflict, taking along with them the People of the entire state of Jammu Kashmir.⁴⁶ Leaving aside its self assumed mandate, the European Parliament team, has more frequently referred to the domestic issues of Pakistan having no relevance to Kashmir. By asserting 'pro people' character of India in Kashmir⁴⁷, the author is unable to justify the killing of over eighty thousand people since 1989 whom India considers its citizens.

The report failed to take into account the true aspirations of Kashmiri and repressive laws of India. As a matter of fact, the people of the Indian Occupied Kashmir have undergone miseries, torture, economic exploitation and other inhuman treatment at the hands of the so called democratic and secular India over an issue created by the forefathers of Emma Nicloson (the Great Britain) at the end of Colonial era in the subcontinent. The author of the report perhaps forgotten to take into account these ground realities or has tenaciously prepared a misleading report. With the initial contents of the report, one really gets worried about the credibility of the EU's team? ⁴⁸. Baroness Emma Nicholas had an opportunity to advance peace and progress by encouraging all parties in the conflict to find a way of working together in search of a just and democratic solution of the conflict. Instead she focused on issues that were unrelated to the conflict⁴⁹.

Contradictory to its aforementioned role, EU parliament has passed a condemnation resolution against brutalities of Indian state forces upon discovery of 950 unidentified graves only in Uri area of Indian Occupied Kashmir. European Union has also demanded immediate investigation of the issue and has even offered assistance to probe mysterious deaths of thousands of disappeared Kashmiris since 1989. Similar graves have also been found elsewhere in occupied Kashmir⁵⁰. Far and wide it is believed that these were missing Kashmiris, whose relatives are still waiting for their return, but they have been martyred in fake encounters by Indian state forces. This is really a praiseworthy achievement of EU Parliament and has been valued by Kashmiri masses. It is beyond perception that why a resolution could not be moved at United Nations Security Council for an international probe to expose Kashmiri massacre at the hands of Indian forces. After all the wartime Bosnian Serb leader Radovan Karadzic has been arrested for a probe on the charges of similar massacre of Bosnian Muslims after he has been indicted for genocide and has been on the run for thirteen years.

International Misperception about Kashmiri Struggle.

Ever since the Kashmiri uprisings in 1990, there have been unprecedented violations of human rights in occupied Kashmir. As per an Indian analyst, Mr. Gautam Navlaka, - 80 % human rights abuses were perpetrated by the Indian security forces⁵¹. Unlike Palestine, Iraq, Chechnya and many other struggles of self determination, Kashmiri have been unfortunate not to attract the attention of world especially civil societies of the West. This was mainly because; India did not provide free access to domestic and international media to cover the brutalities of Indian state sponsor terror. Atrocities on Kashmiri by Indian forces were kept isolated that is why even after the passage of over sixty years, the struggle of Kashmiris just cause remained largely unknown, or after 9/11, largely misunderstood. In spite of substantial diminution in the armed struggle of Kashmiris over last seven years, Indian brutalities in the state through its armed forces are still going on at a large scale. Reduction in armed struggle has even been confirmed by Indian leaders and military commanders⁵².

In his book, “Kashmir – A Tragedy of Errors”, Mr. Tavleen Singh, an eminent Indian journalist wrote about coverage of Kashmiri miseries in Indian media, as: “India has compelling reasons for wanting to keep Kashmir Indian. Unfortunately, no one seems to know any more how this could be done. In the absence of any other ideas, the only one that Delhi seems to come up with is a military solution. Delhi continues to believe that Kashmiri can be taught to recognize that you cannot take on the might of the Indian state and win. Most Indians appear to share this view. And most Indians believe that the reason why Kashmiri have been able to get away with their defiance is only because India is a ‘soft state’. Since the press, by and large, cooperates with the government in not telling the truth about what is going on in the valley, the soft state’ image persists. Nine out of ten articles in the Indian press propagate this way. They rarely speak of the very unsoft side of the Indian State that Kashmiri usually get to see”⁵³.

Pakistani Approach of a Win-Win Position

Resolution through Integration of Civil Society. It is considered opinion of Pakistan that the current unnatural division of Kashmir has enlarged the miseries of Kashmiri on the both sides of divide. The time has reached where India and Pakistan must agree to give a greater role to Kashmiris in the proposed geographical regions in the form of self rule. In this way Kashmiris would feel relief from years and years of Indian exploitation, discrimination and occupation⁵⁴. Virtually the issue has entered into a phase, where Pakistan cannot arbitrarily change the territorial status quo and India cannot keep the Kashmiris under its occupation for a longer time. Under such a situation, all parties to dispute must find out a middle path capable of ensuring a win-win situation for all⁵⁵. In the case of rigid stance by all or any of the party to dispute, as it has been in the past, there is no way one can expect peace in the South Asia. After all, the obscure nature of the Kashmir issue demands a rational solution based on a flexible approach and taking steps to make the lives of the people of Jammu and Kashmir better. Demilitarization from all regions of Kashmir as a part of the new proposals from Pakistan is the best possibility to restore normalcy and peace in the region.

Flexibility while keeping in view the reality is a pre requisite to move forward for resolution of all outstanding issues between India and Pakistan. If both countries remain fixed to their traditional stances, there would be no solution of the issue. On the part of Pakistan maximum flexibility has been extended while keeping the traditional principled position intact. By presenting new proposals, Pakistan has encouraged the participation of general public, intelligentsia and think tanks to start a meaningful debate and discuss options for the settlement of the issue. Apart from Pakistan and Kashmiri masses, the new development is being viewed positively at global level. Region based solution translated into four points formula is not a solution in itself; but, only a thought and an idea, which alongside other available options could be examined by the three parties to the dispute as one of the possible way out.

There lies strategic interests of Pakistan in Kashmir; therefore, question does not arise for any compromise on its position on Kashmir. At the same time, the sacrifices of the Kashmiris during their freedom struggle against Indian oppression can not be ignored. Moreover UN resolutions count for every little until and unless cancelled or modified by another UN resolution. At global level, the major powers have their own political agendas with no commitment to resolve the disputes of other countries. They keep their own interest supreme and look at each and every dispute from the point of view of their own long term interests. It is a novel idea of re-demarcation of the regions on ethno-geographical lines, demilitarizing them and discussing various options for self governance. The option is basically to find a way forward on the core issue, as it has blocked the alleyway of development in South Asia for over six decades.

Political Engagement through Dialogue. Veiling the past differentiation, Pakistan has shown its willingness to go an extra mile for the peaceful resolution of all disputes with India. Being smaller in size it never had aggressive designs against India. Even Pakistan's military strategy is based on defensive doctrine, with an Indian centric strategic arsenal programme. It is only India who always tried to slash Pakistan by conspiring against her both covertly and overtly. In the post 9/11 scenario, it was Pakistan who

approached international community to induce India for a meaningful dialogue on the core issue of Kashmir. In the aftermath of Agra Summit, Pakistan has repeatedly 'adjusted' its Kashmir policy on all available options with maximum flexibility to engage India. Through its positive approach towards India, Pakistan suggested a number of Kashmir related CBMs, informal talks and some genuine soul-searching at the top level to push the dialogue forward on the core issue. However owing to her past mistake of declaring Kashmir as its integral part, it has now become the toughest nut to crack by any ruling Indian elite. On the Pakistani side the hardest test for its leadership has been and is to engage India on the Kashmir dispute. After all it was the whole hearted dedication of Pakistani leadership which pursued India to make a commitment for Kashmiris right of self-determination. Now India has a realization that force alone could not 'solve' the Kashmir problem for them and without Pakistan's help Kashmir dispute cannot be settled⁵⁶. In connivance with Kashmiris, Pakistan desire to push the dialogue on Kashmir forward by engaging India to respond positively. In the past few years, Pakistan's Kashmir policy has increasingly become more and more transparent and credible; with Kashmiris at its centre spot and making use of both traditional and non-traditional diplomatic tools to engage India.

The Eventual Beneficiary of Overture

The unilateral ceasefire announced by Pakistan in November 2003, was welcomed by India. Immediately upon ceasefire, India started fencing its border all along the LoC and completed it in a record period of two years. It had already fenced its international border and working boundary with flood lights all along. This fencing could not be completed earlier, owing to Kashmiris armed struggle against Indian occupation forces and intermittent firing by forces deployed on both side of the LoC. This peace overture was quite efficiently utilized by India to stop the infiltration and incursion of Kashmiri freedom fighters from Azad Kashmir to Indian Occupied Kashmir.

In a hold out to pacify Kashmiri masses and demonstrate the international community, in mid 2006, Indian Government,

constituted four working groups, to formulate concrete recommendations on Jammu and Kashmir. Each group was mandated separately to undertake study in its own area. These groups formulated their recommendations to even out the grievances of Kashmiri masses thus surfacing the way for their eventual rejoining the main stream India through a reconciliation process, rather promising them right of self determination or any sort of self rule.

These groups emphasized Indian government to bring a halt to human rights violations and repeal the discriminatory laws to circumvent international critic. Other aspects like; rehabilitation of Kashmiri especially Pandits by providing them compensation and employment, dialogue with militants, promotion of people to people contact by opening more routes across LoC, measures for economic uplift, good governance and adoption of people friendly approach by security forces was stressed upon for implementation on priority. All these recommendations aimed at paving the way to convince Kashmiri masses to give up their armed struggle against India in support of their right of self determination.

Operation Sadbhavana. Consequent to these recommendations, Indian Army geared up campaign to implement its already conceived idea of winning hearts and minds of Kashmiri masses through Operation Sadbhavana; a goodwill gesticulation aimed to redress their grievances by taking psychoanalysis measures like provision of health facilities, improvement in education sector and empowerment of women.⁵⁷ The campaign is being carried out in all areas of the state which were affected during Kashmiri armed struggle started in 1990. Through this campaign, Indian Army in collaboration with State's administration is undertaking all measures to provide the basic civic facilities to the communities at village / town level. Huge funds have been allocated by the government for upgradation of community requirements like; re-construction of schools, hospitals, libraries, community marriage halls, mosques and many other basic requirements of life. School and college students are being taken to various cities in India under luxurious arrangements of Indian government with promises for their bright

future in these places, rather getting involved in anti state activities at the hands of militants.

The Operation Sadbhavana, envisioned by General Arjun Ray, whose motto is, “We had to instill trust by proving that human security is a core element of national security.”⁵⁸ It is a very meticulously planned strategy by Indian government to level out the grievances of all those Kashmiri masses that fallen prey to its brutalities ever since the start of insurgency on one hand and improving the image of its security forces on other.⁵⁹ As per Indian Army, Operation Sadbhavana, is an initiative to help peoples in remote & disturbed areas of the country to connect with the rest of the country, in North-East India and Jammu and Kashmir⁶⁰. Towards the beginning, Kashmiris put up significant opposition against the operation by Indian Army, considering it, responsible for destruction of these facilities apart from massive human right violation in last eighteen years. However with the passage of time resistance seems diminishing under stringent orders of Indian Army. The campaign also intended to create employment opportunities for Kashmiri youth. Indian Army and State’s government is encouraging jobless youth for recruitment in Indian security forces. More recently, the former Chief Minister of IOK has announced to raise a woman Police Battalion in the state,⁶¹ which would initially provide around 1200 jobs to unemployed Kashmiri women.

Through a well orchestrated psychological propaganda campaign, India is giving a phony impression to Kashmiri masses that in the post September 11, 2001, they (Kashmiri) have no alternative, but to leave militancy and learn to live under Indian rule. While discouraging Kashmiri masses, Indian electronic and print media is creating an impression that inspite of repeated insurgencies / anti-India moves, neither Kashmiri could get their freedom nor Pakistan could filch Kashmir from India. And now under changed international scenario (global war on terror), Pakistan cannot imagine challenging Indian authority over Kashmir. Indian gains from the peace process will have long term effects on Kashmiris right of self determination. Indian propaganda also creates feelings that Pakistan has deviated from the UN resolutions once it offered fresh proposals for solution of the issue. This again provides a solid

ground to Indian planners, think tanks and pro India Kashmiri politicians to pollute the minds of suppressed and wandering Kashmiri youth and cash it in their favour. Apart from the distressed Kashmiris, Pakistan; the architect of the current peace process remained at loser hand, as through various strategies, Kashmiris are forced to reconcile their armed resistance against Indian occupation.

The Future Prospects of Peace Process

It is hard to pin down any imminent resolution of Kashmir issue, mainly because of its obstinate nature and the still widely divergent positions held by the parties to the dispute. Undeniably, resolving the Kashmir dispute may be a most challenging diplomatic undertaking since the original conflict has evolved over the years from “a purely India-Pakistan contention for jurisdiction”⁶² to the one that increasingly involves an independent movement within Kashmir alongwith a number of other options and interwoven ethnic and religious strife and conflicts. However inspite of many odds, it was Kashmiri armed struggle and their epic sacrifices which compelled India to move onto the negotiating table with Pakistan in late 1990s. In the changed global scenario, Indo-Pak composite dialogue process (2004-2006) has made much headway, which in turn has strengthened the bilateral peace process between India and Pakistan. The momentum of the dialogue thus should have been maintained, but the internal flux in Pakistan, started in early 2007 (soon after floating of four point formula proposal), has increased many fold, allowing India to justify its delaying tactics, by not responding Pakistani proposals.

On its part, Pakistan has virtually confronted all types of internal destabilization. In Federally Administered Tribal Areas and all along the Pak-Afghan border, security forces are busy in combating the extremism posed by extremists heavily supported by anti Pakistan forces, the Al Qaeda, Taliban and many other misdirected scoundrels. During 2007 alone, there have been more than sixty five suicide attacks all along the country, killing hundreds of innocent masses. General Elections scheduled on January 8, 2008, had to be postponed till February 18, 2008, owing to baffling

assassination of former Prime Minister Benazir Bhutto. These internal issues have constrained the government's options to push the dialogue process with India on its proposed options. Prolonged absence of Pakistan from the substantial dialogue process has provided India with the enough flexibility to start the so called heart winning campaign through a number of measures in IOK. By the time Pakistan is over from its domestic issues, India would have taken a number of compensatory measures to befool already suppressed Kashmiris as a substitute of their demand of freedom from Indian rule.

Kashmiri Leadership and New Incumbent Government in Pakistan. Sequel to new political set up in Pakistan, a delegation of APHC under Mirwaiz Umar Farooq, Mehbooba Mufti, President People's Democratic Party and Yasin Malik of Jammu – Kashmir Liberation Front visited Pakistan. In their own timeframes, these leaders met the new leadership of Pakistan and Azad Kashmir in the milieu of stalled Indo –Pak peace process and progress on Kashmir issue. Mehbooba Mufti was of the strong view that Pakistan must restart mired dialogue with India on priority. She said that, “there has been too much bloodshed--- now it is a time to resolve the issue”⁶³.

In his meeting with new Pakistani leadership Mirwaiz Umar Farooq exalted the morale and political support of successive Pakistani governments and emphasized on active participation of Kashmiris in the ongoing composite dialogue process. APHC delegation desired that dialogue on Kashmir should be held in Srinager and Muzaffarabad,⁶⁴ rather in Islamabad and New Dehli. Stressing on more structured dialogue Mirwaiz said, “The most important thing is that a structured dialogue is missing from the talks on Kashmir. There should be a comprehensive line of action in an institutionalized manner, including Kashmiris, as several bilateral efforts have failed to deliver”⁶⁵.

In veracity there has been no change in Indian carnage in Occupied Kashmir inspite of a Pakistani leeward flexibility following 2004. Finding of 940 unknown graves, thousands of missing Kashmiris, the presence of 350 army camps in population centers, the sale of

Kashmiri land to the non-state Indian institutions, Indian cultural invasion and aggression on Kashmiris are some of the cases in point⁶⁶. Promising a positive development, coalition leadership of Pakistan assured the visiting leaders that consensus on the issue will be sought in the Parliament and dialogue rather than the war would prefer to resolve the dispute.⁶⁷ However in corporeal terms the new political setup in Pakistan seems less resolute to resolve the issue on priority. As Co-chairperson of Pakistan People Party, now the President of Pakistan said in a statement that instead of becoming “hostage to Kashmir issue”⁶⁸, India and Pakistan must move forward to promote their bilateral relations like trade and people to people contact. Although negated later on, the statement appears to be a major shift in the minds of incumbent leadership of Pakistan on Kashmir.

Yet on another occasion the incumbent head of State then Co- chairperson of ruling party, through a message readout at a conference on India and Pakistan, organized by the Tehelka Media backed Indian stance by saying, “a very serious danger to the (India-Pakistan) peace process comes from militants and terrorists ----- Therefore the challenge for us is to dismantle the militant cells so that they cannot hold the foreign policies of two independent nations hostage to their acts of terrorism”⁶⁹. The statement is an indirect acceptance that there exists such sanctuaries in Pakistani soil and negation of Pakistan’s repeated assertion; that its territory is not being used for any terrorist activity against any country. Even Indian Government and Army accredited Pakistani efforts in reducing Kashmiri insurgency. Apart from official stance of Islamabad, if truth be told there exists no such ‘cells’ in Pakistani territory. The question arise what aims and objectives Mr. Chairperson intends pulling off through such disingenuous statements? Analysts view that being head of the ruling party; he may have thought it appropriate to sing a song being sung by US lead West and India to gain their commiseration or else demeaning his antecedent being new-fangled in the field or seeking international recognition of his leadership. However irrespective of true motives; such statements would gravely dent the already indistinct image of Pakistan; thus warrants evading at this level.

Eversince Agra Summit-2001, Pakistan has shown enough flexibility to resolve the issue. Leaving the solution of Kashmir issue to future generations⁷⁰ would simply mean; making preparations to push future generations into the seething fire of the Kashmir conflict. The idea of bilateral trade and commerce between India and Pakistan is a convivial step. Recently it has been supported even by Sardar Atiq Ahmed, the incumbent Prime Minister of Azad Jammu and Kashmir during a welcome reception hosted in the honour of APHC delegation. He suggested that, "LoC which divides the IHK and AJK should be changed into the line of commerce"⁷¹. But the question arise; did such measures or Kashmir specific CBMs undertaken so far have brought any change in Indian attitude towards resolution of the issue? Safeguarding the economic interest of Pakistan and maintenance of trust of Kashmiri masses are in fact very important aspects and need serious deliberations.

Resuscitation of Composite Dialogue. After a silence of almost over one year, fifth round of Indo - Pak composite dialogue was held in New Dehli from July 21-22, 2008. In order to create conducive environment, there have been exchange of visits by foreign ministers and other high level delegations of both countries, prior to dialogue process. Deplorably, incidents like terrorist attack on Indian embassy in Kabul preceded the event which overwrought the environment of dialogue as stated by Indian Foreign Secretary, Mr. Shivshanker Menon, "unfortunately , there have been several issues in the recent past which have vitiated the atmosphere and the composite dialogue process is under stress -----the talks were happening at a difficult time of our relationship with Pakistan."⁷² Both sides pointed fingers at each other for their alleged involvement in their internal affairs, causing instability.

There prevailed a distasteful atmosphere between delegates of India and Pakistan, during 15th SAARC Summit held a few days after the fifth round of composite dialogue in Colombo, Sri Lanka. Government heads from both sides made a pledge to continue peace process, but trust deficit was quite prominent on either side. In Indian Occupied Kashmir there came up another upsurge against the State government once it allotted 800 kanal of land to Shiri Amarnath Shrine; a Hindu shrine administration in infringement to

the State's law of land. Upon protest from Muslims, the allotment was initially cancelled, but later but Hindu of Jammu province backed by BJP and RSS and many other extremists groups from neighbouring states blocked the entry and exit routes for the Muslim majority people of the Vale of Kashmir, causing economic strangulation. Once the peaceful traders protested against this inhuman act of Hindu minority and asked for opening of alternative trade route via Muzaffarabad, they were fired upon, resultantly killing dozens of innocent Kashmiris including APHC leader Sheikh Abdul Aziz. This was not enough; sequel to the incident, Indian security forces has unleashed a rein of terror on helpless Kashmiri masses, who were just demanding an end to their economic obstruction for smooth supply of essential commodities including life saving drugs. The said portion of the land has once again been allotted to the administration of Hindu Shrine by State's Hindu Governor. Surprisingly the world community has shown mysterious silence over this bloodshed of Kashmiris. Instead of pacifying the masses by bringing an end to economic cordon, Indian government has once again blamed Pakistan for fueling the Kashmiri struggle.

Customarily, it has been a standard Indian practice to blame Pakistani intelligence agencies for any mishap either in its own soil or elsewhere. Conversely there has been dawdling retort from Pakistani side even after knowing that India is fully backing extremists and terrorists in its troubled provinces of Balochistan and NWFP by making use of its secret services people posted in six Indian consulates in various cities of Afghanistan, adjacent to Pakistan. Pakistan did not even raise its eyebrows once Hindu extremists burnt dozens of its Passengers on Indian soil, while traveling to Pakistan through Samjoota Express at Panipat (India) in 2007. In reality India is determined to knock off balance Pakistani western borders which have traditionally been unthreatened. It is fully involved in the training of Afghan National Army (ANA) and its secret services. In collaboration with ANA, and extra regional forces present across Pakistani western borders, India perhaps is trying to level of the score of insurgency it is facing at the hands of Kashmiris in Indian Occupied Kashmir eversince 1989 or else compelling Pakistan to submit to its hegemonic designs in the regional politics.

At international level, India is being considered as an emerging power. Subsequent to the Indo-US Nuclear Deal-2005, India is now collaborating with United States and Israel for a Missile Defence System in the region, which will have strategic effects in Asia.⁷³ The country is otherwise considered as one of the world's fastest growing economy, besides being the world biggest democracy. It has attained the status of world major military power and has undergone a number of pacts/ agreements with major powers and sophistication of war munitions. It is likely to attain the status of permanent membership of UNSC, as the Chinese hurdle is seen retreating following the visit of Indian Prime Minister in January 2008. It enjoys excellent relation with all countries of the world and is being considered as progressive and modern secular country with a world acceptance. Unfortunately; most of these factors disfavour Pakistan's international standing. So world community would like to listen Indian view point more than Pakistan's.

The need of the hour is that Pakistan must push its interest all the way through consistent and result oriented political engagement with its neighbours as well as International community. Irrespective of the internal situation in Pakistan, diplomatic pane designed for composite dialogue process with India should continue dialogue process pushing forward the Pakistani point of view without showing signs of weakness on account of internal turmoil of the country. After all, India is facing worst situation including insurgency in its six integral Northeastern states since past so many years. Domestic mayhem should be handled by the forces designed for the job. India must be diplomatically engaged for a formal response to Pakistan's maximum flexibility.

In order to gain time; India has otherwise been wavering a formal response to Pakistani flexibility eversince 2002. The time so gained was made use of by India for healing the wounds of Kashmiris through adherent campaigns like Operations Sadebhavana. But to the bad luck of India that this strategy even did not work as behind the scene she had different motives to accomplish. India perhaps had the plans to show the international

community and Pakistan even that; Kashmir issue stands resolved as a result of its compensatory actions like Operation Sadebhavana. This would neither have been the first nor the last Indian strategy to befool the world, Kashmiri masses and Pakistan. In a similar bid in 1950s, people of occupied Kashmir were given autonomy under Article 370 of Indian Constitution as an alluring strategy for a formal accession, later accomplished through marionette Assembly in incongruity to UNSC resolution 91 of March 30, 1951⁷⁴ and 122 of January 24, 1957.⁷⁵

Recommendations

- The development on Kashmir with a new approach insight is widely shared in the country and there is a general consensus that Pakistan must strive for a pragmatic solution that protects its national interests and enjoys the blessings of the people of Kashmir. Consensus-building through positive engagement with all the political parties and masses will strengthen the government's position in the dialogue with India. There is a need to have a complete understanding and harmony between the masses, politicians, bureaucracy and even the military to keep moving forward through confidence building measures for peaceful resolution of Kashmir by positively engaging India without compromising the basic stance on Kashmir.
- For a positive diplomatic engagement with India on Kashmir, Pakistan needs to ensure its internal stability. Pakistan's engagement towards global war on terror has adversely impacted its domestic security and stability ever since the incident of September 11, 2001. Establishment of a consensus government having participation of almost all major political parties is a positive step to bring peace in the country. This unique juncture of the history should be fully exploited to create harmony amongst the diverse ethnic groups within the country. A strong political setup backed by publicly mandated representatives should be able to talk to India from a brawny position and take decision, keeping national interest in view.

- So far the flexibility on Kashmir is a unilateral gesture from Pakistan. It cannot become operational unless India reciprocates too. Response on dialogue process from Indian side has been very slow. There is a difference between apparent Indian commitments and their practical manifestation. Infact India is cashing the price of peace process and buying time for normalization of situation in its occupied portion through various measures. India would prefer to delay a detailed review of specific proposals. Indian 'go slow' approach should be contested by Pakistan because it wants early move towards solution of Kashmir. Domestically, these unilateral proposals may invite divergent responses as the preceding government has already been labeled of showing maximum flexibility on the issue.
- India should not be trusted for its reparatory measures like Operation Sadbahvana in its occupied portion of Kashmir. The operation aims to swindle Kashmiris and international community once again. Kashmiris sacrifices of over eighty thousand martyrdoms, unlimited tortures, mass molestations, destructions and burning of houses and civic facilities cannot be compensated through such like illusory measures. Only UN mandated right of self determination can justify their prolonged sacrifices.
- All aspects of the four points formula especially 'joint sovereignty' on the geographical regions by all three parties to the dispute need elaboration for a meaningful debate by masses in India and Pakistan and at the level of think tanks. In addition, the limits of self rule should be clearly defined as out of Indian constitution.
- Progress towards peace, CBMs and settlement of Kashmir and other issues should not be linked to sporadic terrorist incidents anywhere in Indian Occupied Kashmir, Pakistan, India or elsewhere; like terrorist attack on Indian Embassy in Kabul, Afghanistan. This would create an atmosphere of mistrust between India and Pakistan and add to the frustration of the Kashmiri people. Furthermore, Kashmir-specific CBMs, promising easiness to the life of its inhabitants and ultimately piloting towards the settlement of the dispute should be adopted.

- To ensure lasting peace in South Asia, there is a need that international community should play its facilitating role towards resolution of this unfinished agenda of the partition of subcontinent. Misdirected and inclined reports like 'EU Report on Kashmir' may impair the ongoing peace process. International community should be mindful of sensitive nature of Kashmir issue. Through UN resolutions, this globally propped up issue for the right of self determination of 15 million Kashmiris cannot be termed as terrorism on the false Indian acquisitions. UNSC resolutions on Kashmir still form the basis of its resolution and should be kept alive by Pakistan and Azad Kashmir government.
- Through a diplomatic and media campaign, attention of international community should be drawn towards gross human rights violation in occupied Kashmir, being perpetrated by Indian military through harsh laws, such as TADA, POTA, J&K Public Safety Act and Armed Forces Special Prevention Act. Some of the international Human Rights organizations like, Amnesty International and Asia Watch have already documented these acts of Indian repression and have demanded a thorough investigation of brutal acts of Indian security forces ever since 1989. United Nations Security Council and human rights organizations must be pursued to arrange neutral investigation to establish facts about unknown graves discovered recently in Indian Occupied Kashmir.
- Now once the popularly elected government is emplaced in Pakistan, irrespective of irritants appearing time to time, both countries should make a progress on the issue, maintaining its momentum to the level of pre March 2007. As a proof of its being serious in the regional peace, India should draw down its security forces from occupied Kashmir, as there is neither a cross border infiltration nor any worthwhile vicious activity of Kashmiri insurgents.
- In her traditional commitments to political, diplomatic and moral support to Kashmiris; Government of Pakistan must raise the current wave Indian atrocities and economic blockade of Kashmiris at the level of international community, UN and human right organizations.

Conclusion.

Eversince the surfacing of the issue in 1947, there exists a lack of trust over Kashmir between India and Pakistan. The current improvement in Indo-Pakistani relations was ingrained by a combination of outside pressure and domestic compulsions, whose outcome would manage level of India-Pakistan hostility and increased political and economic interaction. Because of its unresolved nature, Kashmir has been and is a tragedy. Practically this catastrophe is synonymous for Pakistan and India and more so for the people of Kashmir. The question is, how to undo the past and roll back the years? On more than one occasion both countries took up arms over Kashmir, only to discover that what this entailed for outstripped our means and indeed determination. Learning something from their costly experience, both countries are now trying to tread a different path, shifting from paranoia and reflexive hostility to a more rational way of looking at each other. To their mutual benefit, one might add, for never-ending hostility never served anyone's interests. Let us by all means, stir the still waters of Kashmiri diplomacy, which President Musharraf has astutely done, by saying let us "go beyond stated positions" to the extent that the other side is also willing to go in the same direction". If India makes a virtue of not budging from its basic stand — that there can be no change in Kashmir geography — then we should think hard whether there is any benefit in pursuing a policy of unilateral flexibility. Let us be sensible about Kashmir by realizing the limits of what is attainable. But, at the same time, without feeling compelled to compromise our basic position that the fate of Kashmir must be decided according to the wishes of the Kashmiri people. Pakistan shouldn't be making concessions for which it gets nothing in return.

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NATO IN AFGHANISTAN: A POLITICAL MILITARY ALLIANCE AT WAR

Colonel Michael V. Schleicher

The North Atlantic Treaty Organization (NATO) assumed command and control of the International Security and Assistance Force (ISAF) in Afghanistan in 2003. Just two years prior, nobody could have imagined that this extraordinarily complicated, dangerous and difficult mission would be in the hands of a military alliance designed to defeat the former Soviet Union on the plains of Germany. So how then did NATO find its way to Afghanistan, fighting a war it was not designed to fight and in a country thousands of miles from the European heartland? Furthermore, since its arrival in Afghanistan how effective has it been at completing its mission, what are its major strategic challenges and how well has the alliance, founded on its political strength, fared in combating a determined foe in a hostile and distant land? This paper will provide answers to those questions and leads to some conclusions about long term prospects for NATO success in Afghanistan.

Following the attacks on the World Trade Center and the Pentagon on 11 September 2001 the North Atlantic Council (NAC) invoked Article V of the Washington (North Atlantic) Treaty. Despite the immediate and genuine outpouring of transatlantic solidarity following the 9/11 attacks there were no clear signs that they would lead to military involvement of NATO in Afghanistan. The Secretary General of NATO, Lord Robertson, made it clear at that time it was premature to speculate on what military action would be taken by the alliance, be it individually or collectively. It was not until 2 October 2001 that the North Atlantic Council (NAC) confirmed invocation of Article V. This was done after US Ambassador Frank Tpylor, a counter-terrorism expert, informed the NAC that it had been clearly determined that the individuals who carried out the attacks belonged to the world-wide terrorist network of Al-Qaeda, headed by Osama bin Laden and protected by the Taliban regime in Afghanistan.¹

The conditional invocation of Article V indicated maneuvering on the European side to ensure that any moves towards direct military action by the alliance would be made with care and surety that they were against

a confirmed threat. The desire on the European side was to reign in a possible excessive response from the US, and for the Americans, to garner multilateral support for military operations. Instead of immediate action, what followed the initial announcement invoking Article V were three weeks of consultation between the US and its NATO allies.

Initially, ISAF was not a NATO endeavor, but rather a commitment on the part of the international community to provide a safe and secure environment in and around Kabul to set conditions for the reconstruction and development of the country. The United Nations authorized the deployment of ISAF with the passage of United Nations Security Council Resolution (UNSCR) 1386 on 20 December 2001. While ISAF was not officially a NATO mission at the outset, the first three nations to command ISAF were all NATO nations and the bulk of forces contributing to the original ISAF contingents were from NATO or NATO affiliated nations. Eleven NATO member nations provided forces to ISAF as well as five Partnership for Peace member nations.² This de facto NATO presence in Afghanistan, by individual members or partners of the alliance, is seen as major contributing factor leading to the expansion of NATO's role in ISAF.

In October 2002 two NATO members, Germany and the Netherlands, requested and were granted NATO support to prepare them to take command of ISAF early 2003. Based on that request, Supreme Headquarters Allied Powers Europe (SHAPE) held a force generation conference for ISAF in November 2002. This key measure, taken to assist two NATO members in meeting individual, national requirements for a UN mandated military mission, was a major step by NATO in officially committing alliance capabilities to the ISAF mission.³

Germany and the Netherlands assumed command of ISAF on the basis of UNSCR 1444 in February 2003. In the selection of these two nations to lead ISAF we can further see motives for the move by NATO to take over the entire ISAF mission and why the UN saw this as an advantage. The German/Netherlands Corps Headquarters was a high readiness force headquarters within the newly established NATO force structure. This was a standing Corps headquarters under the command of the SHAPE in peacetime. The unit was fully deployable headquarters also offered a solution to problem that had plagued ISAF from its

inception. Normal tour rotations for contributing nations to ISAF were for six months. These short deployment windows were not conducive to mission effectiveness in the rapidly changing environment in Afghanistan. Deployment of this key NATO headquarters would last up to eighteen months and allow for continuity of command as subordinate units moved into and out of the mission.⁴ With the deployment of the German/Netherlands Corps NATO began its unofficial engagement in ISAF.

The Prague Summit of November 2002 was a critical political event for the alliance and set the conditions for its official commitment to ISAF. At that meeting alliance leaders called for NATO to be prepared to support or lead operations and deploy forces, wherever the alliance should decide. This transformation of the scope of alliance responsibilities reflected NATO's readiness to use its planning abilities and military capacity to support non-NATO operations led by individual allies. The Prague Summit Declaration affirmed a coming change in mission scope that would take the alliance to Afghanistan at the behest of the UN.

NATO heads of state declared that based on the events of 11 September 2001 the alliance "approved a comprehensive package of measures, based NATO's Strategic Concept, to strengthen [their] ability to meet challenges to the security of our forces, populations, and territory from wherever they may come". They went on to say "We are determined to deter, disrupt, defend and protect against any attacks on us, in accordance with the Washington Treaty and the Charter of the United Nations".⁵

The last major political step in the march towards NATO's role in ISAF came in April 2003 when the North Atlantic Council agreed to expand NATO's support to the international peacekeeping mission in Afghanistan; this decision was taken at the request of NATO members Germany, the Netherlands and Canada. The assistance provided included a permanent theater headquarters to command and coordinate the operation, a force commander selected by SHAPE, strategic coordination and command by SHAPE, and political coordination and direction from the North Atlantic Council⁶. This request went beyond providing capacity to individual nations participating in the coalition

carrying out actions sanctioned by the UN Security Council; it placed NATO at the helm of ISAF and began the test of the alliance's new role outside its borders.

President Hamid Karzai met with Lord Robertson, then Secretary General of NATO, in September 2003 shortly after NATO assumed command of ISAF. The first overture for NATO's expansion of the ISAF mission was made by Lord Robertson who attached a long term strategy for the alliance's engagement in Afghanistan to his letter to the UN announcing NATO had assumed full command of ISAF. This letter to the UN led the Afghanistan Representative to the UN to request that the Security Council consider expanding the mission of ISAF to all of Afghanistan.⁷

UNSCR 1510 was the final determining act by the UN that opened the door for a long term presence by the alliance in Afghanistan. Although passed unanimously, there were qualifying statements made by alliance and Security Council members, namely France, that the updated mandate did not extend beyond Kabul and if it did only for the protection of civilian personnel conducting reconstruction efforts.⁸ This statement, which qualified a major ally's support to UNSCR 1510, indicated the alliances desire to participate in ISAF but clearly showed there would be discussion and debate of how the mission would be conducted. These differences would be played out over the next several years during subsequent ISAF mission rotations.

In December 2003 the North Atlantic Council authorized the expansion of the ISAF mission under NATO command to move beyond Kabul and into Northern Afghanistan. This was the first step in the alliance's plan to move beyond Kabul and the surrounding areas to command of military forces throughout Afghanistan. Stage 1 of NATO expansion began as the German PRT at Kunduz was placed under ISAF command as part of a pilot project.⁹ Stage 2 commenced in May 2005 with ISAF taking command more PRT's and expansion into Western Afghanistan in September 2005. Stage 3 of NATO expansion commenced in July 2006 and began a new level of commitment for the alliance as it moved into the restive Southern portions of Afghanistan. Then SACEUR General James Jones called it "NATO's most ambitious operation."¹⁰

Commencement of Stage 3 placed NATO combat formations in the line of fire with hard core elements of the Taliban and remnants of Al-Qaeda. The burden for this difficult task fell to British, Dutch and Canadian forces.¹¹ The small Danish contingent sent to Afghanistan was assigned to the UK Brigade in Helmand Province. For these Danish soldiers, and many other European allies, it was to be the first major combat in the modern history of their army. In fact senior leaders in Denmark commented that it was their first sustained combat since 1864.¹²

In stage 4 NATO continued to assume more and more responsibility for operations throughout Afghanistan. In October 2006 Afghanistan transitioned from a US led coalition to a NATO-led coalition headed by the ISAF. NATO, as we have seen, followed a measured and gradual entry into Afghanistan and performed a methodical and staged expansion throughout the country. In the process of this expansion, both in geographic terms as well as in scope of mission, NATO has transformed to meet the challenges of its first ever experience in out of area warfare.

Intelligence and special operation's capabilities are critical for the long term counter-insurgency operations that NATO intends to conduct in Afghanistan. In the past these particular national capabilities were never fully integrated within NATO at the strategic or even operational level due to national constraints on their use or lack of interoperability. Intelligence and special operation units had been provided to support NATO missions but often with restrictions on their use and always under national control.

The necessities of war seem to have broken that paradigm and the alliance experience in Afghanistan has driven NATO to form new structures that operate at the strategic level in these areas with the intent of improving combat effectiveness. In 2005 NATO began establishment of the NATO Intelligence Fusion Cell (NIFC). With 8 million USD in funding the alliance formed its first ever standing intelligence structure.¹³ In addition to improved intelligence sharing and cooperation NATO recognized the need to improve interoperability of the alliances special operations forces.

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NATO took the first step towards creating a NATO Special Operations capability in December 2006 when the NATO Special Operation Coordination Center (NSCC) was established in Stuttgart, Germany. The Commander, Special Operations Command Europe, was designated as its Director.¹⁵ This creates a single point of contact for training, interoperability and force generation of the special operations forces of for 8 NATO nations and will eventually become part of the standing NATO military structure. The Director NSCC reports directly to the Supreme Allied Commander Europe (SACEUR).¹⁶

The NSCC does not create a standing NATO Special Operations Force (SOF), but rather it will "focus on such common areas of interest as proper integration of NATO SOF at the strategic and operational levels, doctrine development and promulgation, interoperability between member nation SOF organizations, and connectivity with NATO conventional forces and other alliance agencies".¹⁷

NATO has adopted a new and more flexible model for force generation that takes into account its significant increase in world wide engagement. Prior to ISAF, NATO used its traditional and highly bureaucratic process for generating forces to meet requirements for NATO plans. The process resulted in a Force Plan that provided the basis for NATO defense planning over a five-year time frame.¹⁸ This system proved inadequate to meet mission requirements of Afghanistan.

To meet manning requirements, NATO relied on force generation conferences directly related to the ISAF mission. These conferences provided the bare requirements to meet ISAF force goals but as NATO moved towards assuming control of the entire mission these conferences also proved inadequate. A long term solution was needed as NATO struggled to conduct not only the ISAF mission but also needed to generate forces for KFOR and the newly establish NATO Response Force.

On 23 November 2004, SHAPE hosted the first Global Force Generation Conference (GFGC). Before the GFGC, forces for NATO operations such as KFOR, SFOR and ISAF had been provided through individual, operation specific, force generation conferences. The GFGC's intent was to brief nations on alliance long-term, operational requirements,

provide nations with some certainty in force planning and to better verify and orchestrate national contributions to alliance missions. The GFGC has now become an annual program that better supports all ongoing NATO missions.¹⁹

Stages 1 and 2 of ISAF expansion were met with little military resistance in Afghanistan. The alliance expanded into the relatively quiet areas in the North and Western parts of the country. However, Stage 3 and the year 2006 demonstrated a drastic increase in violence directed at NATO forces in Afghanistan and against the population. The changed environment put tremendous pressure on NATO allies as they struggled to control the situation. By the end of 2007 some estimates stated that a full 75% of the country was under Taliban control. A convergence of a number of factors led to the increase in violence with some of the most prevalent being the Opium trade, lack of adequate and useable manpower and civilian casualties resulting from reliance on air strikes.

Since NATO's entry into Afghanistan one of the most significant issues that eludes resolution is that of poppy production. In 2006 a NATO Review article stated, "The greatest long-term challenge facing Afghanistan is probably that presented by the production of illicit drugs and the criminal networks that surround it."²⁰ The issue is at the root of many of the problems faced by the alliance in Afghanistan, from the rise of the Taliban, to a lack of law and order and a lack of legitimacy of the Karzai government. The Compact on Afghanistan, signed in London in 2006, identifies elimination of the narcotics industry as an issue that cuts across three main pillars of a five year program to improve the realms of security, governance, rule of law and human rights, and economic and social development.²¹

Afghanistan accounts for 90% of the world's production of opium, Poppy production skyrocketed by 59% in 2006 with another spike of 17% percent projected for 2007. This equates to 9,000 tons of opium with a total farm value of 1 Billion USD. Not only has the crop size grown, public opinion supporting cultivation of the crop is also on the rise with 40% of Afghans saying it is acceptable to grow opium. In Helmand Province, producer of half the worlds opium, upwards of 65% of people say it is acceptable.²²

The United States and its European allies continue to disagree on what processes should be used to handle this issue. The major European ally taking the role in setting counter-narcotics policy has been the United Kingdom. This commitment was made in May 2002 as a result of the Bonn Agreement designating certain allies that would take the lead role in key aspects of Afghan security reform and development. This pledge was made outside of the NATO and in the context of the G-8, however the UK is prominent member of the alliance and it has great influence on alliance policy making in this respect.²³

NATO members, especially the European allies, have clearly indicated that they will not use eradication as the main means of reducing poppy production. In 2006, then Commander of ISAF General Richards (UK) stated "NATO will not be involved in poppy eradication, because we are deeply cautious that if we get it wrong and create the wrong environment, we will tip otherwise perfectly law-abiding and co-operative people into the opposition camp."²⁴ In April 2007 Major General Ton Van Loon of the Royal Netherlands Army commanding ISAF forces in southern Afghanistan stated that poppy eradication must be tackled in a comprehensive way and that the Afghan government, not ISAF, must take the lead.²⁵ Danish officials also publicly declared that eradication of the poppy crop was not part of the mandate for their troops participating in ISAF.²⁶ When defending this policy European allies often remind that the Afghan government has the lead role in defeating the narcotics production issue. They state this is made abundantly clear in the Afghanistan Compact of 2006. In it the government of Afghanistan agreed that "by end-2010 it would design and implement a program to achieve a sustained annual reduction in the amount of land under poppy and other drug cultivation by the strengthening and diversification of licit livelihoods and other counter-narcotics measures, as part of the overall goal of a decrease in the absolute and relative size of the drug economy in line with the Government's Millennium Development Goals target."²⁷

Frustration over NATO's reluctance to take an aggressive role in eradicating the booming drug trade can be seen in comments by Antonio Maria Costa, executive director of the U.N.'s Office on Drugs and Crime. In November 2007 he stated, "since drug trafficking and

insurgency live off each other, the foreign military forces operating in Afghanistan have a vested interest in supporting counter-narcotics operations." The UN official went on to call for a greater military role in destroying heroin labs, closing opium markets, seizing drug convoys and helping to bring traffickers to justice.²⁸

Politicians on the European side of the alliance have also raised concerns over the lack of clear policy relating to poppy eradication. The British House of Commons Defense Committee issued a report in July 2007 stating "We are deeply concerned that uncertainty has arisen among Afghans about [NATO-led] policy towards, and role in, poppy eradication and that UK forces may consequently have been put at risk."²⁹ . The United States, acting unilaterally and in coordination with the Afghan government has begun its own poppy eradication program using the US defense contractor DynCorp. The United States strategy, criticized by some as merely a tactical solution to the problem, is based mostly on eradication. To that end DynCorp is supporting the Afghan Ministry of Interior in undertaking the task of destroying illegal opium poppy cultivation by manual means.³⁰

Statements made by U.S. Embassy Deputy Director for International Narcotics and Law Enforcement, Lee "Rusty" Brown's at the Paris Pact Conference in Kabul in 2007 show clear frustration on the part of the United States over what it sees as lack of resolve to meet the immediate threat posed by narcotics. He made dire predictions based on the "explosion" of the narcotics trade in Afghanistan. He said, "Afghanistan's opium economy is threatening to do in short order what the insurgency could never by itself manage - that is, defeat the efforts of Afghans and their international partners to build a stable democracy in charge of its own security". He went on to say, "Long term strategies and harmonized coordinated institutional approaches are important, but we should not let them distract us from present imperatives." If the Afghan government and its international partners do not take definitive action in the short term, if we do not turn the corner very soon, we might as well stop talking about strategies".³¹

Despite having nearly 40,000 soldiers in Afghanistan the alliance is unable to control the country. This number is less than a quarter of international forces deployed in Iraq despite the fact that

Afghanistan has more rugged terrain, is more heavily populated and is 50% larger than Iraq.³² The long term, out of area mission has stretched and stressed alliance member militaries like no other in its history.

Since NATO's founding, alliance members have disagreed on the quantity and quality of forces they would make available to NATO and the realities of hard combat in Afghanistan have made this issue critical to NATO operational effectiveness. The issue of burden sharing in NATO is based more in capabilities of NATO forces than on the size of NATO forces available to the alliance. Since the end of the Cold War the United States has enjoyed a distinct military advantage due to its decades long build up of expeditionary forces designed to deploy to Europe to fight the Soviet Union. US forces were created for mobility, sustainability, the capacity to project and sustain forces over distance and time while European armies were in large part designed to fight where they stood and were built around heavy forces equipped and manned to defeat massive Soviet formations.³³

Since the fall of the Berlin Wall, European countries have cut defense budgets an average of less than 2 per cent of GDP. European major equipment procurement budgets have dropped by 18 per cent since 1996, compared with an 8 per cent decrease in the United States over the same period. The United States spends more than four times the European total on defense research and development. This legacy remains a major factor in the inability of NATO to field forces that are trained and equipped to conduct combat operation in Afghanistan.³⁴

The United States spends about 4 percent of its gross domestic product (GDP) on national defense while the other 25 members of NATO collectively spend less than 2 percent on Defense.³⁵ Increasing defense spending to at least 2 percent of GDP for NATO member states could bridge the resource gap needed to put more NATO soldiers in the field. If all member states contributed 2.3 soldiers per USD1 billion of GDP the total number of troops that could be generated for ISAF would increase to around 71,000 soldiers.³⁶

The United States is actively urging European allies to spend more on defense. At the conclusion of NATO's Riga Summit in November 2006, the summit declaration included the strongly worded

statement that "We encourage nations whose defense spending is declining to halt that decline and to aim to increase defense spending in real terms."³⁷ This language is non-binding and it remains to be seen if European allies can muster the political will needed to reverse a decade of declining defense budgets. The seriousness of the issue NATO faces was made clear in October 2007 when US Secretary of Defense Robert Gates ominously stated, "If an alliance of the world's greatest democracies cannot summon the will to get the job done in a mission that we agree is morally just and vital to our security, then our citizens may begin to question both the worth of the mission and the utility of the 60-year-old transatlantic security project itself."³⁸

The effects of insufficient forces were evident as ISAF began stage 3 of its operation in 2006 and it pushed into southern and eastern Afghanistan to face Taliban and anti-government forces. A small number of allies provide a lion's share of forces operating in these high risk areas. The United States, Canada and the United Kingdom provide the majority of combat forces. Some larger and key allies such as Germany, France and Italy refuse to allow their forces to conduct combat operations in Helmand Province and Eastern Afghanistan.³⁹

The political debate over contributions of forces went public in February 2007 at the NATO summit of defense ministers in Seville Spain. Ahead of the conference the SACEUR, General Craddock, called for an additional 2,000 soldiers or three and a half more battalions of soldiers to bolster forces in Afghanistan.⁴⁰ He stated just before the Seville conference that "We do not have adequate forces... It makes accomplishing the mission that more difficult. It places every NATO soldier there (in Afghanistan) at greater risk".⁴¹ UK Minister of Defense Wes Browne also stated in February 2007 that "it is becoming increasingly clear that at present, when it comes to the most demanding tasks in the more challenging parts of Afghanistan, only we (UK) and a small number of key allies are prepared to step forward".⁴²

In February 2007 the Seville NATO Ministerial Conference produced only modest offers from allies. The bulk of the requirement to meet the 7% force shortfall was made by the United Kingdom with 1,400 additional soldiers and the United States which extended the tours of 3,000 soldiers in January 2007.⁴³ Some Alliance members are not

willing to risk high cost, low density capabilities and assets to the fight in Afghanistan. In October 2007 NATO, for the first time, allocated funds to rent rotary wing aircraft to support ISAF operations. Many European allies with helicopters, such as Italy, Spain and France are not willing to commit these assets to the fight. In some cases this is driven by government decisions guided by the need to avert military casualties in order to maintain public support for the mission.

Most governments in general have committed to maintaining current troop levels. Germany voted in October 2007 to maintain its 3,100 soldiers operating in Afghanistan.⁴⁵ Denmark voted for a modest increase in its small force in 2006, after announcing its withdrawal from Iraq. In November 2007 Norway pledged to increase its commitment to its PRT and they have also decided to send a 150 man Special Forces Task Group for up to operate in the Kabul area.⁴⁶

While the fight in Afghanistan is NATO's top priority it is also committed to maintaining the 25,000 man NATO Response Force (NRF) which was inaugurated in 2002 at the Prague Summit. This high readiness standby unit includes a brigade-size land component with forced-entry capability. The unit is manned on six month rotations with units participating in significant training events in the year leading up to assuming the mission. Units are not available for deployment during the train up and stand by periods of their NRF rotations.

Besides being an operational tool, the NRF is designed as catalyst for further NATO transformation and can be used as a vehicle for evaluating new concepts and capability improvements. The NRF is seen by the alliance as a process for and a product of NATO military transformation.⁴⁷ There has been no official mention of using the NRF or portions of the NRF to meet urgent the operational requirements of NATO commanders in Afghanistan.

Apart from difficulty in getting allies to provide adequate numbers of capable forces, NATO combat capabilities are negatively impacted by national caveats on military contingents contributed to ISAF. These restrictions may include prohibitions on active involvement in combat operations or movement limitations that do not permit forces to be transferred from one area to another without national approval. These

limitations require military planners to take units provided by allied nations and find missions they can perform based on their caveats rather than actual capabilities.⁴⁸

National caveats have had a direct and negative impact on the alliance's ability to react to the increasingly violent situation in Afghanistan. An attack on a Norwegian-Finnish PRT in February 2006 revealed a profound weakness in NATO military capability. There were no NATO combat forces in the region capable of performing a rapid reaction mission and effecting a rescue operation. Nearby combat units that could have responded had national caveats preventing them from engaging in the operation. The unit was eventually rescued by a land and air forces of the United Kingdom.⁴⁹

Regardless of the root causes of NATO's inability to get enough soldiers on the ground, the consequences are obvious. A major issue related to the lack of military personnel to conduct ground operations is a reliance on air power by NATO in the prosecution of counter-insurgency operations. The United Nations publicly reported on 2 June 2007 that "the number of civilian (deaths) attributed to pro-government forces marginally exceed that caused by anti-government forces".⁵⁰ ISAF does keep track of civilian deaths, but the numbers are often at odds with those provided by the Afghan government. For example during a NATO air strike in Helmand Province in July 2002 NATO reported that "a dozen civilians" had been killed during the strike, but Afghan officials claimed that forty five civilians were killed in the same strike.⁵¹

Think tanks from the United States and United Kingdom are also calling into question reliance on air power. Michael O'Hanlon of the Brookings Institute commented that "All of our effort about bringing democracy to Afghanistan isn't going to matter much if to somebody whose kids just got kill by an American bomb." With only 50,000 troops on the ground in Afghanistan, air support has become a "second best option". Stephen Biddle, a senior fellow at the Council of Foreign Relations opined that "the big problem with the close air support in Afghanistan at the moment is that the West in general is radically short of troops by normal counter-insurgency standards".⁵²

President Hamid Karzai has made it clear that the death of civilians is major problem undermining the legitimacy of his government and the presence of NATO forces. In October 2006, he ordered an investigation into a NATO air strike that killed 40-50 civilians. Karzai also made an issue of civilian deaths during an interview on U.S. television in October 2007- He stated, "The Afghan people understand that mistakes are made. But five years on, six years on, definitely, very clearly, they cannot comprehend as to why there is still a need for air power." He went on to say that he was demanding a roll back in the use of air power.⁵³

An unfortunate consequence related to the use of airpower and civilian casualties is the rise in suicide bombing attacks in Afghanistan. The concept of suicide bombing was unknown in Afghanistan prior to September 2001. Although no one has directly linked the rise in suicide bomb attacks in Afghanistan to the use of airpower and resulting civilian casualties, the coincidental rise in the use of this tactic should give NATO leaders pause as to their long term strategy in Afghanistan. Suicide bombings only came to prominence in Afghanistan in mid-2005 and now form an integral part of the Taliban's strategy.⁵⁴ NATO must work to dispel the impression it is an occupying force and reduce civilian casualties to avoid provoking the population of Afghanistan to Jihad.⁵⁵

NATO leaders have had open and frank debates on the nature of the ISAF mission since they assumed command in 2003. These debates, while adding political weight to decisions taken, also reveal significant disagreements between the North American and European halves of the alliance. The first two stages of ISAF were deemed as successful and more along the lines of nation building and reconstruction that the alliance could easily agree upon. These stages were also conducted in the reasonably safe and non-violent Northern and Western Afghanistan. The use of NATO Provincial Reconstruction Teams as a means of achieving their strategy was possible as long as the situation remained stable in these areas.

Commencement of Stage 3 in 2006 and the push into Southern Afghanistan was a turning point for NATO and serious issues were brought to light as a resurgent Taliban and a booming opium trade put

the alliance on the back foot. The explosion of violence placed combat formations of European armies in the line of fire, some for the first time in a century. A small number of nations conduct operations in the dangerous Southern and Eastern portions of Afghanistan. The lack of commitment on the part of some alliance members to carry the burden continues to be discussed at NATO summits and other meeting of alliance leadership. Undoubtedly NATO foes in Afghanistan are watching with great interest to see if the alliance can sustain political support long enough to meet its strategic objectives.

A legacy of the Cold War and a direct result of the political nature of the alliance are the effects of "Burden Sharing" on the combat capabilities of NATO. In Afghanistan glaring disparities between military capacities of the United States and virtually every other member of the alliance have been laid bare. This issue, when combined with the continuing policy of providing forces with caveats, has placed the alliance at a military disadvantage in Afghanistan. Up to 70% of the country is under the control or influence of Taliban or Anti-government forces. The consequences of the alliances inability to fully meet its force requirements for this, its first out of area mission, have severe impacts on the military and political capacity of NATO to accomplish its mission. NATO soldiers are at risk as commanders face political limits on their ability to move adequately trained and equipped forces around the Afghan battlefield to meet a resurgent Taliban.

Additionally, lack of soldiers to perform counterinsurgency operations with a classic "boots on the ground approach" has made the alliance reliant on air power in conducting tactical operations. The high numbers of civilian casualties attributed to western bombing is delegitimizing NATO and Afghan government efforts to meet a rising insurgency. Increasing numbers of suicide attacks indicates a growing perception that NATO is an unjust occupying force. This idea offers a fruitful recruiting ground for Al-Qaeda and Taliban forces seeking to use suicide attacks as a tactic to defeat NATO and coalition forces. This issue is being discussed at the head of state level by President Karzai. Besides the obvious moral issues, the fragile Afghan government cannot survive under the political pressure caused by what is viewed as indiscriminate killing of civilians. The fact that official record of number of civilians killed is not

maintained or made public by the alliance feeds the notion that it has no regard for the common Afghan.

A key factor in the explosion of violence that has hampered NATO efforts is the booming opium trade. NATO has no coherent and focused policy on dealing with the poppy issue and this weakness is exploited by the Taliban and drug lords that are benefiting from the lack of coordinated action on the part of the alliance. NATO is a dominant stake holder in ensuring peace and security in Afghanistan, yet key alliance members like the United States and United Kingdom cannot agree on what strategy to pursue to deal with this major challenge to ISAF's mission accomplishment.

The United States has taken up aggressive stance on eradication that paradoxically could destroy the only economy that functions in the country, further alienating the Alliance from the population. Europeans in general view attempted destruction of the poppy crop as a bad idea that will only increase the risks to their soldiers and jeopardize domestic political support required to keep their forces in ISAF. Opium production is a universally recognized threat to security and stability in Afghanistan but NATO seems paralyzed and unable to stop the illicit trade.

It appears that NATO may have staked its very existence on success in Afghanistan. All indications are that despite the difficulty of the mission it will remain in Afghanistan. Most European leaders talk of a ten year commitment, in some form. Despite the glaring weaknesses caused by the political nature of NATO, that very nature makes it flexible and gives it a legitimacy that makes it historically unique as a military alliance. No other security regime with the combined power potential and political will exists to conduct the necessary and difficult task of setting conditions for a peaceful and prosperous Afghanistan. The world, and not just NATO, has a lot at stake in the successful continuation of the ISAF mission.

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SECURITY OF REFUGEES IN AFRICA: A WAY FORWARD

Colonel Lincoln Keonyemere Jack Ogunewe

Introduction

Crises and conflicts are unavoidable earthly phenomena which arise as a result of natural causes such as earthquakes, volcanic eruptions, flood, famine, global warming and most often, human induced. Any of these events has the potential to displace persons from their natural abodes. Sometimes, they could be displaced within the same country or across national boundaries depending on the nature and magnitude of the crisis or conflict. Such persons displaced internally are regarded under international law as Internally Displaced Persons (IDPs) and if across national frontiers, are regarded as refugees.'

In Africa, there are a large number of displaced persons under the status of refugees as a result of numerous and intractable conflicts in the continent. The Executive Summary, African Exodus reported that, "... refugees together with those displaced internally within national borders, approximately 20 million Africans are currently uprooted from their homes by civil strife, social breakdown, and persecution." These refugees and IDPs live in different camps in Africa. Unfortunately, despite the provisions of international laws on the protection of refugees, the host nations to these refugees have not discharged their responsibilities appropriately to guarantee the physical security of these displaced persons, thus exposing them to physical attacks. Looking at these problems, one is forced to ask:

- What are the roots causes of the refugee situation in Africa?
- Why have host nations failed to provide adequate security for refugees as required in international law?
- Is the refugee capacity management lacking in Africa, or are there weaknesses in international laws on refugee protection aggravating the security of the refugees?

- Are international laws on the protection of refugees inconsistent with any social or national laws in Africa thereby militating against the security of the refugees?
- Are there inadequacies in humanitarian support for refugees in Africa, thus endangering the security of refugees?

By way of providing a background study, it is pertinent to mention that during the 1960s to the 1980s, African countries had an open door policy for refugees and established a well deserved reputation as a continent which treated refugees in a relatively generous manner. As noted by Jeff Crisp, "many refugees enjoyed reasonable secure living conditions and were able to benefit from a range of legal, social and economic rights."³ But this generous treatment accorded to refugees in the African continent has eroded with time and has been replaced with confinement of refugees to camps with strict limitations in their movement, freedom and rights. This policy of congregating refugees in camps has turned out to be against the security interests of the refugees and the host countries.

Aim

The aim of this paper is to analyze the security problems confronting refugees in Africa and recommend appropriate measures to address them.

Scope

The scope will cover:

- Evolution and Trends of Refugees in Africa.
- Security Problems Confronting Refugees in Africa
- Challenges of Providing Humanitarian Support for Refugees in Africa,
- Prospects for Security of Refugees in Africa,
- Conclusion and Recommendations.

Evolution and Trends of Refugees in Africa

The evolution of refugees in Africa can be divided into pre-colonial, colonial and post-colonial eras. In pre-colonial times, tribal warfare frequently resulted in population displacements, coupled with frequent natural disasters like drought, famine and earthquake among others.⁴ The colonial era witnessed many wars of independence and liberation which caused great population displacements. The post-colonial era has also not fared better because of colonial legacies of ill conceived boundaries that have saddled the continent with ethno-religious conflicts, border disputes, struggle for domination and control of power and resources till date.

The large scale displacement of people has become a defining characteristic of African society making the continent one of the main refugee generating and hosting continents in the world. An examination of the refugee situation in Africa shows that the Central Africa & Great Lakes Region is leading because the political and ethnic conflicts in Burundi, the Democratic Republic of Congo (DRC) and Rwanda have generated millions of refugees over the past decade. The second is the East & Horn of Africa especially in Ethiopia and Eritrea where a succession of armed conflicts resulted in the flight of people in search of safety. The third is West Africa, where civil wars in Liberia and Sierra Leone left thousands of citizens of these countries displaced. The fourth refugee region is Southern Africa, where states still host thousands of refugees who had to flee their countries during the struggle against colonialism, racism and apartheid. North Africa which is the fifth has a small refugee population.

The UNHCR 2006 Global Trends show that the problem of human displacement in Africa is large, geographically widespread and complex. While Africans constitute 14 per cent of the global population at the end of 2006, around 25 per cent (i.e. 2.4 million) of the world's 9.9 million refugees are to be found in Africa.⁵ According to Jeff Crisp, "... of the 10 top 'refugee producing' countries around the world, five - Sudan, Burundi, Democratic Republic of Congo (DRC), Somalia and Liberia - are to be found in Africa. Africa also has three of the world's top-ten refugee-hosting states (Tanzania, Chad and Uganda). Seventeen African states have refugee populations in excess of 50,000."⁶

Security Problems Confronting Refugees in Africa

Confinement to Refugee Camps. Refugee camps are supposed to provide security for refugees and humanitarian workers but have turned out to be places of violence and insecurity. Due to the dangers that exist in the camps, UNHCR and other agency staff are confined to their compounds from dusk until dawn.⁷ This implies that the aid workers would not be able to monitor the security situations in the camp at night when many violent incidents usually take place. The refugee camps were established by the UNHCR on the basis of the modernisation theory which postulated that refugee camps could be used to develop parts of Africa as the basis of new agricultural settlements which would eventually be integrated into the host society.⁸ However, researches have shown that the UNHCR's approach to integration through agricultural settlements did not "develop and modernise people in refugee camps but rather made them poorer, insecure and dependent on aid for survival."⁹ Many researchers are of the view that the camp-based system has not succeeded anywhere in solving refugee problems but rather, aggravates the security problems of the refugees and the host country and even creates new ones.¹⁰ Some of the reasons for the insecurity which exist in refugee camps in Africa are:

- **Location of Refugee Camps.** The location of refugee camps close to remote international borders contrary to international refugee laws pose serious security problems as these camps become easy targets for military attacks and raids.¹¹ The UNHCR for security reasons encourages camps to be built at least 50km from the border,¹² which this paper considers even inadequate. But this is not usually the case as the absence of the will to protect refugees by host countries can lead to camps being located too close to the borders or even in zones of conflict, thus making them vulnerable to attacks and artillery bombardments.
- **Armed Attacks and Raids.** Refugee camps in Africa have become objects of military engagement, ranging from artillery bombardment to raids. When

camps are attacked or preyed upon by armed gangs, it is not only the refugees that suffer but also the host community. The militarisation and presence of combatants in the camps are some of the reasons for all these attacks. Camps such as these are therefore perceived by antagonistic forces, either in the country of origin or in the host country as giving assistance and protection to their enemies and become objects of attacks. The camps are also attacked because most of them are undefended repositories of resources; vehicles, relief supplies, as well as, people who can be forcibly recruited for military, sex and labour purposes among other reasons.¹³

- **Violence and Intimidation.** In almost all the camps, refugees are subjected to various forms of intimidation, violence and harassment by a variety of groups and individuals as well as the host community. These include other refugees, who use violence to settle ethnic conflicts and political differences. Also, the camp guards and host of other government officials use physical intimidation to extort resources or sex from refugees, force them out of camps and even for repatriation purposes.¹⁴
- **Breakdown of Law and Order.** The breakdown of social systems and law and order is a prominent feature in refugee camps. Since there is no adequate force to back the camp rules and regulations, transgressions go unpunished. In the absence of effective implementation of the rules and regulations, petty and violent crime flourish, thus making the camps to become zones of drug smuggling, human trafficking, organized crime, and gun running with the attendant security implications.
- **Food Insecurity.** As postulated by Maslow, food is one of man's driving needs and nowhere can this be better illustrated than in camps where refugees

depend on food handouts and insufficient aid. To feed their families, parents depend on handouts and their authority as role models and breadwinners is undermined by their dependence on a system over which they have no control. They suffer the humiliation of standing in queues to get food and in the full glare of their children, resort to manipulation of the system to get extra ration cards in order to have enough food, thus becoming degraded in the children's eyes.¹⁵ The cumulative effect, especially on the men, is anxiety, depression, frustration, substance abuse and loss of self-esteem which find expressions in the form of domestic violence against family members and co-refugees.

Enabling Laws. The legal regime governing refugee law in Africa is comprised of three main legal documents: the 1951 UN Convention and its 1967 Protocol; the 1969 OAU Convention; and the African Charter on Human and People's Rights.¹⁶ The 1969 OAU Convention was prepared to take into account the unique aspects of the refugee situation in the continent. For instance, the definition of refugee as contained in the 1951 UN Refugee Convention determines the status of a refugee on an individual basis and unlike the 1969 OAU Convention, excludes group recognition on a *prima facie* basis.¹⁷ The recognition of refugees on *prima facie* basis was hailed as the hallmark of the OAU Convention as, it was believed, would afford protection in cases of mass displacement as is prevalent in the continent. Consequently, there were calls for the UN Convention to emulate the OAU regime. Unfortunately, protection of refugees under the OAU Convention has continued to deteriorate since the mid 1980s. The tendency most often is for host countries in Africa capitalising on the lapses in the UN and OAU Refugee Conventions to circumvent the legal recognition of refugees which is fundamental to their protection, through enactment of various national refugee acts and in utter disregard of regional statutes. A comparison of the situation in the Great Lakes Region and West Africa will illustrate the varying security problems confronting refugees in Africa as a result of this. In the Great Lakes Region, various securitisation policies resulted in enactment of national refugee acts which,

contrary to the UN convention but acceptable within the OAU regime, restrict the rights and protection of refugees by ensuring a strict encampment policy. The legal status of refugees is also a problem in West Africa, as a result of the 1975 Economic Cooperation of West African States (ECOWAS), which enshrines the principle of mobility of labour and free movement of citizens within the community. These provisions have created a legal basis for denying refugees their status, rights and protection in many West African states. As documented by African Exodus, "Liberian refugees in Cote d'Ivoire, for example, are told by the Ivorian government that they are not refugees but rather ECOWAS nationals."¹⁸

Security Problems Created by Refugees.

- **Domestic and Community Violence.** Rape and other forms of abuse do not only occur outside the camps and are not only carried out by bandits. Much of the violence also occurs in camps and is actually inflicted upon the refugees by members of their own family and community.¹⁹ Domestic violence, normally involving the physical abuse of women, children and adolescents, is a common occurrence in refugee camps. The reasons for domestic violence are related to the fact that refugee men in camps have largely lost their responsibilities for work, property and status that they used to enjoy.²⁰ They thus suffer from forced idleness, anxiety and depression as a consequence of the hopeless situation of camp life which is expressed in forms of domestic violence.

- **Inter-National/Ethnic Rivalry and Violence.** Clashes between refugees of different national, ethnic, political or religious backgrounds are a prominent feature of camp life. These clashes result in many deaths and injuries. For example, in January 1999, violent clashes took place in Kakuma refugee camp in Kenya between the Sudanese Dinkas and the Didingas.²¹

- **Confrontation with Local Population.** Refugees create competition and resentment among the locals with whom they share scarce resources. There is always a persistent climate of suspicion and tension resulting in intimidation, extortion and harassment of the refugees by the host communities.²² Also, fighting occurs as a result of all these suspicions, tensions and disagreements, which result in high number of injuries and deaths among the two parties.²³

Security Problems Associated with Host Countries

- **Militarisation of Camps.** Refugee movements occur in periods of regional instability and intensified political manoeuvring where hosts, as well as sending countries, tend to exhibit a variety of political, security and economic interest that are at stake. As zones of concentrated resources and people, camps therefore become integrated into the political and security context of the region with host countries colluding and even encouraging militarisation, once it serves their interest. During the cold war era, the militarisation of refugee camps, such as occurred with the Afghan refugee camps in Pakistan, was ignored or condoned because of the role they played in superpower struggles.²⁴ By militarisation, camps assume a state status within a state, imposing their own law and justice, including executions, torture and arbitrary detention.
- **Rejection at the Borders and Refoulement.** There is a growing trend of refusing entry to displaced persons at the borders or returning refugees to their countries of origin before the situation that caused their flight has abated contrary to the 1969 OAU Convention. A good example is Tanzania's closure of its border with Burundi in 1993 and with Rwanda after the 1994 genocide in order to prevent further influxes of refugees.²⁵ As captured by Bonaventure Rutinwa, "In May 1996, millions of television

viewers around the world witnessed *refoulement* in action when, a ship aptly named the Bulk Challenge, brimming with Liberian refugees, was turned away by one West African government after another."²⁶

- **Representation and Securitisation of the Refugee Issue.** The representation of refugees as criminals, instigators of cross border conflicts and instability by host countries and the media, as well as, their impact on the environment have led to the securitisation of the refugee issue in the African continent through various national refugee acts and policies.²⁷ These restrictive acts include limited freedom of movement, limited civil and political rights, limited legal rights, limited freedom of choice and limited economic opportunities such as the ability to engage in agricultural, wage earning and income generating opportunities."²⁸ The refugees are thus, confronted with material hardship, psycho-social stress, sexual and gender-based violence among others. These conditions lead them to engage in negative coping mechanisms and survival strategies, such as prostitution, exploitative labour, illegal farming, manipulation of assistance programmes, sundry crimes and substance abuse,²⁹ which threaten their security and well being.

- **Physical Attack by Security Forces and Government Agents.** The problem of physical security becomes particularly acute for refugees when security forces and officials of host government do not fulfil their obligation of providing physical security for them but rather mount varying degrees of attacks on refugee camps. For instance, the participation of Kenyan police and soldiers in the beating, killing and raping of Somali refugees as reported by African Exodus, has gone virtually unpunished.³⁰ Refugees often traumatised as a result of these attacks are reluctant to file complaints against the police for fear of reprisals and because they are refugees.

Challenges of Providing Humanitarian Support for Refugees in Africa

Insecurity. One of the greatest challenges facing humanitarian support and administration of refugees in Africa is insecurity. Refugees and humanitarian workers experience all sorts of insecurity within and outside the camps perpetuated by refugees themselves, bandits, locals of the host community, the host government and its agencies and the countries of origin. As result of this state of affairs, humanitarian support slows down, operated at great risk or even stops, as lives of the staff of the UNHCR, NGOs and others are put in grave danger.

Decline in Asylum and Donor Support. The explosion and rate of the African refugee population, declining economy and donor support have unfortunately made African states to become less committed to asylum unlike the golden era period, of the early 1960s to mid 1980s.³¹ Also, the principle and practice of asylum in Africa is grounded in international aid from donor nations. The fund was channelled through UNHCR and was required to feed, shelter, educate and provide health care to the refugees. These donor supports mitigated the impact of the refugee presence in an area. But when donor support is lacking or withdrawn as was the case of Pakistan over the Afghan refugees and Malawi over the Mozambique refugees, host countries feel abandoned. Their poor economies can neither support refugee assistance programmes nor obviate the impact of the refugee presence such as deforestation, insecurity, population explosion and so forth. Such abandonment adversely affects the level of aid for humanitarian support for the host countries and humanitarian agencies.

Large Influx of Refugees and Frequency. The speed and scale of Africa's refugee movement is alarming and presents an enormous humanitarian support challenge not only to the international community but also to humanitarian agencies. For decades, Africa has been home to millions of refugees. Refugee flows from one country to another continue and have assumed unprecedented proportions in recent times. In the Great Lakes Region for example, the influx of some 250,000 Rwandese refugees into Tanzania within 24 hours from 28 April 1994,

was a movement described by UNHCR as the largest and fastest exodus it had ever witnessed.³² This kind of large influx of refugees in such a short space of time makes it difficult for states, as well as humanitarian agencies, to meet their obligations under the international and regional refugee regimes.

Repatriation, Reintegration and Rehabilitation of Refugees. The repatriation, reintegration and rehabilitation of refugees are Herculean tasks and present enormous challenges for humanitarian support. Refugees, especially relief dependent ones, rarely possess many resources when they go back to their countries. On arrival, they are faced with survival in an environment which has been laid waste by armed conflict, where marketing, banking system, facilities and infrastructures have disintegrated or been destroyed. In such circumstances, they are once again forced to live a precarious and hand-to-mouth existence, dependent for survival, at least in the initial stages, on emergency relief assistance that is barely adequate to cater for their needs.

Prospects for Security of Refugees in Africa

Rehabilitation and Local Integration. There is a growing consensus among analysts and evidence to show that refugee camps in Africa and elsewhere are becoming increasingly dangerous places.³³ The best strategy to guarantee the security of refugees is the elimination of the root causes of insecurity which this paper has adduced to be refugee camps. Recent researches have also shown that where refugees can get land, or are not restricted in movement and are able to find employment, they are better off than refugees living in camps.³⁴ This is so because they are not just using the resources of the host countries but are also contributing to the hosts' economies.

Instances abound in Africa of the successes of local integration. For instance, when refugees from Guinea-Bissau arrived in Guinea, President Sekou Toure promoted the reception of the refugees by his own people and the refugees were allowed to settle where they wanted. An assessment of this ad hoc self settlement process by UNHCR showed no evidence that the refugees were

suffering discrimination or harassment from the locals, nor was there any evidence of problems such as wide-scale malnutrition which is prevalent in refugee camps. Self settled and locally integrated refugees may compete with local people in labour markets, but their enterprise can also have a multiplier or catalytic effect on the local economy, especially where it is underdeveloped and under populated.

This paper strongly advocates the abolition of refugee camps and supports local integration because camps are expensive, waste resources and dehumanise. They are also sources of insecurity and instability. In order to achieve intended security objectives, rehabilitation and local integration of the refugees should take place at reasonable distances from the frontiers of the countries of origin.

Channeling Humanitarian Support through Host Countries

The UNHCR became involved in assistance programmes for refugees in Africa, during the heyday of the modernisation theory. For the UNHCR, Africa was entirely a different context to which it had to adjust and appropriated responsibility for refugee policies and relief programmes. Most host governments in Africa have failed to appreciate that administration of refugees' programmes through international humanitarian organisations is a very expensive venture. It is worrisome to note that the money spent on assistance to Rwandan refugees after 1994 was more than all the development aid which had been invested in Rwanda since its independence in 1962.³⁵

Are there no alternatives to camp-based relief programmes organised by international organisations? Might there not be advantages to governments which find better uses for international aid to assist refugees than spending it on relief programmes? There is an alternative which this paper advocates: channeling refugee assistance through host countries to reinforce existing local facilities. This is less expensive and beneficial both to the host countries as well as to the refugees. An example is the case of Eiberia and Sierra Leone refugees, who settled spontaneously in Guinea border towns and villages.³⁶ The government did not create camps and settlements in order to receive international support, neither were parallel health services or schools established.³⁷ Refugees attended local schools and

received medical treatment at existing health centres and hospitals. Funding from foreign donors was directed to reinforce the existing facilities rather than establishing an alternative system to support the refugees. As a result of this, the health-care system in this area is now by far, the best developed in the country, benefiting Guineans and refugees alike.³⁸

Capacity Management and Support

Currently, there are two main actors charged with the responsibility of ensuring the security of refugees, the host government and the UNHCR. According to international legal instruments, including the OAU Convention, the physical protection of refugees is the responsibility of the host government, who are supposed to work with UNHCR to ensure the safety of refugees. But, African states lack the capacity and capability to extend adequate security protection to refugees because of limited manpower and resources confronting the police and other law enforcement organs. International support is therefore proposed to reinforce or enhance host countries' capacity for security of the refugee population in their territory.

Such support should include direct support to the local police and other security organs for law enforcement, disarmament of armed elements, curtailment of the flow of arms, separation of refugees from persons who do not qualify for international protection, training, logistical and technical support, financial support and enhancement of national law enforcement mechanisms.

Sensitization of Host Communities

Apart from the impact of refugees on host communities, another reason for the growth of xenophobia in Africa is due to the failure of the public to appreciate the special situation of refugees. Accordingly, the best approach to tackle this problem is through public awareness and education at all levels of society.

Consequently, efforts need to be stepped up through public education and awareness to counter the negative impression of refugees by host communities and emphasize the special status of refugees and why, unlike other aliens, refugees need and deserve international protection. Such education and information campaigns should target all segments of society, including parliamentarians, senior government officials, academics, the media and civil society. The host country could go further to establish and implement legislation which forbids the dissemination of propaganda which is intended to provoke hatred and violence against refugees.

Conclusion and Recommendations

Intractable crises and conflicts have continued to generate high populations of refugees in Africa. During the early 1960s to the mid 1980s, host countries accommodated and treated refugees in their territories in a generous manner. However, this treatment has eroded with time because of the influx and frequency of refugees and declines in economies and donor support, which have necessitated an increasing use of refugee camps as places to confine refugees. The impact of refugee camps on the security of refugees, as well as the host country, has generated a lot of controversy in Africa and the world. Also, lapses in the international and regional refugee laws have given room for host countries to manipulate the law and make it difficult for refugees to enjoy their status, rights and protection. This has further jeopardized their security. Harmonization of all the refugee conventions into one international convention that will be of universal applicability will attract the respect and compliance of member states better than a multiplicity of these conventions.

Refugee camps are associated with security problems like militarization, spill-over of conflicts from countries of origin and increased criminal activities. Refugee camps are not the solution to the security problems confronting refugees and their hosts, but are in fact, added sources of instability and insecurity in an area because they aggravate existing security problems and create new ones. The only practical way to ensure the security of refugees in Africa is the abolition of refugee camps and for a concerted effort towards local integration, one of the durable solutions articulated by the UNHCR.

African countries through the AU should therefore work with the UNHCR to explore ways for the abolition of refugee camps and for international aid to be channeled through host countries for the local integration of refugees.

Recommendations

In order to address the security problems of refugees in Africa, this paper recommends the following:

- Refugee camps should be abolished because they are expensive and wasteful; they create and aggravate political and socio-economic problems which affect the stability and security of an area, country, region and that of the refugees. The UN should therefore make a resolution for the abolition of refugee camps within a limited time frame.
- Local integration is proposed as a viable and productive solution as it will promote the human security of both refugees and the host countries. Refugees should therefore, be locally integrated within the local population and away from borders by host countries and assisted by the UNHCR. This will afford them the opportunities for work and business, thereby contributing to the local economy through their skills and enterprise.
- The UNHCR and host countries should work towards making existing refugee camps serve as processing centres for local integration. Such centres will also be established to cater for refugee influx if necessary.
- The various regional refugee conventions and the international one should be harmonized and codified into one instrument by the UN. This would prove standard framework that will ensure uniformity in the application of the instrument by parties to the convention.

- African governments should work with the UNHCR and international donors to explore ways and modalities in which international aid could be channeled through host countries for local integration of refugees. Such relief programmes should be used to strengthen existing local welfare facilities, rather than by passing and undermining them. Parallel relief programmes are the most expensive way of responding to refugee needs with the cost per refugee typically well over the per capita GNP of the host nation.
- Refugees should be disarmed by the host countries at the refugee processing centres and violators should be duly prosecuted in accordance with national laws for the illegal possession of firearms. Also, refugees should be subject to the national laws of host countries and not to quasi judicial arrangements that are prevalent in refugee camps.
- International support should be provided by the UN for the police and other law enforcement agencies of refugee host countries. In extreme cases, international military and police contingents should be deployed to assist the host countries contain refugee subversive and military activities.

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FOREIGN AID SYNDROME AND AID EFFECTIVENESS: CASE STUDY PAKISTAN

Muhammad Saleem Sethi

Introduction

During her sixty years of existence, Pakistan has heavily relied on foreign aid. It remains a major component of the economic development framework. After six decades we continue to follow economic development policies that are aid centric. The development model is based on the collaboration of three important players. These three players have ever since formed what this research considers '*the nexus of foreign aid in Pakistan*'. It has to this day continued to determine and shape the economic development model of Pakistan. The three players/components are;

- the external expert
- the external Donor and
- the government (represented through civil bureaucracy with vested interests)

The first one provides the policy thinking and framework for the economic model. The second component arranges funding which also includes financing for the external expert. The third as a matter of convenience and mutual benefit of the three components acts as the implementing agency. This arrangement has continued unabated, notwithstanding the governance and poor delivery issues so often raised by the donor community as a matter of rhetoric. Since foreign assistance remains donor driven rather than demand driven, economic development through foreign aid is thus incidental.

Over the years this approach has adversely affected the economic development in Pakistan in a number of ways. Firstly different donors have different modalities for utilization of their aid. These complex formulations lead to non utilization of aid. In the process it also affects the local component from being utilized in that sector. Secondly it hinders the indigenous resource mobilization

efforts by the government. Thirdly it has created a state of aid syndrome amongst the bureaucracy which has led to dependency, inefficiency and corruption in the system.

Review of Literature

A broad review of the literature on development suggests that scholars remain divided on the issue of effectiveness of foreign aid in economic development in developing countries. While some studies empirically prove the positive impact on economic development, there are others which suggest that in the best of circumstances foreign aid plays only a modest role in promoting economic development and improving human welfare. Chenery and Strout¹ (1966) have concluded on the basis of empirical evidence collected from developing countries that foreign capital has a positive effect on economic development.

On the other hand economists like Leff² (1969) and Griffin³ (1970) have argued the negative impact of foreign aid on growth. According to them foreign aid negatively effects economic growth by substituting domestic savings in a country. Many developing countries including Pakistan justify foreign assistance to fill the two major gaps in their economic model namely; the import-export gap with large trade deficits and the savings-investment gap that promotes capital formation and leads to domestic investment. In this regard, Hansen and Trap (2000) have tried to establish a correlation between aid and growth. Their regression analysis shows that growth rate increases with increase in aid and this growth is not contingent upon good policy. While there are other outcomes of their study which are beyond the current scope of the research, one would suffice to say that in case of Pakistan too, the periods of high growth are related to huge inflows of economic assistance like during the periods of Ayub Khan, Zia-ul Haq and between 2000-2007.

Some economists like Shabbir and Mahmood⁴ (1992) and Khan and Rahim⁵ (1993) while writing on Pakistan have concluded that the flow of foreign aid has boosted the rate of growth of the economy. In another study by Khan, Hasan and Malik (1992) it is

said that during the period 1959-60 to 1987-88, foreign capital inflow (FCI) led to the decline in national savings in Pakistan. Shabbir and Mahmood (1992) have found similar negative impact of FCI on domestic savings during this period. .

There is no denying that in many countries other factors, such as the quality of a developing country's government and the economic policies it pursues, appear to be considerably more important in promoting growth and development than the quantity, quality, or type of foreign aid the country receives. How ever based on the literature available in case of Pakistan, one can say that while foreign aid has positively impacted the economic growth, it has substituted domestic savings needed for promoting domestic investment in the country and has retarded domestic resource mobilization.

The research has tried to determine the relationship between economic growth, flow of foreign aid and its impact on indigenous resource mobilization. Rising debt burden has been a constant phenomenon. It is a considered opinion that foreign aid has affected Pakistan's economy in two ways;

- hampered economic growth
- affected resource mobilization

Hypothesis

“Foreign aid has hampered the economic growth of Pakistan, adversely affected resource mobilization & increased the debt burden”

Two different models have been used to determine the effect of foreign aid on the economy of Pakistan. The first model estimates the relationship between GDP and other key economic indicators. In order to quantify the relationship between economic indicators and GDP, data have been used from Financial Year 1973-2007. Following is the single equation used for this model.

$$GDPG_t = \beta_0 + \beta_1 INVG_t + \beta_2 TRAG_t + \beta_3 AIDG_t + \beta_4 INFG_t + \beta_5 PCIG_t$$

Whereas,

GDPG_t = Gross Domestic Product Growth rate

INVG_t = Investments Growth rate

TRAG_t = Trade Growth rate

AIDG_t = Foreign Aid Growth rate

INFG_t = Inflation Growth rate

PCIG_t = Per Capita Income Growth rate

Table: GDP & Key Economic Indicators

Equation 1		
Dependent variable= GDP _t Observations= 35		
Variable	Coefficient	t-statistics
Constant	11.605***	3.324
INVG _t	0.138*	1.512
TRAG _t	-0.214**	-2.075
AIDG _t	-0.452**	-1.994
INFG _t	0.003707	0.614
PCIG _t	0.134*	-1.521
R² = 0.547		
F = 17.086***		D. W. = 1.214

* = Significant at ten percent level of significance

** = Significant at five percent level of significance

*** = Significant at one percent level of significance

The table reports the results of estimated relationship of GDP and the economic indicators. The economic indicators used in this study are Foreign Aid, Inflation, Investments, Per Capita Income and Trade. Five of the coefficients excluding the intercept are significant. GDP is the basic factor for indication of country's economy. Value intercept shows that if there is no effect of all independent variables on dependent variable in this model, than on average the GDP is positive and it is 11.605 percent in this

time period. Intercept is significant at one percent level of significance. According to the results the investments have positive and significant effect on GDP Growth.

The coefficient of Investments shows that on average one percent increase in Investments resulted in the 0.138 percent increase in GDP. Coefficient is statistically significant at ten percent level. Value of coefficient for trade is -0.214. Significant at five percent this coefficient shows that on average one percent increase in trade will decrease the GDP by 0.214 percent. Significant at five percent the coefficient of Foreign Aid, shows that one percent increase in Foreign Aid in country will decrease the GDP by 0.452 percent. Whereas the coefficient of Per Capita Income remained significant at ten percent level showed that one percent increase in per capita income will increase the GDP by 0.134 percent. Results of the model are good as far as the individual significance is concerned.

Overall significance of the model is measured by R^2 . 0.547 value shows that out of 100 percent variation in dependent variable, 54.7 percent of the variation is being explained by independent variables included in this model. A significant value of 'F statistics' confirms the validity of R^2 . Model is checked for all the misspecifications. There is no problem of autocorrelation as indicated by the value of Durbin Watson (D.W.) statistics reported in the table.

The results prove that trade and foreign aid has significant and negative effect on GDP in Pakistan during the FY 1973-2007. This proves the first part of the hypothesis that foreign aid has hampered GDP as imports are financed by FCI and not indigenous resource mobilization or enhanced exports. Further it has direct and positive relationship with investments and per capita income. The effect of inflation on GDP remained insignificant during that period.

The second model determines the effect of foreign aid on resource mobilization in Pakistan. Savings is used as proxy of

resource mobilization which is the basic indicator of resource mobilization in a country.

Following is the single equation used for this model,

$$SVG_t = \beta_0 + \beta_1 AID_t + \beta_2 INF_t + \beta_3 MS_t + \beta_4 PCI_t$$

Whereas,

SVG_t = National Savings (at current price)

AID_t = Foreign Economic Assistance (Long term & Short Term)

INF_t = Inflation Rate

MS_t = Money Supply

PCI_t = Per Capita Income

Table: Savings & Foreign Aid

Equation 1 Dependent variable= *Savings_t* Observations= 35

Variable	Coefficient	t-statistics
Constant	15.717***	5.589
AID_t	-0.599**	-2.384
INF_t	-0.277***	-4.235
MS_t	0.0009276*	1.926
PCI_t	0.002505	0.292

$R^2 = 0.694$

$F = 17.017***$

$D. W. = 1.325$

* = Significant at ten percent level of significance

** = Significant at five percent level of significance

*** = Significant at one percent level of significance

The Table reports the results of estimated relationship of the savings and economic indicators. Economic indicators used in this study are Foreign Aid, Inflation, Money Supply, Per Capita Income. Four of the coefficients excluding the intercept are significant. Savings represent the basic factor of resource mobilization. Value intercept shows that if there is no effect of all independent variables on dependent variable in this model, than on average the savings is positive and it is 15.717 percent in this time period. Intercept is significant at one percent level of significance.

According to these results the effect of Foreign Aid on savings is significant. The coefficient of AID shows that on average one percent increase in foreign aid resulted in the 0.599 percent decrease in savings. Coefficient is statistically significant at five percent level. Value of coefficient for inflation is -0.277. Significant at one percent this coefficient shows that on average one percent increase in inflation will decrease the savings by 0.277 percent. Significant at ten percent the coefficient of Money Supply, shows that one percent increase in MS in country will increase the savings by 0.009276 percent. Results of the model are good as far as the individual significance is concerned. Consumer price index is also positively and significantly affecting the savings.

Overall significance of the model is measured by R^2 . 0.694 Value of adjusted R^2 shows that out of 100 percent variation in dependent variable, 69 percent of the variation is being explained by independent variables included in this model. A significant value of 'F statistics' confirms the validity of R^2 . Model is checked for all the misspecifications. There is no problem of autocorrelation as indicated by the value of Durbin Watson (D.W.) statistics reported in the table.

The results prove that Foreign aid has negative and significant affect on the savings in Pakistan during the FY 1973-2007. It has direct relationship with savings and affected it negatively. Whereas other factors as per capita income (PCI) and money supply has significant and positive relationship with savings.

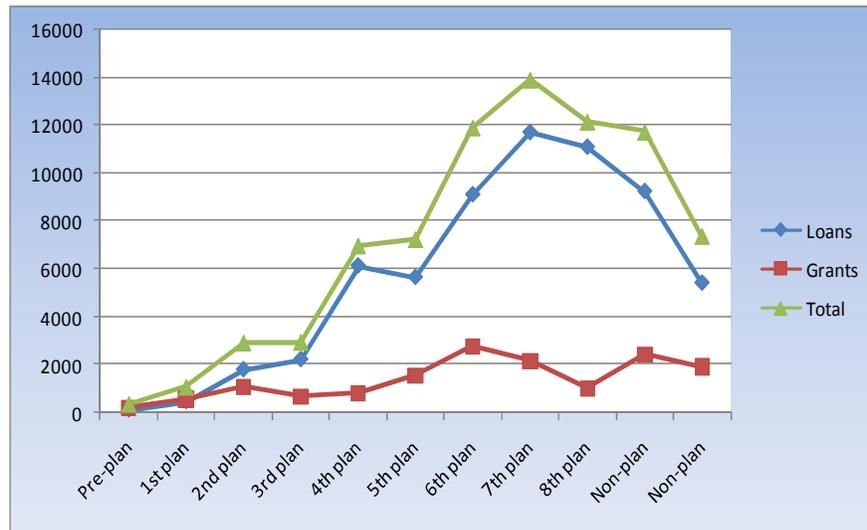
In an economy, a positive impact on growth occurs with increased economic activities and opportunities for the people as it leads to the increase in savings and PCI and people along with the government are able to earn, spend and save. When this process of growth is substituted by flow of foreign aid it does not generate economic activity. As such it neither produces surplus in the form of savings nor revenues in the form of taxes.

Both the models prove the hypothesis that in case of Pakistan firstly high growth is related to the external factor of FCI in the form of foreign aid and not the economic activity generated within the economy. Secondly the foreign aid has adversely affected the indigenous efforts of resource mobilization. Foreign exchange reserves have increased not due to increase in exports but due to excessive flow of foreign aid and external borrowing. This has also added to the debt burden.

Conclusions

Since independence, Pakistan has been faced with the issue of resource constraint for economic development. The early debate on whether to seek economic assistance from bilateral and multi lateral sources remained academic as the first World Bank loan was taken in 1952. Since then the nexus of foreign aid (the external consultant, the donor and the government/bureaucracy) has worked in tandem to make our economic progress aid reliant. We now suffer from what this research terms as “Aid Syndrome”.

Foreign Economic Assistance to Pakistan: 1951-52 to 2005-



Our economic planning begins with technical assistance which in donor terminology means procurement of services

(consultancies). For this purpose mostly foreign and some local consultants are hired through either grant or borrowed money. Over the years, the Grants have reduced considerably and quantum of loans has increased which is illustrated in the diagram above.

Like many developing countries Pakistan also followed the growth model which required huge public spending. Foreign economic assistance was sought to meet the resource gap. The Balance of Payments deficit to meet the trade gap and domestic deficit to meet the savings and investment gap continues to compel the government to seek foreign aid. In the process over the years, the indigenous resource mobilization efforts have received a serious setback. Pakistan's exports continue to be raw cotton based with no efforts in sight to diversify through value addition. Foreign aid meets the trade gap for Balance of payments. The tax to GDP ratio is stagnant between 12 to 14% and does not even meet the developing countries average of 16%. Foreign aid has for long plugged the recourse gap.

Another trend that has set in since a decade is the donor fatigue. The multiplicity of procedures, lack of local capacity and slow pace of work has brought about a shift in financing mechanism. This suits the donor community as they do not have to deal extensively with an inefficient bureaucracy and cumbersome government procedures. As a result, the emphasis and composition of foreign aid has shifted from project financing to program lending. Under this arrangement, loans are disbursed in one or two tranche unlike the projects, where funds are released over a period of four to five years. Program lending is primarily for Balance of payment as well as budget support. As such while on the one hand it enhances the foreign exchange reserves, it also provides budget support to meet the fiscal deficit and fiscal space to for public expenditure.

This mode of foreign aid also suits the donors who do not have to follow up on project appraisals and project time lines. From the recipient and development perspective, it eliminates ownership, discontinues or reduces project financing and as a result, stops asset creation. The government on the other hand seems oblivious of the fact that it is borrowing in foreign exchange to meet her local

requirements. As more and more of this mode of financing is adopted, the role of Planning and Development both at Federal and Provincial level seem to be diminishing as program loans fall under the purview of the Finance Division/Department.

If Pakistan's development model is to be aligned with the needs of the common majority of people, this linkage of Foreign Capital Inflows and high growth needs to be examined in greater detail and academically debated. Unless this is done, the nexus of foreign aid will continue to operate unabated, the client-patron arrangement of mutual benefit at the cost of public funds and government exchequer will continue to thrive and government officials will continue to manage events rather than monitor and evaluate aid affectivity and the debt burden will continue to rise.

Agriculture which is the main stay and major employer in the economy has to graduate from the lower level of producing raw cotton to the higher level of value addition. This will encourage manufacturing, enhance employment, diversify the export base and increase domestic resource mobilization. We as a country have utilized a very small portion of a large canvas. We have no one else but our selves to blame.

End Notes

- 1 Chenery, H.B. and A.M. Strout (1966). "Foreign Assistance and Economic Development". *American Economic Review*. New York: American Economic Association. 56 (4), 179-773
- 2 Leff, N.H. (1969). "Dependency Rates and Saving Rates". *American Economic Review*. New York: American Economic Association. 59 (5).
- 3 Griffin, K.B. (1970). "Foreign Capital, Domestic Savings and Development". *Bulletin of Oxford University*. Institute of Economics and Statistics. Oxford University Press. 32 (2).
- 4 Shabbir, T. and A. Mahmood (1992). "The Effects of Foreign Private Investment on Economic Growth in Pakistan". *Pakistan Development Review*. Islamabad: Pakistan Institute of Development Economics. 31 (4), 831-41.
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WATER – A SOURCE OF CONFLICT IN SOUTH ASIA

Lieutenant Colonel Hammad Qadir

Introduction

"Water, not unlike religion and ideology, has the power to move millions of people. Since the very birth of human civilization, people have moved to settle close to water. People move when there is too little of it; people move when there is too much of it. People move on it. People write and sing and dance and dream about it. People fight over it. And everybody, everywhere and every day, needs it. We need water for drinking, for cooking, for washing, for food, for industry, for energy, for transport, for rituals, for fun, for life. And it is not only we humans who need it; all life is dependent upon water for its very survival." ¹

Water is life. Ever since the dawn of civilization, human settlements were established along the water courses/sources. Most old civilization prospered along the major river basins like Nile, Tigris, Euphrates, Huang Ho, Mekong, Indus, Ganges, Danube etc. Even today when man has developed enough know-how to manage water, 40 % of the world population still lives in 263 international river basins (basins shared by two or more countries) that cover 45.3 % of total earth's land surface and account for approximately 60% of global river flow.² Historically, domination and control of such vital natural resource has triggered inter and intra-state conflicts since ages such as the bloody war between city-states of Lagash and Umma in the Tigris-Euphrates basin in 2500 B.C.³

In the last 50 years, there have been 37 acute inter-state water disputes (those involving violence)⁴. There are many ongoing intra-state water disputes in countries like India, Pakistan, China, various Middle Eastern and African countries. None of these disputes, however, has transformed into a major conflict and countries/states have either exercised restraint or went into some kind of treaty/mutual settlement thus temporarily resolving the issue and avoiding a serious conflict. The residual potential, however, seems alarming as we shall see in this paper.

Investments in water industry are on a tremendous rise the world over. When billionaire Ted Turner purchased 800,000 hectares of glaciated land in Patagonia, United States, then people could well understand that it is not all about conservation of wild life and nature reserves. He is buying a future water source. Water industry is currently making revenues worth US \$ 450 billion, second only to oil and electricity sector. The American stock exchange indicated 35 % returns in water industry as compared to 29 % for oil and gas stocks. It is said that “without oil, industry dies; without water, we die”.⁵

This rush for “Blue Gold”⁶ is perhaps going unnoticed in the third world; however, water is already a key strategic resource for the governments of developed countries. Numerous modern thinkers believe that water would be one of the major causes for future wars. While water disputes alone may not spark a conflict between nations in the short term, they may fuel up the already existing tensions/animosities between and within the states and may become the major reason for war in the long term.

South Asia is home to one fifth of the world population and is projected to house one fourth of the world population by 2025. 40 % of the poorest people in the world and nearly half of the world illiterate population lives in South Asia. Societies are basically agro-based with 70 % of the rural population dependent on agriculture which contributes 40-50 % to the GDP of these countries.⁷ Agriculture consumes 86 % of total fresh water resource of Asia; 8 % is consumed by industry and 6 % is used of domestic consumption.⁸ The agriculture is mainly dependent on irrigation systems based on some of the earth’s mightiest river systems which all, without exception, originate from the glaciated areas in Tibetan Plateau. China, therefore, has the control over the water source of South and South East Asia.

In the South Asian context, lower riparian Pakistan and Bangladesh and upper riparian Nepal; all have ongoing water disputes with India. Though treaties like Indus Basin Treaty, Ganges Water Sharing Treaty (GWST) and Mahakali Treaty do exist and have prevented conflict escalation for the time being, unpredictable

climatic conditions in future due to global warming and greenhouse effect, India's plans to undertake controversial hydro projects and China's plan to divert the waters from Tibet to mainland China can result in serious water crisis in lower riparian countries. This can create a water shortage within the states/provinces of the lower riparian countries, seriously effecting agriculture which forms the backbone of their economies thus triggering intra-state water disputes which might ultimately end in inter-state water conflicts. India's water disputes with China might add to the already existing rift between two Asian giants and at the same time encourage India to undertake hydro projects in violation of Indus Basin Treaty and Ganges Water Sharing Treaty.

Should this happen, Bangladesh will face a water shortage in dry season where as Pakistan is likely to suffer a water crisis of serious magnitude.⁹ Moreover, any efforts by Afghanistan to undertake hydel projects on Kabul River and its tributaries will further reduce water inflow in Indus River System, supplementing the ever increasing water shortage. Delay in construction of large water reservoirs and poor water management ethics may therefore prove fatal for Pakistan, fueling the ever existent water disputes between the provinces and with neighbouring countries into survival wars.

It is in this backdrop that this paper endeavours to analyse the possibility of water based conflicts in South Asia; its impact on region's security as well as Pakistan's economy and internal stability with a view to suggest remedial measures.

Water Demand and Availability

Food and energy security are amongst the top world concerns at present. Both have a direct relationship with the availability of water; in the context of growing food grain as well as hydro-power generation. Whereas there are alternate means available for power generation, food grain can only be produced by growing crops. Production of food grain in developing countries is projected to increase by 67 % in 2030.¹⁰ Is there enough water available to raise the required amount of crops?

Earth's hydrosphere contains approximately 1386 million cubic kilometers of water which covers 70 % of earth's surface. This enormous water resource is present in three forms; liquid (oceans, rivers, lakes, underground reservoirs etc), solid (ice caps, glaciers etc) and gaseous (water vapours). Water is therefore dynamic and going through a continuous natural cycle known as Global Hydrological Cycle.¹¹

Fresh water is only 2.5 % of this enormous volume of 1386 million cubic kms (Figure 1).

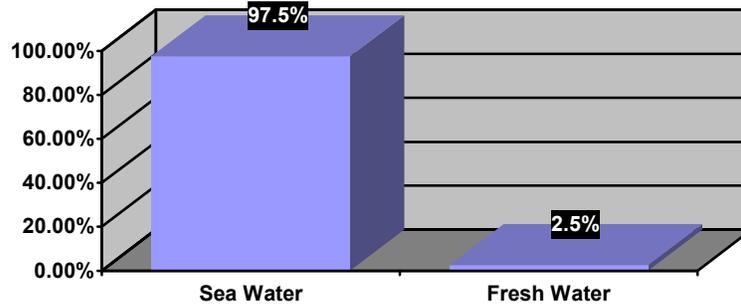


Figure 1: World Water Distribution

68.7 % of this freshwater is in the form of ice caps/glaciers found in Antarctica, Arctic region and various mountain ranges, 29.9 % is in the form of under ground water reservoirs and only 0.26 % of the entire freshwater is in the form of rivers, lakes etc and is undergoing constant turnover through Global Hydrological Cycle (Figure 2).¹²

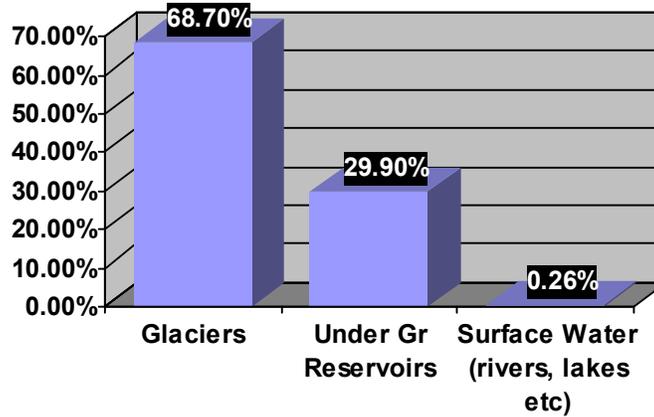


Figure 2: World Freshwater Distribution

As per UN estimates, there is enough fresh water available in this world to meet future agricultural demands. It is the in-equal distribution of water that is the problem.¹³ However, the continent wise water distribution data (Figure 3) does not give the real picture and can easily mislead a reader. It is the demand versus availability of water that brings out the in-equal water distribution of water in correct perspective. Comparison of data in figure 13 and 14 shows that Asia, owing to the presence of huge glaciated areas in Tibet region, has the highest fresh water availability in the world and paradoxically, due to its huge population, has the lowest per capita water availability at the same time.

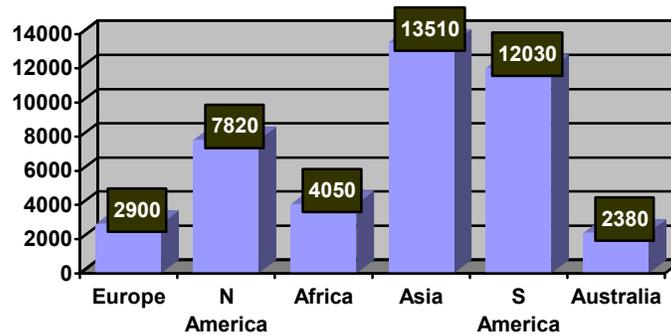


Figure 3. Continent wise availability of water. (cubic kilometers per year)¹⁴

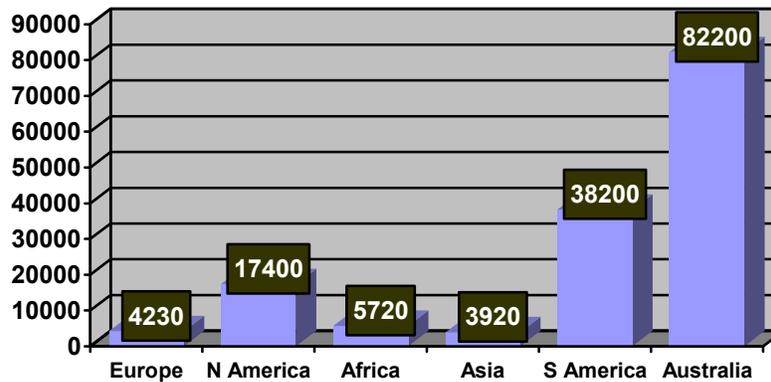


Figure 4: Per capita availability of water. (Cubic meters per person per year)¹⁵

Agriculture sector consumes approximately 92 % of the available fresh water resource world wide and approximately 86 % in Asia.¹⁶ Growing population, especially in the developed countries, is consistently enhancing grain production demand putting extra pressure on agriculture sector. Climatic pattern over the past few years has not been friendly either and owing to enhanced greenhouse effect and global warming; is likely to become more inconsistent in coming years. Given the fact that most developing countries have correspondingly insufficient water storage capability and constantly rising grain production demand, the overall picture does not appear very promising. As per the statistics of United Nations Information Service (UNIS), 40 % of the world population currently lives in water stressed areas and by 2025, 66% of world population (approx 5.5 billion people) will be living in water stressed areas; most of which are located in South Asia, North and Western Africa.¹⁷

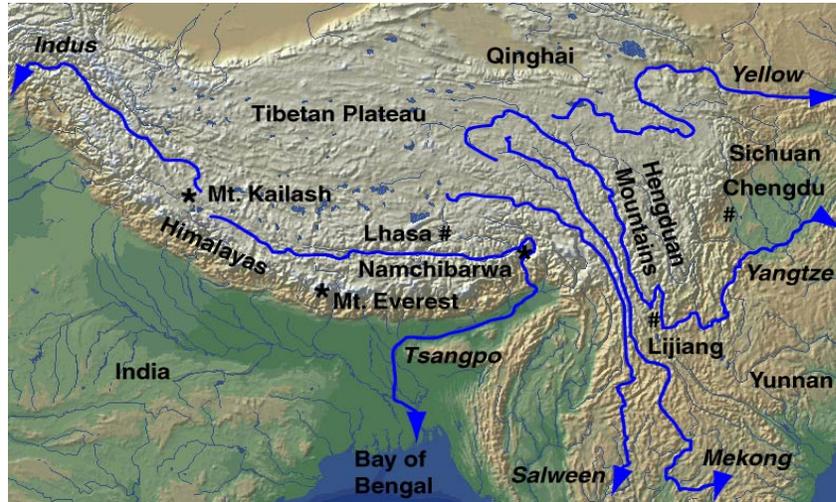
In South Asia, except Pakistan, all other countries have a reasonably sufficient freshwater availability at present. As per estimates for 2025, all countries of South Asia will have barely sufficient water for their projected needs except Bangladesh which will have a surplus of 1133 bn cubic meters freshwater per year and Pakistan which is likely to face a water shortage of 102 bn cubic meters per year.¹⁸ Pakistan, as can be seen, is the most water scarce country in South Asia. Per capita availability of water in Pakistan has

decreased from 5300 cubic meters/person/year in 1951 to 1300 cubic meters in 2002. By 2025, it is expected to fall below the threshold of 1000 cubic meters/person/year bringing Pakistan in the zone of dangerously water scarce countries.¹⁹

Country	Total Requirement	Availability 2025	Surplus/Deficit (2025)
Pakistan	335	236	- 102
Bangladesh	48	1181	+1133
Nepal	40	232	+192
India	1060	1086	+26

Table 1. Water Requirement Gap in 2025 (in billion m³ per year)²⁰

With lofty mountain ranges like Himalayas and Karakoram in its vicinity, the main source of fresh water in South Asia is Tibetan Plateau. In its high altitude glaciated areas, it houses world's fifth largest freshwater resource (5000 cubic km).²¹ It is the source of great river systems like Indus, Brahmaputra, Ganges, Yangtze, Mekong, Huang Ho (Yellow River), Salween and Ayeyarwadi; life line for agriculture and livelihood of most South and South East Asian countries where 47 % of the world population lives.²² The picture below shows the origin of river systems from Tibetan Plateau.



Map 1. Origin of River Systems in South and South East Asia

The need to overcome the expected water shortage viz a viz demand has forced all South Asian countries to plan numerous water storage and river linking projects. Control of Tibetan Plateau gives China great leverage to control water sources of South and South East Asia. China's problem is that three quarters of its water resources are in South (Tibet Region) whereas three quarters of its farming is in north and north east and its vast western region (Sinkiang) is an arid zone. Water table in north and north east is going down considerably and there is not enough scope of revival. Yellow River dries up almost every year. It remained without water for 133 days in 1996 and 226 days in 1997.²³ China has no option but to transfer water from Tibet to fulfill its water needs in North, North East and North West. In order to meet its future water and energy requirements, China is planning to execute the Great South-North Water Transfer Project which is likely to significantly reduce water discharge in Brahmaputra River during dry season, affecting agriculture in Indian north-eastern provinces of Arunachal Pradesh and Assam and lower riparian Bangladesh. This project will also undermine the utility of Indian plan of diverting Brahmaputra's water from Assam to Farakka Barrage in Bihar through a 324 km long link canal.²⁴

Pakistan is an agricultural country. 68 % of its population living in rural areas is directly or indirectly dependent on agriculture. 70 % of Pakistani exports are agro based. Pakistan has a total of 77.1 million acres of cultivable land out of which 54.5 million acres (71 %) is being currently cultivated. 42.5 million acres (80 %) of cultivated land is irrigated by an elaborate irrigation system which comprises of 3 large reservoirs, 19 barrages, 12 link and 45 irrigation canals and 705,000 public and private sector tube wells consuming 92.6% of countries total freshwater resource. The remaining cultivated land (12.5 million acres) is rain fed (barani). 22.6 million acres (29%) of Pakistan's cultivable land is still lying unused and would require extra availability of water to make it productive.²⁵

Pakistan's current population is 161 million which is projected to grow to 221 billion by 2025. Making corresponding increase in agricultural, industrial and domestic use of water, the water requirement of Pakistan in 2025 will be as following:-

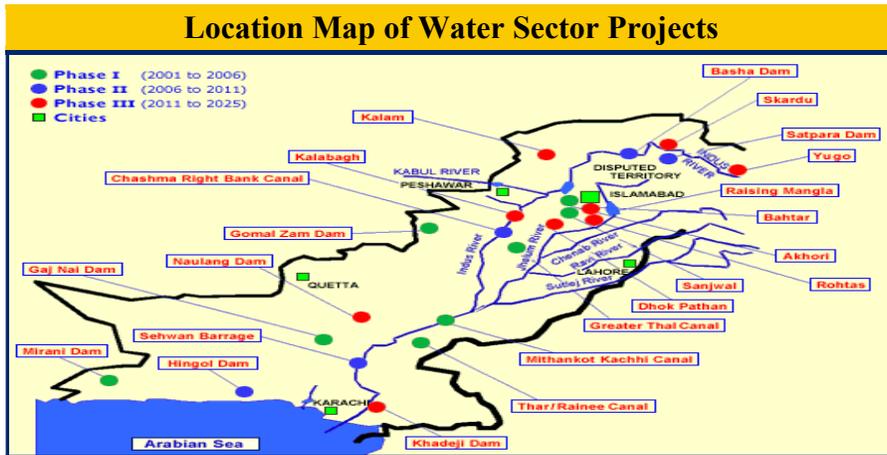
Sector	Existing Water Use (MAF)	Projected Water Use in 2025	Additional Requirement
Agriculture	100	128	28
Industry	5.8	12.2	6.4
Domestic Use	2.2	4.8	2.6
Total	108	145	37

Table 2. Projected Water Requirements in 2025 (in Million Acre Feet)²⁶

Agriculture will remain the major consumer of freshwater resource in 2025 and would require additional 28 MAF for sustenance. The average inflow of Indus River System is 144 MAF out of which 105 MAF is diverted for agriculture and approximately 38 MAF escapes to the sea below Kotri Barrage (as per estimates, 10 MAF is required for the conservation of Mangrove Forest in coastal Sind). This 105 MAF of water, however, does not reach the farm

gate. 42% or 45 MAF is lost through seepage and 3 % is lost due to evaporation. The remaining 55 % or 58 MAF of canal water finally reaches the farm gate. The deficiency in agriculture as well as the demands of industry and domestic use are mostly met through 705000 tube wells, most of which are privately owned.²⁷

Since decades, water sharing has been a contentious issue between the provinces in Pakistan. Though Water Accord 1991 (Annexure A) outlines the share of provinces for Rabi and Kharif crops, lower riparian Sind has always accused upper riparian Punjab of taking more share than authorized. Mistrust between Punjab and all other provinces has reached a level where critical water sector projects are being delayed indefinitely due to lack of consensus. Resultantly, Pakistan has not been able to enhance its water storage capacity correspondingly whereas water demand is continuously increasing. Out of 38 MAF of water downstream Kotri, it is estimated that 23 MAF can be used. However, this water is available from July to September only and would have to be stored in large reservoirs which at the moment do not exist.²⁸ The only large reservoir for which feasibility study stands completed is Kala Bagh Dam. Sind and NWFP showed concerns over the project which successive governments have failed to address. Politicians, instead of solving the issue, have used it for political gains. Ministry of Water & Power has planned a number of other hydro projects to utilize the surplus water (Map 2, progress details at Annexure B), however, the progress is quite slow.



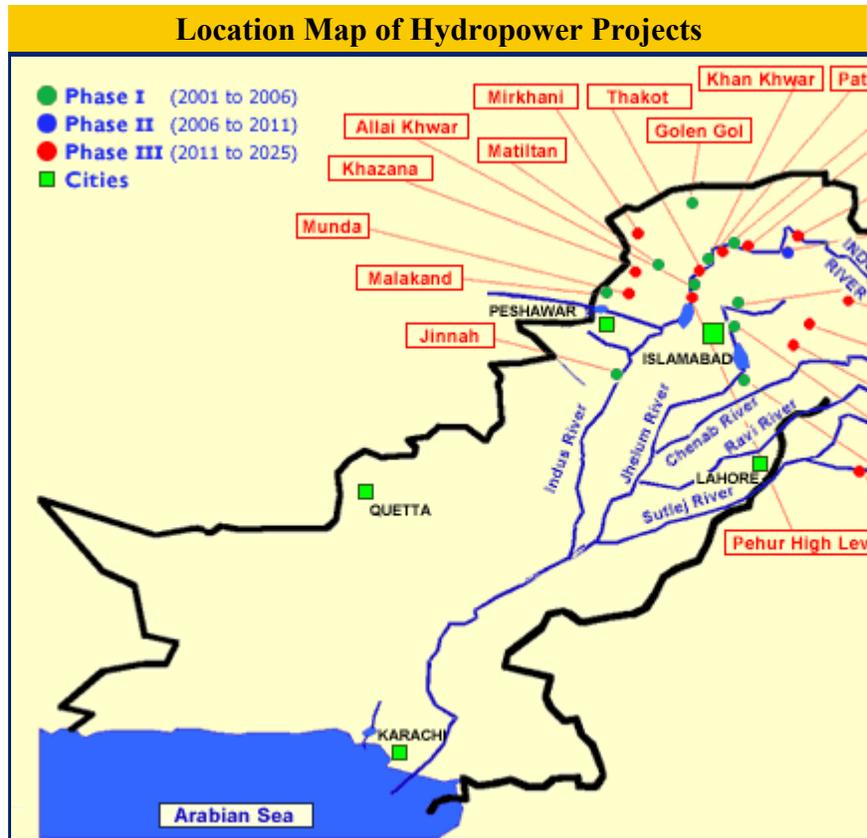
Map 2: WAPDS VISION 2025 – Planned Water Sector Projects²⁹

It is not for agriculture alone that Pakistan requires water. Hydel power is the cheapest source of energy. Presently, 28 % of national electricity demands are met through hydropower projects whereas approximately 70% is provided by thermal power stations.³⁰ Thermal power through furnace oil operated plants is phenomenally expensive. Availability of cheap power is essential for industrial and agricultural development without which the production cost is expected to see a steep rise and it would become extremely difficult to sustain the current economic growth rate of over 6%. Government of Pakistan has planned to meet future energy demands through a mix of hydropower and coal operated thermal power units. Exploiting the Thar coal reserves (5th largest coal reserves in the world), Energy Security Action Plan envisages production of 20000 MW electricity by 2019, thus replacing the expensive furnace oil operated units with cheap coal operated units.³¹

On the hydropower side, it is estimated that Pakistan has 54400 MW of untapped hydro-electric potential.³² Tapping of this enormous and cheap power potential can be a real booster for Pakistan's economy in the long run. WAPDA Vision 2025 aims at tapping this tremendous potential through a series of run of the river projects and reservoirs (Map 3). The realization of this dream, however, depends on the availability of sufficient water at that point in time.

Failure to implement water sector projects in time will subject Pakistan to an acute water crisis. Pakistan's agro based economy would be seriously affected and so would be 68% of its population (approximately 110 million people) which are directly or indirectly dependent on agriculture. Water shortage might tempt the upper riparian NWFP and Punjab to use water more than their share, triggering a serious inter-province water conflict.

Map 3: WAPDA Vision 2025, Planned hydropower projects³³



Water Disputes in South Asia

Water disputes in South Asia come up in the context of upper and lower riparian countries and within countries, upper and lower riparian states/provinces. Except Bhutan, every country in South Asia has a pending water dispute. Interestingly, it is India which is party to all these disputes; with Pakistan and Bangladesh in the capacity of upper riparian and with Nepal as a lower riparian.³⁴ A huge dispute with China is in the offing. Conversely, it is South Asia again where some of the successful water dispute resolution treaties

have been signed and form the legal basis of dispute resolution. This chapter analyses the ongoing and future water disputes amongst the South Asian countries.

Pakistan-India Water Dispute

Pakistan falls in the list of those 15 countries that get more than 75% water from external sources.³⁵ The history of Pakistan-India water disputes dates back to 1948 when India, having control of barrages in Eastern Punjab, stopped the canal water inflow to Pakistani Punjab. Crop yield in Pakistani Punjab was significantly affected giving rise to a serious dispute between the two countries. After a decade of negotiations, however, Indus Basin Water Treaty (IWT) was finally signed on 19 September 1960 with the cooperation of World Bank.³⁶

Indus Water Treaty-1960. The treaty contains twelve articles and was signed by Mr. Jawaharlal Nehru, FM Muhammad Ayub Khan, HP, HJ, and Mr. W. A. Iliff, representative of the World Bank. Salient aspects of IWT are as following:-

- India attains unrestricted water usage rights of three eastern rivers; Ravi, Sutlej and Beas. (Article 2)
- Pakistan shall receive for unrestricted use all waters of the Western Rivers namely Indus, Jhelum and Chenab; which India is under obligation to let flow. (Article 3)
- Pakistan shall construct a system of works which will accomplish the replacement from the Western Rivers irrigation canals in Pakistan which, on 15th August 1947, were dependent on water supplies from the Eastern Rivers. (Article 4)
- India to make a fixed contribution of Pounds Sterling 62,060,000.00 towards the costs of the works mentioned above. (Article 5)
- Both parties were to regularly exchange flow-data of rivers, canals and streams. (Article 6)

- A permanent Indus Waters Commission was constituted to resolve the disputes between the parties. (Article 8)
- The Treaty sets out the procedure for settlement of the differences and disputes. It also provides for settlement of disputes through the International Court of Arbitration. (Article 9)³⁷. An abridged version of Indus Basin Water Treaty 1960 is given at Annexure C.

After signing of the treaty, Pakistan undertook construction of Tarbela and Mangla Dams, 5 barrages, one siphon and 8 inter river link canals.³⁸ Supplemented by the already existing 6 barrages and 35 canals in Indus River Basin³⁹, result was the development of largest contiguous canal network in the world.

Despite signing of Indus Water Treaty (IWT), there have been numerous water disputes between the two countries. These include:-

- **Wular Barrage.** In 1985, India undertook construction of Tulbul Navigational Project; which involved construction of a barrage near Sopor, 25 km north of Srinagar, with a storage capacity of 300,000 acre feet and planned power generation of 960 Megawatt. Pakistan protested terming it a clear violation of Article 1 (11) and Article 3(8) of Indus water treaty. This project could give India the capability to reduce water inflow in Mangla Dam during dry season seriously reducing the inflow in UJC, UCC and UBDC. After a series of unsuccessful discussions, Pakistan threatened to take the case to International Arbitral Court. India stopped the works on the project thereafter and the project is still lying redundant.⁴⁰
- **Kishanganga Project.** Located on Kishanganga (Neelum) River near Kanzalwan, the project envisages construction 103 M high dam to divert the water of Kishanganga to Wular Lake through tunnels. The project has electricity generation capacity of 330

MW. Pakistan has objected to the project terming it a violation of IWT. The project will seriously affect 969 MW Neelum Hydro Project which Pakistan intends undertaking on Neelum River. Still no settlement has been reached between the two countries on the issue.⁴¹

- **Baglihar Hydropower Project.** This project involves construction of 144.5 M high concrete gravity dam on Chenab River, 90 km north of Jammu and upstream of Salal Dam. It has power generation capacity of 450 MW. Pakistan raised a number of objections on the design parameters of the dam which were found in clear violation of IWT. The dispute, after years of unsuccessful talks, was referred to the World Bank appointed neutral expert, a Swiss civil engineer Professor Raymond Lafitte who gave his decision in Feb 2007. The decision asked India to make necessary amendments in design parameter on three out of four major technical objections raised by Pakistan.⁴² It is believed that minor changes in design parameters will not make a considerable difference to the initial design, however, will cost India billions of extra rupees and delay in completion of project. Both countries have termed Latiffe's ruling as their victory. As Adnan Adil of The News terms it "the common people found it strange as to how a ruling could simultaneously satisfy two conflicting claims"⁴³
- **Dulhasti Hydropower Project.** The project, already completed, has a storage capacity of 9000 acre feet and is located upstream of Baglihar Hydropower Project.⁴⁴ A small project which does not have a significant effect, however, Pakistan opposes it so that India is not encouraged to undertake further such like projects on Eastern Rivers.

Analysis

- All the above mentioned projects and Salal Dam on which an agreement was reached between India and

Pakistan, were started by India without informing Pakistan which is in violation of IWT. There is no guarantee that India will not do the same in future.

- In most cases, Pakistan reacted when the actual construction of the project had started and did not do the same when feasibility study was being carried out.
- Above mentioned projects do not give India the capability to divert water; however, do provide India the leverage to hold water for 25-26 days which can seriously affect water inflow at Marala Head Works/Mangla Dam causing acute shortage of water for winter crops.⁴⁵ This, besides causing electricity shortage, can greatly affect wheat crop in Punjab. Low inflow at Marala Head Works can greatly undermine the defence value of BRBL Canal during campaigning season.
- India's future energy and water demands, which are enormous, can compel her to undertake projects in violation of IWT. Certain quarters in India are already saying that IWT is more of a binding for India and should therefore be abrogated.
- Though India does not have the capability to divert water from the western rivers at present, however, possibility of a project similar to China's Great South-North Water Transfer Project can not be ruled out and needs to be studied by Pakistani experts for its technical feasibility.
- Any reduction in water inflow to Pakistan at this stage will cause shortage of water for irrigation and if supplemented by adverse climatic conditions and other internal water mismanagement issues, can trigger inter-provincial water conflicts of serious magnitude. If India is found violating IWT at that point in time than it will spark serious differences between India and Pakistan and might become prelude to a major conflict.

Pakistan-Afghanistan Water Dispute

Frequent droughts and mismanagement of existing water projects during Afghan War has caused acute water shortage in Afghanistan. Reportedly, discharge capacity of canals and under ground springs (Karezes) has reduced by 70 and 83 % respectively causing 84% reduction in irrigated land. Total surface water availability in Afghanistan is 58.74 MAF out of which 30.16 MAF is still unused. To address the problem, Karzai Government has planned a number of water projects all over Afghanistan, including two projects on River Kabul. It includes Kama Hydel Project which will irrigate 14000 acres of land and will consume 0.1 MAF of water. Another storage dam on River Kabul is also being planned.⁴⁶

River Kabul accounts for 17 MAF of water inflow in Indus River System. Other important rivers flowing from Afghanistan to Pakistan include Kurram, Gomal and Kaitu Rivers.⁴⁷ No projects have reportedly been planned on these rivers so far. The accumulated discharge of these water channels is estimated to be more than River Jhelum.⁴⁸

Government of Pakistan has been trying to conclude a water agreement with Afghan Government to workout the modalities of use of water from River Kabul. Afghan Government, on one pretext or the other, has been delaying the proceedings. Pakistan has also sought the help of World Bank in this regard.

Analysis

- So far, there is no serious water dispute between the two countries. However, seeing the acute water crisis in Afghanistan and availability of sufficient usable water in Kabul River (approx 15 MAF), it is likely that a number of irrigation/hydropower projects will come up as soon as the security situation improves and enough money is available. This would cause shortage of water in NWFP canals that originate from River Kabul and will also significantly reduce water inflow in Indus River System.

- It appears that Karzai Government does not want to restrict itself by concluding a treaty which would bind Afghanistan on use of Kabul River water.
- Seeing Indian influence over Karzai Government, Indian involvement in the issue can not be ruled out. Indian media has already been advising Karzai Government that it should not commit a mistake of signing a treaty like Indus Basin Water Treaty which has deprived India of her waters.⁴⁹

India-Bangladesh Dispute

The two major river systems, Brahmaputra and Ganges, after irrigating vast tracts of land in India enter Bangladesh forming a 1.6 million square km basin; finally discharging into Bay of Bengal.⁵⁰ Bangladesh has disputes with India on the both the river systems. The history of the dispute on Ganges River dates back to 1951 when India planned to construct a barrage at Farakka, 18 kms from the border of then East Pakistan to divert water to Bhagirathi-Hooghly rivers in order to flush silt and keep Calcutta harbor operational during the dry season. The project could not be executed because of objections from Pakistan. In 1962, India started the construction. After failure of mutual talks, Pakistan and later Bangladesh took up the case with United Nations. Bangladesh pursued the case with UN till 1996 till Ganges Water Sharing Treaty (GWST) was signed between India and Bangladesh in Dec 1996. The treaty, valid for 30 years, specifies water allocation to Bangladesh from Ganges River during five months of dry season (Jan-May)⁵¹

Following are the ongoing/potential water disputes between India and Bangladesh:-

- **GWST.** Despite signing of the treaty, Bangladesh is concerned about guaranteed minimum inflow to Bangladesh during dry season. Certain Bangladeshi experts believe that due to excessive use of water upstream Farakka Barrage, there is not enough water left in Ganges River during dry season to be diverted to Bhagirathi-Hooghly rivers.⁵² India can therefore

manipulate the water discharge at will during dry season to keep flushing operations at Calcutta Port going. This will have serious effect on agriculture in Eastern Bangladesh which is largely dependent on Ganges waters during dry season.

- **Indian River Linking Plans.** Indian Government has planned to link major rivers in order to overcome water shortage in centre and south by shifting surplus water from North and North-East, mainly from Ganges and Brahmaputra Rivers. The plan envisages transferring water from Brahmaputra through a gigantic 324-km long link canal which will run from Assam to Farraka. It also envisages construction of three large dams, thirty river link canals, 14 on the Himalayan Rivers and 16 on the peninsular south to store surplus flood and monsoon water. The project will irrigate Assam, West Bengal, Bihar, Jharkhand and Orissa.⁵³ Should this project materialize, there will not be enough water in Brahmaputra/Meghna Rivers to support agriculture in north and north eastern Bangladesh.

Analysis

- Though Bangladesh is not a water scarce country and as per the estimates, would be the only country in South Asia in 2025 to have sufficient water, Indian river linking plans can seriously effect water availability in Bangladesh. In the absence of any significant water storage sites, Bangladesh entirely depends on the water flow in Ganges- Brahmaputra-Meghna Rivers for its agricultural as well as navigational needs (rivers are an important source of transportation in Bangladesh).
- If seen in the joint context of Chinese plans to divert Brahmaputra's water in Tibet and Indian plan to link Brahmaputra with Farakka Barrage taking away the left over water from Brahmaputra and Ganges, there is a serious conflict in the offing.

India-Nepal Water Dispute

Apparently, India and Nepal have traditionally been solving their water disputes through a number of treaties like Sharada Agreement 1927, (Signed by Government of British India and Raja of Nepal), Koshi Agreement 1954, Gandak Agreement 1959, Tanakpur Agreement 1991 and Mahakali Treaty of 1996.⁵⁴

With India as a lower riparian in this case, disputes between India and Nepal are of different nature. Nepal has abundance of water. Approximately 225 billion cubic meter water every year drains from Nepal to the Bay of Bengal via India. Karnali, Sapta Gandaki and Sapta Koshi Rivers flow from Nepal and contribute 71 per cent of the dry season flows and 41 per cent of the annual flows of the Ganges Rivers system in India. Nepal also has the second largest hydropower potential in the world after Brazil (total 83,000 MW out of which 42,000 MW is financially feasible).⁵⁵ A number of Indian irrigation and hydropower projects in north, therefore, depend on water flowing down from Nepal.

Indian projects like Koshi High Dam are viewed with concern as they are likely to inundate all land in the effected area below 1200 ft. This includes 155 villages and thousands of acres of cultivable land.

A number of huge hydropower projects like Upper Tamakoshi, Upper Karnali and Karnali-Chisapaani are under negotiation. Demand of high tariff by Nepal and Indian efforts to negotiate a deal far cheaper than the existing market rates are the retarding factors. Karnali-Chisapaani Multipurpose Project is most significant of them all because of its power generation capacity of 10,800 MW and water storage of 16.2 billion cubic meters.⁵⁶

Analysis

- Despite this huge potential, Nepal is still one of the poorest and least developed countries in the world.

- There is a growing perception in Nepali populace that they have been cheated by the bigger and more influential India in the negotiated treaties. Despite having all the resources, Nepal has been left high and dry whereas India has got away with all the advantages.
- In view of her growing water and energy needs as well as growing demand in Nepal to earn more from these projects and not to succumb to Indian pressure, it is likely that India might come up with a mutually agreeable deal. In this case, there will be no more disputes.
- Strong opposition in Nepal against Indian bullying attitude and India's ego as the biggest country in the region, however, will have a deciding impact on India-Nepal water issue resolution in future.

India-China Water Dispute

There is no running dispute between India and China at present. Having control of Tibetan Plateau, China has the control of the water source in South and South East Asia. This huge water resource, which is estimated to be 5000 cubic km is not entirely available to China and a considerable amount of water flows down to Indian Ocean through great rivers like Brahmaputra, Indus, Salween, Ayeyarwadi, Sutlej, Arun and Karnali. To sustain its high economic growth rate, China needs water and energy. The answer comes in the shape of Great South-North Water Transfer Project; considered by many as a brain child of Chinese President Hu Jintao who happens to be a hydrologist.⁵⁷ Three Gorges Dam, worlds biggest ever hydropower project is a part of the same grand plan. Great South-North Water Transfer Project has been included in China's 10th Five Year Plan.

Great South-North Water Transfer Project. The project details include:-

- Diversion of water from South, via three channels to North, North-East and Western regions of China.

- The project involves construction of a large number of canals, aqueducts, tunnels, reservoirs and power generation plants.
- The Western Route transfers water from Tongtianhe, Yalongjiang and Daduhe Rivers (tributaries of the Yangtze River) in southwest China to the upper reaches of the Yellow River to solve water shortage in the Sinkiang and Gobi Desert.
- The Central Route will transfer water from Danjiangkou Reservoir between Hubei and Henan provinces to Beijing and Tianjin in the North East.
- The Eastern Route transfers water from Yangzhou on the lower reaches of Yangtze River, flowing through the ancient Grand Canal and going towards Hebei and Tianjin regions in East.
- This will divert 3848 billion cubic meter of water from South to North, North West and North East.⁵⁸
- In 2nd phase, the water of Yarlung Tsangpo (called Brahmaputra River when it enters India) will be transferred from south to North and North West. The place identified for the project is The Great Bend near Mount Namch Barwa, close to Indian border in Arunachal Pradesh. Before reaching The Great Bend, Yarlung Tsangpo forms the deepest canyon in the world (average 5 km deep) and drops down 3000 meters within 200 kms. This enormous dip provides a hydro electric potential of 40, 000 MW, far more than any hydropower project that world has ever known.⁵⁹ From there onwards, the water will be diverted and pumped through a series of 300 km long tunnels, aqueducts, canals and reservoirs finally joining the western route.

In addition, India also suspects that a newly constructed barrage on Sutlej River in Tibet Autonomous Region would give China the capability to control its water.⁶⁰ China, however, has denied the acquisition terming the project as a hydropower project for Zhada County in Tibet which will not effect the water inflow towards India.⁶¹

Analysis

- Great South-North Water Transfer Project, a survival cum development package for China, will have serious consequences for India. It will significantly effect water inflow in Brahmaputra River causing considerable decrease in irrigation water in Arunachal Pardesh and Assam during dry season.
- It will also greatly effect the vialbility of Indian River Linking Project which aims at transferring huge amounts of surplus water from Brahmaputra River in Assam to Farakka Barrage in West Bengal through a 324 km long canal.⁶² Should India still go for the river linking project, there will hardly be sufficient water in Brahmaputra River when it enters Bangladesh.
- In this scenario, India might get involved in a serious water dispute with China and at the same time, being the upper riparian and a more influential country, might try to utilize maximum potential of Indus and Ganges River systems undertaking projects in violation of Indus Basin and Ganges Water Sharing Treaties.
- On the other hand, it may use its influence to force Nepal to undertake such projects (in violation of Mahakali Treaty) which meet the water and energy demands of India but may not be equally beneficial to Nepal. A chain reaction of water disputes can thus take place in South Asia.

Conclusions and recommendations

Conclusions

- Food security is non-negotiable and water is the pre-requisite for attaining food self-sufficiency. Water is therefore a vital resource for all and no country, however small, will give up its rights when it will come to the survival of its people.

- All countries in the region, especially China, India and Pakistan, have to coop with ever increasing water and energy demands to sustain their economies.
- China, India and Pakistan are significantly short of water storage capacity required to fulfill their future agricultural and industrial demands and therefore, need to undertake gigantic projects to solve the problem.
- Considering insufficient water availability, dependence on external water sources, delay in construction of water reservoirs, mismanagement of existing water resources and prevailing mistrust between the provinces on water distribution, Pakistan is in serious danger of falling into the zone of most water scarce countries.
- There is a dire need that all countries of South Asia realize the pivotal importance of water disputes in the future conflict scenarios and instead of trying to take away every thing, develop a consensus on controversial issues on the basis of give and take and settle water disputes on priority.
- On the other hand, mutual cooperation in water usage can allow these countries to reap maximum benefit out of one of the largest freshwater resources available on the globe. The same approach needs to be adopted for resolving inter-province disputes in Pakistan.
- To avoid any water dispute with Afghanistan, a water treaty must be concluded immediately.
- In order to ensure food security and exploit full potential of hydropower, Pakistan needs assured availability of water for which construction of reservoirs, hydropower projects and other water management measures will have to be undertaken on top priority. Failure or delay would result in serious water disputes between provinces as well as with India and even Afghanistan.

Recommendations

Regional Level

- **Joint Commission for Water Dispute Resolution.** Pakistan should endeavour for the establishment of a joint forum at South Asian level to resolve the water disputes. The commission should safeguard the integrity of already existing treaties and provide a platform to the South Asian countries to resolve any emerging water disputes with mutual consensus. Being the upper riparian in most cases, China should also be included in the commission and Pakistan should undertake serious diplomatic efforts to ensure this. The future agreements can be done in four main categories:-
 - River partitioning basis.
 - River sharing basis.
 - Benefit sharing basis.
 - Sharing of data for disaster management.

- **Indus Basin Water Treaty.** All Indian efforts to abrogate or amend IWT should be thwarted. In addition, following is recommended to be done:-
 - Establishment of a fool proof surveillance mechanism to ensure timely detection of any violations of IWT by India. SPARCO and int agencies need to be incorporated in the mechanism.
 - Establishment of a research centre to critically study the implications of planned/possible hydropower project that India can undertake on western rivers.

- **Cooperation with China.** China, being the upper riparian, is likely to have an upper hand in any future water sharing agreement with India. Close

coordination needs to be maintained with China to reap maximum benefit out of the situation and to ensure that India does not adopt the same attitude towards Pakistan.

- **Water Agreement with Afghanistan.** To avoid any future conflicts with Afghanistan on water issue, efforts to conclude a water sharing agreement with Afghanistan be hastened. United States and World Bank be approached to settle the issue amicably. Simultaneously, Afghanistan be offered assistance in construction of irrigation schemes and technical expertise in maintaining the same.

Domestic Level

- **Political Consensus.** Developing political consensus amongst parties from all provinces should be a high priority for the newly elected government. Consensus must be developed on technically feasible water sector projects, grievances of smaller provinces be addressed and then given a constitutional cover to ensure permanency. The effort needs to be augmented with strong media campaign. A committee comprising senior parliamentarians from all provinces should also be formed to oversee the progress of the issue.
- **Revamping of IRSA.** IRSA needs to be made more efficient. Following is suggested in this regard:-
 - Changing the name of IRSA as it has become an irritant for Sind and NWFP and shifting IRSA Secretariat from Lahore to Islamabad.
 - Appointment of a committee which should comprise of equal number of technical experts, government officials and farmer representatives from all provinces to oversee the functioning of ISRA. Chairman IRSA should be rotated amongst all provinces on yearly basis. The committee should ensure

- distribution of water as per Water Accord 1991 and suggest mutually agreed changes to the parliament, whenever required.
- Installation of Telemetry System on all barrages and canals to monitor water flow/discharge. The data should be available on national media on daily basis.
- **Construction of Dam and Reservoirs.** In order to tap 23 MAF of surplus water that is wasted during monsoon, a comprehensive development plan is available in the form of WAPDA Vision 2025. Construction of all technically feasible dams, including Kalabagh Dam, should be undertaken as per plan. Progress of most non-controversial on going projects, however, is far behind the schedule (details at Annexure A) and needs to be pursued with full vigour.
- **Construction of Small Dams.** This project should be undertaken by the provinces. Small dams are cheap, non-controversial and easily manageable. In order to tap the surplus rain water during monsoon, there is a need to construct a large number of small/delay action dams, especially in Balochistan, NWFP and AJ&K.
- **Developing Awareness on Water Scarcity.** This needs to given high priority at national level. Through a well orchestrated programme of public debates, books/articles/brouchers, lectures by well reputed social workers etc, general awareness of public be enhanced so that they understand the gravity of the issue. This should also include education on managing and preserving the available water resources. The subject should also be included in the text books of schools/colleges.
- **Water Management.** Following actions are recommended to control water wastage and improve the management of existing water resources:-

- **Brick Lining of Canals and Water Courses.** It is estimated that one MAF of irrigation water brings financial benefits of Rupees 1 Billion per year. This project alone can save 45 MAF of water which is equivalent to the cumulative capacity of seven Kalabagh Dams (6.18 MAF). The project has already been started by the previous government; however, the progress is very slow and needs to be pursued with full vigour.
- **Adoption of Scientific Irrigation Methods.** Lot of water is wasted in the traditional flood irrigation method. There is a need to resort to more scientific methods like drip, trickle and bubble irrigation for which government must provide financial loans to farmers on easy installments.
- **Crop Pattern.** Our crop pattern has to be in consonance with the availability of water in that area otherwise it becomes a drain on ground water reservoirs which is already depleting at an alarming rate. Water intensive crops like rice and sugarcane should only be allowed in areas with high water table. The crop pattern for a particular area must be researched and prepared by agriculture department keeping in view the availability of water, weather etc. Farmers should not be allowed to grow any crops other than those specified by agriculture department for their area.
- **Control on Installation of Tube Wells.** At present there are 705000 tube wells in the country which are mostly owned by private farmers. To avoid depletion of ground reservoirs, there is a need to establish a control mechanism. No one should be allowed to install a tube well without permission from local agriculture department. Agriculture

department, in collaboration with WAPDA, should work out technical details for specific areas, depending upon underground water level.

- **Disposal of Sewage Water.** Sewage water is mostly disposed in existing water courses which besides being wasted, is a serious ecological hazard. We need to develop a mechanism of putting the used water in disposal wells. This water will recharge the ground reservoirs as well as save the environment.
- **Rain Harvesting.** This is an age old technique which is very useful for countries like Pakistan. People be educated and provided technical expertise on the subject so that they store rain water for their domestic as well as limited agricultural use.

Epilog

The rush for blue gold might become a major reason for conflict amongst the nations of South and South East Asia in mid to long terms and may finally turn into a bloody war of survival. The only way to avoid this situation is to come on the negotiation table as early as possible and resolve the issues on the basis of give and take. No country is in a position to eat the whole pie and should it try to do so, it will only help in triggering a war of survival.

It may be beyond Pakistan's capability to meaningfully influence or control the water dispute in South Asia. However, it appears that Pakistan would be one of the worst sufferers should such a scenario materialise. We as a nation must realize the grave danger posed by water scarcity to the very survival of the country. We need to put our own house in first, development awareness on water scarcity, manage our water resources in the most economical and efficient manner and above all develop consensus among the provinces to resolve the pending water issues.

Pakistan's available water resources are not enough and if we keep mismanaging them and keep delaying the required hydro-project on socio-political basis rather than technical reasons than the only logical outcome would be a disaster.

Annexure A

The Water Accord - 1991

1.0 Key Note

In 1991, an agreement to share waters of the Indus River was reached between the four provinces of Pakistan in the form of the Water Apportionment Accord (WAA). This accord is based on both, the existing and future water needs of the four provinces.

The Chief Ministers of the four provinces, in a unique demonstration of mutual cooperation and national spirit, resolved the long outstanding dispute, which had brought water development in the country to a grinding halt.

2.0 Historic Developments

Even during the pre-partition era, there were episodes of contention among various provinces of the sub-continent over water. As early as 1920, during the period when Sutlej valley and Sukkur barrage projects were under consideration, some doubts were expressed about the availability of water for these projects. Moreover, Bhawalpur State also protested against the allocation of waters to non-riparian areas. The then Government of India persuaded the Punjab, Bhawalpur and Bikanir states to sign an agreement called the Sutlej Valley Tripartite Agreement of 1920.

During the operation of the Sutlej valley projects, it was noted that river supplies were short of assumed supplies particularly in the early kharif period. To investigate this, a Sutlej Valley Project Inquiry Committee was setup in 1932. Later, the Anderson Committee was set up in 1935 to examine the distribution of water for Sutlej valley projects, Sukkur barrage and other projects proposed by Punjab.

In 1939, the Government of Sindh lodged a complaint against the Government of Punjab about the perceived effects of the Punjab projects on inundation canals of Sindh and on Sukkur barrage. The Rau Commission was constituted which presented its recommendations in 1942. The post-independence period has also witnessed similar events. In 1968, under the chairmanship of Mr Akhtar Hussain, the Water Allocation and Rates Committee was constituted by the Governor of former West Pakistan to review barrage water allocations, reservoir release patterns, drawdown levels and use of groundwater in relation to surface water deliveries. The Committee submitted its report on July 01, 1970 when the provinces were revived. No attention was paid to this report.

As a result, the Justice Fazle Akbar Committee was constituted in October 1970 to recommend apportionment of waters of the River Indus and its tributaries. The Committee submitted its report in 1971. During the same time period, ad hoc distribution of Chashma barrage and later Tarbela reservoir storage among the provinces was ordered. No decision was taken on the Fazle Akbar Committee recommendations and water continued to be distributed on ad hoc orders by the Government of Pakistan.

In 1977, the Government of Pakistan established another commission comprising the Chief Justices of the High Courts of the Provinces, headed by the Chief Justice of the Supreme Court to examine the issue of water apportionment. The report of this commission is still pending with the Government of Pakistan.

It was finally the Chief Ministers of the provinces who managed to reach consensus on the contentious issue. The breakthrough came in a series of meeting, first in Lahore and finally on March 16 in Karachi.

3.0 The Purpose of the Water Accord

Surface water developments after the final commissioning of the Tarbela Dam Project in 1977, were almost stalled due to the non-resolution of the interprovincial water dispute. The country underwent a one and a half decade long crisis related to irrigation supplies and hydropower generation before reaching consensus. Load-shedding and irregular agriculture produce was observed

during this period. An inter-provincial agreement became essential to solve the longstanding dispute of canal water uses, shares in the river supplies and surplus flows in the form of floods, etc.

An agreement called the “Apportionment of the Water of the Indus River System between Provinces” was arrived upon, which had two important features: i. It protected the existing uses of canal water in each province. ii. It apportions the balance of river supplies, including flood surpluses and future storages among the provinces.

4.0 The Water Apportionment Accord - 1991

The Water Apportionment Accord was agreed upon on March 16, 1991 at Karachi in a meeting of the Chief Minister’s of the four provinces along with several provincial representatives. The accord allocates the following share to provinces:

Province (MAF)	Kharif (MAF)	Rabi (MAF)	Total
Punjab	37.07	18.87	55.94
Sindh *	33.94	14.82	48.76
NWFP (a)	3.48	2.3	5.78
(b) Civil Canals	1.80	1.2	
3.00			
**			
Balochistan	2.85	1.02	3.87
Total	77.34	37.01	114.35

- **Including already sanctioned Urban and Industrial uses for Metropolitan Karachi.**

** Ungauged Civil Canals above the rim stations

- The NWFP/ Balochistan projects, under execution, were provided their authorized quota of water as existing uses.
- Balance river supplies (including flood supplies and future storages) was to be distributed as below:

Punjab	Sindh	Balochistan	NWFP	Total
37	37	12	14	100 %

- Industrial and Urban Water supplies for Metropolitan City, for which there were sanctioned allocations, was to be accorded priority. □ The need for storages, wherever feasible on the Indus and other rivers was admitted and recognized by the participants for planned future agricultural development.
- The need for certain minimum escapage to sea, below Kotri, to check sea intrusion was recognized. Sindh held the view, that the optimum level was 10 MAF, which was discussed at length, while other studies indicated lower/high figures. It was, therefore, decided that further studies would be undertaken to establish the minimal escapage needs downstream Kotri. □ There would be no restrictions on the provinces to undertake new projects within their agreed shares.
- No restrictions were placed on small schemes not exceeding 5,000 acres above elevation of 1200 ft. SPD.
- No restrictions were placed on developing irrigation uses in the Kurram / Gomal / Kohat basins, so long as these do not adversely affect the existing uses on these rivers.
- There were no restrictions on Balochistan, to develop the water resources of the Indus right bank tributaries, flowing through its areas. □ The requirements of LBOD would be met out of the flood supplies in accordance with the agreed sharing formula.
- For the implementation of this accord, the need to establish an Indus River System Authority was recognized and accepted. It was to have headquarters at Lahore and representation from all the four province.
 - The system-wise allocation would be worked out separately, on ten daily basis and attached with the agreement as part and parcel of it.
 - The record of actual average system uses for the period 1977-82, would form the guide line for developing a

future regulation pattern. These ten daily uses would be adjusted pro-rata to correspond to the indicated seasonal allocations of the different canal systems and would form the basis for sharing shortages and surpluses on all Pakistan basis.

- The existing reservoirs would be operated with priority for the irrigation uses of the Provinces
- The provinces would have the freedom within their allocations to modify system-wise and period-wise uses.
- All efforts would be made to avoid wastages. Any surpluses may be used by another province, but this would not establish any rights to such uses.

5.0 Discussion on the Accord

The Water Apportionment Accord allocated about 12 MAF of additional water to the four provinces for priority irrigation development. It also specified sharing percentages for the provinces out of balance river supplies for further development. Hence, the Water Apportionment Accord envisaged long-term surface water development in Pakistan, which should lead to ultimate canal head diversions of about 131 MAF.

Surplus river water is available only between 70-100 days during the flood season (June-September). Water Apportionment Accord has also specified 10 daily allocations of various provincial projects throughout the year, which take into account the additional allocations. To provide these additional allocations during the non-flood period of the year, it is necessary to store the surplus water.

In the absence of new storage facilities, the provinces will be forced to share the shortages and in this scenario, the largest suffering will be transferred on to the new irrigation projects. Hence it is in the interest of all provinces to encourage the development of water resources projects in order to increase national storage capacity.

6.0 Current Condition of River Waters

Pakistan has been facing drought conditions for the past 3 years. Moreover, seasonal and hydrologic variations, escapages to sea and canal water diversions create a huge imbalance in water availability. The following tables have been generated for both kharif and rabi seasons using statistics at the first rim station on the Indus system – the Tarbela Rim Station. Averages of post-Tarbela period i.e. 1975-2000 have been calculated for the three western rivers.

A similar exercise has been undertaken for the three eastern rivers for the period 1990-2000. Average escapages below Kotri are also averaged for the period of 1975-2000 for both kharif and rabi. Finally, the canal water diversions are calculated for averages between the years 1975-2000 for both kharif and rabi.

It may be noted that the Water Accord allocates a total of 114.35 for the four provinces for canal water diversions whereas the averages are far below the amount of water allocated for development and implementation of irrigation projects. These facts clearly indicate the urgent need for development of water storage projects.

Rim Station Inflow of Indus River and its Western Tributaries

1975-2000	Kharif	Rabi	Annual
Average MAF	118.99	25.92	144.91

Eastern Rivers Inflow at Rim Stations

1990-2000	Kharif	Rabi	Annual Total
Average MAF	7.446	1.69	9.136

Outflow to Sea below Kotri

1975-2000	Kharif	Rabi	Annual
Average MAF	37.01	2.49	39.5

Canal Water Diversions

1975-2000	Kharif	Rabi	Annual
Average MAF	67.11	37.63	104.73

Source: **Water Accord 1991**, Pakistan Water Gateway, <http://www.waterinfo.net.pk/pdf/wa.pdf> (accessed on Feb 15, 2008)

Annexure B

Ongoing Water Sector Projects

Project	Storage (MAF)	Irrigation Capacity (acres)	Power Generation	Completion Date	Physical Progress %
Gomal Zam Dam South Waziristan	0.89	163,086	17.4 MW	Oct 2010	14.6%
Greater Thal Canal (Phase I), Punjab	-	355,000	-	Dec 2008	74%
Rainee Canal (Phase I), Sind	-	198,600	-	Sep 2008	48%
Kachi Canal, Balochistan	-	102,000	-	Dec 2008	32%
Mirani Dam, Balochistan	0.30	33,200	-	Dec 2006	Completed
Sabakzai Dam	0.03	6680	-	Aug 2007	Completed
Raising Mangla Dam (addl)	2.88	-	644 GWH (addl)	Apr 2008	59.18%
Satpara Dam Skardu, NAs	0.09	15536	15.8 MW (105.51 GWH)	Jun 2008	67%
Khan Khwar Hydro Power Project, NWFP	-	-	72 MW	Oct 2008	44%
Allai Khwar Hydro Power Project, Besham, NWFP	-	-	121	Jun 2009	22%
Duber Khwar Hydro Power Project, Patan, NWFP	-	-	130	Apr 2009	36%
Jinnah Hydro Power Project, Indus River	-	-	96	Feb 2010	24.5%
Total	3.19 MAF	874,102 acres	616.2 MW		

Source: **Water Issues – A Brief**, Briefing by Members Water and Power, WAPDA to members of AFWC 2007/08, WAPDA House, Lahore, 01 Dec 2007.

Annexure C

**The Indus Waters Treaty (Abridge)
September 19, 1960**

The Government of India and the Government of Pakistan, being equally desirous of attaining the most complete and satisfactory utilisation of the waters of the Indus system of rivers and recognising the need, therefore, of fixing and delineating, in a spirit of goodwill and friendship, the rights and obligations of each in relation to the other concerning the use of these waters and of making provision for the settlement, in a cooperative spirit, of all such questions as may hereafter arise in regard to the interpretation or application of the provisions agreed upon herein, have resolved to conclude a Treaty in furtherance of these objectives, and for this purpose have named as their plenipotentiaries:

The Government of India: Shri Jawaharlal Nehru, Prime Minister of India, and The Government of Pakistan: Field Marshal Mohammad Ayub Khan, H.P., H.J., President of Pakistan, who, having communicated to each other their respective Full Powers and having found them in good and due form, have agreed upon the following Articles and An

Article I
[Definitions as used in the Treaty are given in the text]

Article II
Provisions Regarding Eastern Rivers

All the waters of the Eastern Rivers shall be available for the unrestricted use of India, except as otherwise expressly provided in this Article.

Except for Domestic Use and Non-Consumptive Use, Pakistan shall be under an obligation to let flow, and shall not permit any interference with, the waters of the Sutlej Main and the Ravi Main in the reaches where these rivers flow in Pakistan and have not yet finally crossed into Pakistan. The points of final crossing are the

following: (a) near the new Hasta Bund upstream of Suleimanke in the case of the Sutlej Main, and (b) about one and a half miles upstream of the syphon for the B-D Link in the case of the Ravi Main.

Except for Domestic Use, Non-Consumptive Use and Agricultural Use, Pakistan shall be under an obligation to let flow, and shall not permit any interference with, the waters (while flowing in Pakistan) of any Tributary which in its natural course joins the Sutlej Main or the Ravi Main before these rivers have finally crossed into Pakistan.

All the waters, while flowing in Pakistan, of any Tributary which, in its natural course, joins the Sutlej Main or the Ravi Main after these rivers have finally crossed into Pakistan shall be available for the unrestricted use of Pakistan: Provided however that this provision shall not be construed as giving Pakistan any claim or right to any releases by India in any such Tributary.

There shall be a Transition Period during which India shall (i) limit its withdrawals for Agricultural Use, (ii) limit abstractions for storages, and (iii) make deliveries to Pakistan from the Eastern Rivers.

The Transition Period shall begin on 1st April 1960 and it shall end on 31st March 1970, or, if extended under the provisions of Part 8 of Annexure H, on the date up to which it has been extended. In any event, whether the Transition Period shall end not later than 31st March 1973.

During the Transition Period, Pakistan shall receive for unrestricted use the waters of the Eastern Rivers which are to be released by India in accordance with the provisions of Annexure H. After the end of the Transition Period, Pakistan shall have no claim or right to releases by India of any of the waters of the Eastern Rivers. In case there are any releases, Pakistan shall enjoy the unrestricted use of the waters so released after they have finally crossed into Pakistan: Provided that in the event that Pakistan makes any use of these waters, Pakistan shall not acquire any right whatsoever, by

prescription or otherwise, to a continuance of such releases or such use.

Article III
Provision Regarding Western Rivers

Pakistan shall receive for unrestricted use all those waters of the Western Rivers which India is under obligation to let flow under the provisions of Paragraph (2).

India shall be under an obligation to let flow all the waters of the Western Rivers, and shall not permit any interference with these waters, except for the following uses, restricted in the case of each of the rivers, The Indus, The Jhelum and The Chenab, to the drainage basin thereof: (a) Domestic Use; (b) Non-Consumptive Use; (c) Agricultural Use, as set out in Annexure C; and (d) Generation of hydro-electric power, as set out in Annexure D.

Pakistan shall have the unrestricted use of all waters originating from sources other than the Eastern Rivers which are delivered by Pakistan into The Ravi or The Sutlej, and India shall not make use of these waters.

Except as provided in Annexures D and E, India shall not store any water of, or construct any storage works on, the Western Rivers.

Article IV
Provisions Regarding Eastern Rivers and Western Rivers

Pakistan shall use its best endeavors to construct and bring into operation with due regard to expedition and economy, that part of a system of work which will accomplish the replacement, from the Western Rivers and other sources, of water supplies for irrigation canals in Pakistan which, on 15th August 1947, were dependent on water supplies from the Eastern Rivers.

Each Party agrees that any Non-Consumptive Use made by it shall be made as not to materially change, on account of such use, the

flow in any channel to the prejudice of the uses on that channel by the other Party under the provisions of this Treaty.

Nothing in this Treaty shall be construed as having the effect of preventing either Party from undertaking schemes of drainage, river training, conservation of soil against erosion and dredging, or from removal of stones, gravel or sand from the beds of the Rivers: Provided that in executing any of the schemes mentioned above, each Party will avoid, as far as practicable, any material damage to the other Party.

Pakistan shall maintain in good order its portions of the drainages mentioned below with capacities not less than the capacities as on the Effective Date: (i) Hudiara Drain, (ii) Kasur Nala, (iii) Salimshah Drain, (iv) Fazilka Drain.

If India finds it necessary that any of the drainages mentioned in Paragraph (4) should be deepened or widened in Pakistan, Pakistan agrees to undertake to do so as a work of public interest, provided India agrees to pay the cost of the deepening or widening.

Each Party will use its best endeavors to maintain the natural channels of the Rivers, as on the Effective Date, in such condition as will avoid, as far as practicable, any obstruction to the flow in these channels likely to cause material damage to the other Party.

Neither Party will take any action which would have the effect of diverting the Ravi Main between Madhopur and Lahore, or the Sutlej Main between Harike and Suleimanke, from its natural channel between high banks.

The use of the natural channels of the Rivers for the discharge of flood or other excess waters shall be free and not subject to limitation by either Party, and neither Party shall have any claim against the other in respect of any damage caused by such use. Each Party agrees to communicate to the other Party, as far in advance as practicable, any information it may have in regard to such extraordinary discharges of water from reservoirs and flood flows as may affect the other Party.

Each Party declares its intention to operate its storage dams, barrages and irrigation canals in such manner, consistent with the normal operations of its hydraulic systems, as to avoid, as far as feasible, material damage to the other Party.

Each Party declares its intention to prevent, as far as practicable, undue pollution of the waters of the Rivers which might affect adversely uses similar in nature to those to which the waters were put on the Effective Date, and agrees to take all reasonable measures to ensure that, before any sewage or industrial waste is allowed to flow into the Rivers, it will be treated, where necessary, in such manner as not materially to affect those uses: Provided that the criterion of reasonableness shall be the customary practice in similar situations on the Rivers.

The Parties agree to adopt, as far as feasible, appropriate measures for recovery, and restoration to owners, of timber and other property floated or floating down the Rivers, subject to appropriate charges being paid by the owners.

Except as otherwise required by the express provisions of this Treaty, nothing in this Treaty shall be construed as affecting existing territorial rights over the waters of any of the Rivers or the beds or banks thereof, or as affecting existing property rights under municipal law over such waters or beds or banks.

Article V **Financial Provisions**

In consideration of the fact that the purpose of part of the system of works referred to in Article IV (1) is the replacement, from the Western Rivers and other sources, of water supplies for irrigation canals in Pakistan which on 15th August 1947 were dependent on water supplies from the Eastern Rivers, India agrees to make a fixed contribution of Pounds Sterling 62,060,000 towards the costs of these works.

The sum of Pounds Sterling 62,060,000 shall be paid in ten equal installments on the 1st of November of each year. Each of the

installments shall be paid to the Bank for the credit of the Indus Basin Development Fund to be established and administered by the Bank.

These financial provisions shall not be construed as conferring upon India any right to participate in the decisions as to the system of works which Pakistan constructs or as constituting an assumption of any responsibility by India or as an agreement by India in regard to such works.

Except for such payments as are specifically provided for in this Treaty, neither Party shall be entitled to claim any payment for observance of the provisions of this Treaty or to make any charge for water received from it by the other Party.

Article VI
Exchange of Data

The following data with respect to the flow in, and utilisation of the waters of, the Rivers shall be exchanged regularly between the Parties: (a) Daily gauge and discharge data relating to flow of the Rivers at all observation sites. (b) Daily extractions for or releases from reservoirs. (c) Daily withdrawals at the heads of all canals operated by government or by a government agency, including link canals. (d) Daily escapages from all canals, including link canals. (e) Daily deliveries from link canals.

Article VII
Future Co-operation

The two Parties recognize that they have a common interest in the optimum development of the Rivers, and, to that end, they declare their intention to co-operate, by mutual agreement, to the fullest possible extent.

Article VIII
Permanent Indus Commission

India and Pakistan shall each create a permanent post of Commissioner for Indus Waters, and shall appoint to this post, as often as a vacancy occurs, a person who should ordinarily be a high-ranking engineer competent in the field of hydrology and water-use. Unless either Government should decide to take up any particular question directly with the other Government, each Commissioner will be the representative of his Government for all matters arising out of this Treaty, and will serve as the regular channel of communication on all matters relating to the implementation of the Treaty, and, in particular, with respect to (a) the furnishing or exchange of information or data provided for in the Treaty; and (b) the giving of any notice or response to any notice provided for in the Treaty. The status of each Commissioner and his duties and responsibilities towards his Government will be determined by that Government. The two Commissioners shall together form the Permanent Indus Commission. The purpose and functions of the Commission shall be to establish and maintain co-operative arrangements for the implementation of this Treaty and to promote co-operation between the Parties in the development of the waters of the Rivers. The Commission shall determine its own procedures.

Article IX
Settlement of Differences and Disputes

Any question, which arises between the Parties concerning the interpretation or application of this Treaty or the existence of any fact, which, if established, might constitute a breach of this Treaty, shall first be examined by the Commission, which will endeavor to resolve the question by agreement.

If the Commission does not reach agreement on any of the questions mentioned in the Paragraph (1), then a difference will be deemed to have arisen, which shall be dealt with by a Neutral Expert. If the Neutral Expert has informed the Commission that, in his opinion, the difference should be treated as a dispute, then a dispute will be deemed to have arisen.

As soon as a dispute to be settled has arisen, the Commission shall, at the request of either Commissioner, report the fact to the two Governments, as early as practicable, stating in its report the points on which the Commission is in agreement and the issues in dispute, the views of each Commissioner on these issues and his reasons therefore. Either Government may, following receipt of the report, or if it comes to the conclusion that this report is being unduly delayed in the Commission, invite the other Government to resolve the dispute by agreement. A court of Arbitration shall be established to resolve the dispute.

Article X
Emergency Provisions

If, at any time prior to 31st March 1965, Pakistan should represent to the Bank that, because of the outbreak of large-scale international hostilities arising out of causes beyond the control of Pakistan, it is unable to obtain from abroad the materials and equipment necessary for the completion, by 31st March 1973, of that part of the system of works referred to in Article IV (1) which related to the replacement referred to therein, (hereinafter referred to as the replacement element) and if, after consideration of this representation in consultation with India, the Bank is of the opinion that (a) these hostilities are on a scale of which the consequence is that Pakistan is unable to obtain in time such materials and equipment as must be procured from abroad for the completion, by 31st March 1973, of the replacement element, and (b) since the Effective Date, Pakistan has taken all reasonable steps to obtain the said materials and equipment and has carried forward the construction of the replacement element with due diligence and all reasonable expedition, the Bank shall immediately notify each of the Parties accordingly. The Parties undertake that in being so notified, they will forthwith consult together and enlist the good offices of the Bank in their consultation, with a view to reaching mutual agreement as to whether or not, in light of all circumstances prevailing, any modifications of the provisions of this Treaty are appropriate and advisable and, if so, the nature and the extent of the modifications.

Article XI

[General Provisions are given in the text]

Article XII

Final Provisions

This Treaty consists of the Preamble, the Articles hereof and Annexures A to H hereto, and may be cited as "The Indus Waters Treaty 1960." This Treaty shall be ratified and the ratifications thereof shall be exchanged in New Delhi. It shall enter into force upon the exchange of ratifications, and will then take effect retrospectively from the first of April 1960.

The provisions of this Treaty may from time to time be modified by a duly ratified treaty concluded for that purpose between the two Governments. The provisions of this Treaty, or the provisions of this Treaty as modified under the provisions of Paragraph (3), shall continue in force until terminated by a duly ratified treaty concluded for that purpose between the two Governments. In witness whereof the respective Plenipotentiaries have signed this Treaty and have hereunto affixed their seals. Done in triplicate in English at Karachi on this Nineteenth day of September 1960.

[Signed:]

For the Government of India:
Jawaharlal Nehru

[Signed]

For the Government of Pakistan:
Mohammad Ayub Khan
Field Marshal, H.P., H.J.

[Signed]

For the International Bank for Reconstruction and Development:
W. A. B. Iliff

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