

Bilateralism and the Kashmir dispute

By M.P. Bhandara

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THIS is no getting away from Mao Zedong's dictum: "Power grows from the barrel of a gun". Pakistan is contained by India on Kashmir, as India is by China on its border dispute, and China by America on Taiwan. America is now contained by its \$ 600 billion trade deficit and a war it cannot win.

So why should we be dismayed when Manmohan Singh said on November 17 "no redrawing of the international border and no redrawing of boundaries on the basis of religion". The small print of the Shimla Accord largely unnoticed at the time — bilateralism, — sets the goal post for India on Kashmir: no change in India's sovereign status on Kashmir. Does this knock the bottom out of Pakistan's quest for an "honourable settlement in accordance with the wishes of the Kashmiri people?". Only time will tell.

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mented until 1992 — nearly three quarters of a century after South Tyrol's annexation by Italy. Italian nationalism is satisfied that South Tyrol remains part of Italy. The Tyrolese have complete freedom in the economic, social and cultural fields and, with both Austria and Italy being in the common market, foreign affairs and currency are taken care of by the supra-union. The Austrians feel vindicated because it has established a locus standi for itself in South Tyrol, albeit indirectly.

What we may learn from the South Tyrol conflict resolution is that autonomy subject to international safeguards is a recognized form of self-determination.

The word "autonomy" for a Kashmiri, even if he be a mild nationalist, will most likely evoke a bitter laugh. The Kashmiris have been cheated out of autonomy as guaranteed by Article 370 of the Indian con-

stitution have a relevance to our situation? Will the Indians, who are ever protective of their sovereign rights and allergic to any form of foreign involvement or arbitration, permit themselves to be bound by an international jurisdiction?

Perhaps, not at the moment, but 'may be' if a series of successes on lesser issues like Baglihar Dam, demilitarization of Siachin, trade and mutually agreed CBMs can be achieved. After all success breeds success. The Indian economy today is a success story. Does India not accept foreign jurisdiction in commercial matters? Given success in reaching agreements on lesser issues a more confident India is likely to emerge. Trust has to be established slowly. The Kargil episode damaged Indian trust in us.

The material and psychological costs of holding onto an alienated territory must weigh heavily on the Indian mind. Pakistan can help offer a way out to India from its own predicament.

Given below are some points for consideration in the ongoing debate on 'options':

* India should recognize Pakistan's interest in the Valley. No loss of sovereignty is involved. The autonomy as granted by its constitution on Kashmir should be enforced and made justiciable. The Indian higher courts have not apparently intervened in the past. India with its new confidence should be

German-speaking South Tyrol was part of the old Austro-Hungarian empire. On Germany's defeat and dismemberment of the Austro-Hungarian empire in 1918, the great powers awarded South Tyrol up to the Brenner Pass to Italy as a war trophy. Italy imposed an iron curtain on its newly acquired possession, making school instruction compulsory in Italian. Even carrier pigeons were not allowed to fly across from the south to North Tyrol. The SVP, liberation party of the south Tyroleans was founded in May 1945 with the following agenda:

"To fight for the recognition of the cultural, linguistic and economic rights of the South Tyroleans on the basis of democratic principles after twenty-five years of oppression by Fascism and National Socialism. To empower its representatives — forswearing the use of all illegal methods — to advocate before the Allied Powers the claim of the South Tyrolean people to exercise its right of self-determination".

Various strategies were employed by the Italians to contain the South Tyrolean. In 1948 it joined South Tyrol to the adjacent Italian province of Trentino and granted the amalgamated region autonomy. South Tyrol was out-voted (25) in the region by Trentino.

The SVP moderates were swept out of office, violence followed, Austria took its case to the UN and predictably got no relief.

Secret negotiations followed between Austria and Italy and on May 13, 1969, they agreed to identify 137 South Tyrolean grievances and work towards their removal. The keystone in this arch of reconciliation was that 18 points were given international recognition.

The new autonomy statute of 1972 kept the region intact but gave South Tyrol autonomy. The pivotal point which finally drew the disputants together was to give the right to the South Tyrolean government to move the International Court of

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stitution not once but twice.

The Kashmiris of the Valley today are as alienated from the India as were the East European states from the Soviet Union before the fall of the Berlin Wall. It is not an exaggeration to say that all hell was let loose on a placid Kashmiri population by the Indian army after the rigged Kashmir election of 1987.

A Kashmiri friend summed up this thus: "The Valley is like a rat trap... one false move and the trap guillotines your head". A recent publication, 'Kashmir — The Untold Story' by Humra Quraishi, gives a verbatim account of life in the Valley this past decade. It is not surprising that the terrorist is or was perceived by the Muslim population as the wrath of God on a cruel and merciless army of occupation.

India, once the land of Mahatma Gandhi, which won its freedom on the creed of non-violence, has done a huge disservice to itself by its conduct in Kashmir since 1987. It has showed no respect for the Gandhian legacy. Even the grisly bearded Salahuddin who heads the main Kashmiri liberation group conceded that he believed in Indian secularism until the rigged election of 1987. Remember during the 1965 'Operation Gibraltar' it was the ordinary Kashmiri who turned in our unwanted 'liberators' to the local police.

There are other precedents where autonomy has resolved a nationalist conflict between nations.

The Aaland islands are predominantly Swedish but under the sovereignty of Finland. Sweden withdrew its historical claims to the Islands, after the Finn's passed autonomy statutes — the latest of which was granted on August 16, 1991, giving wide-ranging autonomy to the Aalanders. The difference between the Finns and the

that in the foreseeable future there is little hope of India agreeing to joint sovereignty or a UN trusteeship for the Valley. Changing the status of Kashmir will call for a constitutional amendment, requiring a two-third-majority in Parliament to approve.

* Where I differ from Noorani's thesis is that an autonomous status for the old Jammu and Kashmir state is not realistic. The problem is strictly Valley-centric. Full-scope autonomy for all parts of the old Jammu and Kashmir state is a probable idea but appears impractical in the current situation.

Ladakh and major parts of Jammu are more or less securely embedded in the Indian Union, as are Azad Kashmir and the Northern Regions in Pakistan. Pakistan may consider holding a referendum giving the choice of independence, autonomy or full integration in Pakistan to Azad Kashmir and the Northern Regions, with the UN to conduct this exercise. These territories cannot remain in limbo for ever.

* The Indians should feel confident about holding a similar exercise in Ladakh and Jammu to determine the will of the people. If they don't, their refusal will be contrary to Pakistan's openness.

* One other lesson we can learn from the South Tyrol case is that SVP — local nationalist party — was always united as opposed to APHC, which is not. It was kept out of the negotiations between Austria and Italy by design. They were inducted into the process once an agreement was reached between Austria and Italy in principle.

The movement of icebergs is dreadfully slow in the initial stages but a stage is reached after years where the billions of binding units are about to break with elemental force in a rapid movement. A critical mass is developed before it can burst forth. Our critical mass is the people of the two countries and their linguistic and cultural commonalities. A unique case of a divided people, uniting to

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Abdul Ghafoor Noorani, the well-known Indian journalist, in a recent article spells out the South Tyrol dispute resolution between Austria and Italy. Some elements of this imbroglio are relevant to the Kashmir dispute and could serve as a guide.

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Given below are some points for consideration in the ongoing debate on 'options':

* India should recognize Pakistan's interest in the Valley. No loss of sovereignty is involved. The autonomy as granted by its constitution on Kashmir should be enforced and made justiciable. The Indian higher courts have not apparently intervened in the past. India with its new confidence should be encouraged not take a restrictive view of sovereignty.

* Pakistan and in particular its public must reconcile to the bitter reality

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The new autonomy statute of 1972 kept the region intact but gave South Tyrol autonomy. The pivotal point which finally drew the disputants together was to give the right to the South Tyrolese government to move the International Court of Justice in The Hague, if differences arose on the autonomy agreement.

The package, initially identified in 1969, was not fully imple-

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The writer is a member of the National Assembly.
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