

Kashmir: A Complex Problem

by Michael Curtis



Pakistani Prime Minister Imran Khan and Indian Prime Minister Narendra Modi

For a long period, the sun never set on the British Empire, until after World War II when the UK experienced a relative decline from its prominence in the international arena, and granted independence or ended its rule over territories it controlled. Within one year, Britain ended its control of the India sub-continent with the creation of India and Pakistan on August 15, 1947, and ended its League of Nations Mandate in Palestine, with the creation of Israel on May 14, 1948. In both cases, the now independent areas were troubled by internal and irreconcilable differences between population groups, a situation which led to hostilities and which still

exists. In both cases, independence movements were active and militant, and division and partition of the disputed territory was suggested as a solution. Two of the three countries, Israel and India, have been basically secular countries with doctrinaire religious minorities which inflame the political and social atmosphere. All countries are said to have nuclear potential. All have had to defend themselves against external aggressors as well as against internal militant opponents of central command. All seek harmony and a peaceful environment with neighboring countries.

In the Indian subcontinent, British Crown Rule, the British Raj, was set up in 1858 after the Indian Rebellion of 1857, succeeding the East India Company, the former joint stock company that had controlled a large part of the territory. The area had more than 550 princely states in which about 1,200 civil servants governed more than 300 million people. On August 15, 1947 the Indian Independence Act and its aftermath divided the territory into two states, India, with a largely Hindu population, and Pakistan, almost entirely Muslim. The Muslim population, about 20 per cent of the whole, differed politically, socially, and economically from the Hindu majority.

The UK Act divided the area into two independent dominions, each having autonomy and sovereignty, with power to formulate their own constitution. The princely states decided which country to join Kashmir, always a complex problem with a large Muslim majority, was a princely state ruled by a Hindu Maharajah who finally decided to join India. At the outset there was mass migration across the boundaries, and more than one million people died in communal fighting. The provinces of Bengal and Punjab were divided between the two countries. However, many Muslims were left in the State of India, making them the largest minority in a non-Muslim state.

Since the two states were created, a problem has remained of rule over Kashmir, an area of 85,000 square miles, the

Himalayan territory and most northern region of the subcontinent, with its mixed religious population. The state, formally Jammu and Kashmir, has a population that is 60 per cent Muslim, the only state in India where Muslims are in a majority. At the beginning, an invited UN mission had suggested a referendum in the area to determine to which state it should belong, but this was not done and has never been done. A physical conflict for about a year was inconclusive with neither side able to achieve full control of the territory, leading to an uneasy ceasefire, though Kashmir remained in India, and received certain benefits.

The most significant benefit was the compromise formulated in Article 370 of the Indian Constitution by which Jammu and Kashmir would have a separate constitution, separate flag, and some autonomy. Kashmir would allow the central government of India to control defense, foreign relations, and communications, but would retain autonomy on other issues such as land, making it illegal for non-Kashmiris to own land, ownership of property, and on punishment of criminal activity. Kashmir, therefore, to some extent is under different laws from the rest of India, such as one that prevents local women from inheriting property in Kashmir if they marry outsiders. The state has refused some social reforms propounded by New Delhi.

India and Pakistan remain divided over Kashmir. Pakistan controls the north and west parts of the state, and India, which controls over half the area, the south and southeast parts.

In 1972 a Line of Control, a de facto barrier, divides the state into two parts. It was set up as a military control line between India and Pakistan, but neither side recognizes it as an international boundary.

Kashmir has experienced three wars, with insurgency against Indian rule that has led to 70,000 deaths since 1989, and it

remains one of the most militarized zones in the world. The Kashmir issue has become even more complicated because of three factors: the fact that China since 1963 has controlled part of the territory of the state; more emphasis by the Indian prime minister, Narendra Modi, on Hindu religious ceremonies and association with Hindi religious leaders, thus opponents fear a lessening of the traditional secular nature of modern India; and the greater assertion by Modi, a controversial, strong, charismatic leader well versed in the cult of personality, on policies such as nationalism, privatization, welfare programs, and a liberal economy. Opponents fear a lessening of the traditional secular nature of India.

Modi's political party, the BJP, Bharatiya Janata, a nationalist party and advocate of the Hindu religion, won the parliamentary Lok Sabha, election in 2014, with 282 seats of the 543 total, and did even better in the 2019 election with a landslide victory, gaining 45.5 per cent of the vote and 303 seats; together with its coalition partner, the NDA, National Democratic Alliance, it controls 353 seats.

The current belligerency arises from a series of incidents and fighting following the attack in February 2019 by a suicide bomber from a militant separatist group that killed 40 Indian policemen. Among the incidents of violence, Indian paramilitary and police forces were sent into the area, the Indian government sent fighter jets against the militant training camp, and Pakistan shot down two Indian jets.

On August 5, 2019 the Modi government unilaterally by decree decided to revoke Article 370 of the Indian constitution that allows Kashmir special constitutional status, giving it significant autonomy to make its own laws. As a result, Kashmir will be a "union" territory, not a state, directly ruled from the Indian capital at New Delhi. Modi claims the change will improve both the military and economic condition of Kashmir, but critics assert it was making India more of a

Hindu nation, and less of a secular one.

Pakistan has condemned the Indian action and declared that the Pakistan army stands firmly by the Muslim Kashmiris in their just struggle. Pakistan has never recognized India's jurisdiction over the region. Pakistan's immediate response was to expel the Indian High Commissioner in Islamabad, to suspend trade with India, and to downgrade diplomatic relations, but has refrained from any military action.

Kashmir remains what it has always been, a complex problem, difficult to resolve, in some ways akin to the difficulty in finding a universally accepted solution to the Israeli-Palestinian issue. However, one difference is evident in the two situations. The U.S. should play, and is playing, a role in finding a just and lasting settlement in the Middle East in which every State can live in security. The U.S. has no such role in Kashmir which is a bilateral issue, to be settled not by any outside party or the UN but by India and Pakistan. Above all, traditional disputes over territory must not be replaced by ideological and religious hatreds.