

# Mediation in Pakistan-India Conflict: Potential and Constraints

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**Abstract** – Precursor variables-conditions and possibilities under which a particular relationship or phenomenon is most likely to happen are very significant. Such social, psychological, political and historical variables constitute the all-embracing context decisive the nature and outcomes of a phenomenon. The effectiveness of mediation depends as such upon these background factors as on the interests and resources of the parties and the mediator. In the light of antecedent conditions and contextual factors, this paper evaluates how far Pakistan-India conflict advances itself to resolution through third-party intervention. We shall examine the arguments on the relevance of mediation, and then see in what way these contextual factors help or hinder third-party role in Pakistan-India conflict.

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## FACTOR'S FAVOURING INTERNATIONAL MEDIATION

### Failure of the Bilateral Approach

Considering the experience of bilateral negotiations between India and Pakistan in the last three decades, analysts and commentators expect to breakthrough from the pursuit of such contacts. Bilateralism cannot be allowed to become a religion and act as a barrier to conflict management and mitigation, especially when there are no reliable, developed and regular mechanisms of bilateralism between the two states that can be 'counted upon to withstand the sorts of pressures that may be brought against them.'<sup>1</sup> When other methods of conflict management have been tried without success, what is the harm in experimenting with third-party techniques now? After all, mediation rarely does more harm than good.<sup>2</sup> Even if it does not result in any agreement, such an effort can at least help improve understanding of each other's perspective. Besides, if any India-Pakistan accord has to work, it will require international guarantees. Bilateral accords like the Simla Agreement failed due to the lack of such guarantees, which can be obtained only international actors join in the negotiation and settlement processes.<sup>3</sup>

### Introduction of Nuclear Weapons in South Asia

Nuclear weapons present the gravest danger to global security today. The short flight time of ballistic missiles between India and Pakistan raises the level of concern and risk associated with nuclear weapons. It will be simplistic to assume that with the testing will nuclear capability by India and Pakistan, nuclear deterrence

will prevail automatically between them. It is often doubted whether India and Pakistan have the necessary technical and scientific skills to manage a nuclear arsenal safely, and operate a sophisticated command, control and communication system for the strategic forces. Suspicions are also raised about the safety of the nuclear weapons and materials in Pakistan. Some experts apprehend that 'the danger of catastrophic system accident involving complex technologies in India and Pakistan remains particular high.'<sup>4</sup>

### International Ramifications of Pakistan-India Conflict

An intimate link exists between the international systemic environment and the conduct of relations between states. This link cannot be wished away, more so in the present complex, interdependent and interpenetrated world. As a distinct international subsystem, South Asia is a region of considerable strategic importance for the Western powers. Maintenance of strategic stability in South Asia is significant from the commercial, political and military points of view. Moreover, the nuclear explosions at Pokhran and Chagai in May 1998 have irreversibly internationalized the India-Pakistan conflict and the Kashmir issue. In the post-nuclear era, Kashmir is being perceived as the most dangerous place on earth and a potential nuclear flashpoint. If India expects the rest of the world not to take interest in the ups and downs of its relations with Pakistan, if it divorced from the reality of world politics. It is, therefore, no longer possible for India and Pakistan to conduct their relations unaffected by the interests and propositions of the dominant coalition of powers.

Formal or informal mediation by this coalition is inescapable in the event of a serious break in their relations. The emerging realities of South Asia's interstate politics in the era of globalization and increasing interdependence of states should, therefore, persuade India's policy makers to review their insistence on bilateralism.<sup>5</sup>

### Mediation Is a Fait Accompli

Notwithstanding what the Indian representatives might say, there is increasing receptiveness to third-party intervention and facilitation among policy makers and strategic commentators in South Asia. Despite their commitment to bilateralism, 'India and Pakistan have willy-nilly allowed the US the role of an arbiter in bilateral relations in the last two years. From Musharraf's televised addresses to his promises, from Atalji's friendship initiatives to his coercive diplomacy, Washington has been the implicit addressee as well as the court of final appeal for both parties.'<sup>6</sup>

India's concerted attempts and eagerness to solicit international support against Pakistan for providing material, logistical and political support to the terrorists operating in the valley of Kashmir disagree with its declared policy of addressing the conflict in a bilateral framework and not drawing in the world community. Such lobbying against Pakistan legitimizes Pakistan's attempts to internationalize the Kashmir issue.<sup>7</sup>

### India is not Unreceptive to International Mediation in Principle

Even as India opposes third-party role in its conflict with Pakistan, it is a fact that India itself has acted as mediator or facilitator in disputes involving other states, and it is not averse to the principle of international mediation in general. The Directive principle of Indian Constitution enjoins the Government of India to 'encourage settlement of international disputes by arbitration'. India played a successful mediatory role in UN-sponsored effort to settle the problem of the repatriation of 1, 40,000 Chinese prisoners of war towards the end of the Korean War in the 1950s. The Indian formula was accepted by all the parties-North Korea, South Korea, and China. India also acted as a mediator during the 1954 UN conference on Indo-China held at Geneva. Its good offices were used in initiating negotiations between the Government of Sri Lanka and the LTTE in the 1980s. All this makes the Indian stance on mediation in the India-Pakistan conflict seem paradoxical and illogical. In the words of one Indian expert, 'to have mediated but to refuse mediation is illogical behaviour'.<sup>8</sup>

### Mediation can break the Deadlock in Negotiations

..... The parties involved in a conflict may actually be in the worst position to resolve their conflict—except where the outcome is to be determined by force..... It is the logic of the situation and it could not be

otherwise.... The very involvement of the parties and the fact that they have much too again or to lose makes them incapable of providing all the thinking needed for resolution of the conflict.<sup>9</sup>

Meetings between Indians and Pakistanis rarely last long enough to systematically discuss the differences between the two sides and how those differences might be ameliorated or a large India working out its differences with smaller neighbours is likely, sooner or later, to move upward to a discussion of civilizational downward differences (presumably incompatible ones) or downward to personality differences or the intractability of certain issues (nuclear proliferation, trade, water and so forth), or laterally to the responsibility of outside powers for regional disputes.<sup>10</sup>

## CONSTRAINTS ON MEDIATION

### The Issues of Pakistan-India Conflict are not Amenable to Mediation

When the interests of two parties are not fundamentally divergent, and the issue of the conflict revolve around the means of achieving the same goals, it is easier to convince them about the need for an agreement. However, if the parties hold zero-sum and mutually exclusive positions on their national identity and security, no amount of third-party activity is likely to bear positive results. As R.F. Randal argues, 'should a dispute affect vital security interests of the parties, no amount of mediation by a third-party is likely to prevent the outbreak of hostilities'.<sup>11</sup>

Most of the disputes between India and Pakistan involve conflicting claims over territories (Jammu & Kashmir, Siachen Glacier, Sir Creek, among others) that the two countries consider to be economically or strategically vital. Mutual adjustment of minor territorial claims of the parties is possible through third-party technique like arbitration or mediation, but when territories are also rendered ineffective is at stake, the party in possession tends to resist third party involvement'.<sup>12</sup>

### The Nature of Pakistan-India Conflict

Few other international conflicts are as profoundly influenced by historical memories, events and determinants as the India-Pakistan conflict. The history of the last one millennium casts a shadow over today's political and strategic issues. The conflict is the carry-over of a historical struggle, with political and strategic issues providing a ruse to accelerate it further. Historical memories—rather, reconstructed and fantastic history—provides the backdrop to Indo-Pakistan relations.<sup>13</sup>

The psychological factors also exercise a profound influence on international conflicts. The individual

and collective psychological process mediated much of the behaviour of the states.<sup>14</sup>

Each side in these paired structures sees itself as a minority, or a weaker state, facing the more powerful entity. In such conflicts, it is extraordinarily difficult for one side to offer reassuring concessions or agree to compromise on even trivial issues. To do so is seen as confirming other's perceptions of one's own weakness and to invite further demands ..... [These conflicts] seem to be able to draw on an inexhaustible supply of hatred towards the other side and distrust of advocates of dialogue or compromise.<sup>15</sup>

In this conflict, both parties perceive themselves as a persecuted minority, victimized and vulnerable.<sup>16</sup> Both highlight, for their respective purposes, the fear of attack from a more power full and aggressive neighbour.

Most societies need enemies for substance. If they do not have any, one is invented. This is considered necessary for maintaining the unity of the group and making the society conscious of the importance of this unity.<sup>17</sup>

### **The Kashmir Problem: A Cul-De-Sac**

Kashmir is more than just another interstate territorial dispute. It is a key determinant of the competing visions of nationalism of India and Pakistan. More importantly, it is about the legitimacy of the models of nation building adopted by the two states. The multiple imponderables and variables impinging on the situation in Kashmir make it extremely complex and unpredictable. It has rightly been called the 'Jerusalem of South Asia'- a seemingly intractable problem.<sup>18</sup> With thousands of soldiers and weapons on both sides of the LOC, Kashmir is one of the most heavily militarized areas of the world. The prospects of stability and peace in the region depend critically upon events in Kashmir.

Pakistan feels an intense emotional and religious attachment to Kashmir. It regards the integration of the state of Jammu & Kashmir as 'an unfinished agenda' of Partition. Until this Muslim majority region become part of Pakistan, partition will remain incomplete. If the states of Bhopal, Hyderabad, and Junagadh with Muslim rulers and Hindu-majority population acceded to India, it was logical for the state of Jammu & Kashmir with a Muslim-majority population and a Hindu ruler to accede to Pakistan. Control over Kashmir would also give Pakistan secure access to China the Central Asian Republics, apart from putting it in a strategically strong position vis-a-vis north western India. Since all the major rivers flowing through Pakistani Punjab originate from Kashmir, Pakistan has economic and strategic interests in the

state. It apprehends that 'India, being in control of Jammu & Kashmir, can create geological and economic chaos for it by simply manipulating the headwaters of the rivers within Kashmir territory according to its political and strategic interests.<sup>19</sup> Former Pakistan President Ayub Khan once stated:

.....just look at the map of Kashmir. Just look at the location of rivers on which the life of whole of West Pakistan, of so 45 million people depends. As our population increases, every drop of water has to be husbanded, stored and utilized. Then there is the added problem of our security, of physical and military secularity. The present ceasefire line is just like a grip around our neck.<sup>20</sup>

Even as it seems extremely unlikely to get the UN involved in Kashmir given its stated disinclination to play any role in this conflict, a suggestion has been made to formalize a stand till agreement between India and Pakistan and place the territory of Jammu & Kashmir under the direct control of the UN as a trusteeship territory. After a gap of an agreed-upon period (10 or 20 years), a plebiscite can be held to determine the wishes of the Placing Kashmir as a UN trusteeship territory has an intrinsic appeal. It will 'remove the state's internal crises, defuse a militarily dangerous situation on its external border with Pakistan, and ..... Supply a neutral institutional mechanism to preside over a peaceful and unhurried search for a permanent settlement'.<sup>21</sup>

The question as to how far mediation could succeed in building confidence between India and Pakistan on the Kashmir problem, and how far Kashmir frustrates mediation efforts does not have a conclusive answer. Third parties can play only a symbolic role in conflicts where the political and economic benefits of conflict settlement appear far less significant than the social and psychological benefits of persisting with the conflict. Even the celebrated international mediator and former US Secretary of State Henry L. Kissinger acknowledge that the Kashmir issue was not for international mediation because it involved competing perceptions of the two nations about their nationhood.<sup>22</sup>

He emphasized that no country, not even the only superpower America, could impose any solution on India and Pakistan.<sup>23</sup>

### **Lack of Trust between Pakistan and India**

In an anarchic world devoid of supranational authority structures, a state normally imagines and anticipates the worst intention and behaviour on the part of its adversary. Any unexplained action of the adversary is interpreted as hostile, compelling it to undertake countermeasures to ward off perceived or

real threat from the enemy. Such countermeasures in turn generate further hostility and adverse activity in the other state. An endless cycle of insecurity and preparation for security begins. This action reaction cycle is largely a result of lack of trust or confidence, inadequate or negative perception about the 'enemy'.<sup>24</sup>

Mutual confidence is essential reducing the likelihood of conflict and applying conflict management and resolution techniques. Misunderstanding, mistrust, or misperception is basic causes of the aggravation of a conflict. When the conflicting states are mired in deep distrust and animosity, when they regard their differences as irreconcilable, or when any one state has an incentive to strike first, it is hard for the third party to inspire confidence in the mediator as well as between themselves. This lack of trust acts as an obstacle to conflict resolution and pursuit of negotiation as a means to achieving optimum outcome of the conflict.<sup>25</sup>

Pakistan believes, as pointed out by its President Pervez Musharraf, that violence in Kashmir is a result of indigenous protest by the Kashmir masses against the policies of the Indian government. No outside state, however powerful, could sustain a movement of such scale and intensity for so long against the wishes of the people. According to the Pakistan government, the failure of the Indian government to crush the Kashmiri movement despite the use of military indicates the strength and indigenous character of this movement.<sup>26</sup>

### Mediation is Inapplicable to States with High Capability

Successful international mediation has been applied mostly between such states whose capabilities are low, which are politically and diplomatically dependent upon external help.<sup>27</sup> Both India and Pakistan are nuclear powers and big states. India is also a major regional power with a large economy and the second largest population in the world. Can India and Pakistan be considered in the category of states like Cambodia, Namibia or Bolivia that could accept unwelcome settlements due to pressure or economic benefits promised by mediating powers?

### Asymmetrical Conflicts cannot be Resolved through Third-Party Role

Several studies have brought out that mediation is most effective in disputes involving states with equal power. When the parties possess asymmetrical power, their conflict is not apt for resolution through third party involvement.<sup>28</sup>

**Table 5.1: Comparative Data on Military Capabilities of India and Pakistan**

	India	Pakistan
Nuclear weapons (est.)	75-100	25-50
Army manpower	11,00,000	5,50,000

Thanks	3,454	2,285
Towed artillery	4,175	1,417
Air Force manpower	1,40,000	40,000
Combat aircraft	730	353
Attack helicopters	31	0
Navy manpower	55,000	22,000
Aircraft carriers	1	0
Submarines	19	10
Destroyers	8	7
Frigates	9	8
Paramilitary forces	10,89,700	2,88,000
Highest missile range	2,000 km	1,500 km
Source: India Today, 27 May and 3 June 2002, Time, 14 January 2002.		

**Table 5.2: Comparative Data on Economic Capabilities of India and Pakistan (2002)**

	India	Pakistan
Gross national income	US \$480.8 billion	US \$60.9 billion
Per capita gross national income	US \$470	US \$420
Gross domestic product	US \$481.4 billion	US \$59.1 billion
Total exports	US \$44,915 million	US \$9,140 million
Total imports	US \$57,618 million	US \$9,432 million
Total debt outstanding and disbursed	US \$97,071 million	US \$35,113 million
Source: <a href="http://www.worldbank.org/data/countrydata">http://www.worldbank.org/data/countrydata</a>		

The India-Pakistan conflict is the direct consequence of the imbalance of power between the two states, and Pakistan's insecurity about this imbalance..... and (its) attempts to correct it. The structure of the international system in South Asia has constrained the choice available to India and Pakistan in their relations with each other.... Since the source of the India-Pakistan conflict is in the natural imbalance or a change towards band waging in Pakistan's strategy. As long as no such change takes place, Pakistan is likely to continue to be insecure, and the consequence of this insecurity will be continuing India-Pakistan conflict.<sup>29</sup>

### Lack of Agreement on the Agenda of Negotiations

Mediation means assisted negotiation. However, when there is a basic divergence in the Indian and Pakistan approach on the agenda of negotiation, the presence of a mediator in such negotiations is unlikely to make much impact. India believes that Kashmir is just one of the many issues between the two countries. Hence, it prefers a multi-track, composite dialogue covering a wide range of bilateral issues that include, apart from Kashmir problem, Sir Creek, Siachen Glacier, development of economic and commercial relations, Nuclear Risk Reduction Measures (NRRM), confidence building measures, terrorism, drug trafficking, and so on. Pakistan, on the other hand, argues that Kashmir is the 'core issue', whose resolution alone can normalize the



relations between the two states. It thus wants the dialogue be focused primarily on the Kashmir problem. Once this issue is tackled, progress on other items suggested by India can be made.<sup>30</sup>

### **Lack of Political Will**

As waging peace is far more difficult than waging war, mediation can be applied only if it is backed by strong political will of the disputants and the mediator. The disputants' motivation to control their conflict peacefully and accept third-party role for this purpose is the first requirement for the initiation of mediation. Only when a state is ready to talk and settle with the other side, instead of defeating it, will it consider mediation and negotiation. In the case of India and Pakistan, the political will to negotiate and settle differences is conspicuous by its absence. In fact, willingness to talk to other side is often interpreted as a sign of weakness.<sup>31</sup>

### **No External Actor Enjoys Coercive Power over Pakistan and India**

There is a tendency to overstate the success of the US in crisis prevention between India and Pakistan during the Kargil conflict and after the terrorist attacks on the Indian Parliament in December 2001. However, as facilitation by the US and other Western powers was just one of the factors that resulted in the end of the Kargil conflict or prevention of war in December 2001, the external role cannot be given too much credit for crises management in the region. Stephen Cohen has also cautioned against exaggerating the importance of the US role in bringing the Kargil conflict to an end.<sup>32</sup> As a commentator remarks:

American diplomacy is having as much effort on India as President George Bush's admonition to Ariel Sharon earlier this year to withdraw his forces from Palestinian territory 'Immediately', 'at once' and 'without delay'. If Bush cannot influence a country that the US subsidized with more than \$3 billion a year, why should the Indians and Pakistanis listen to him? If the US has no influence, what can little Britain or emasculated Russia do?<sup>33</sup>

### **Mediation can be Counterproductive**

Mediation is not free from risks. As Jeffery Rubin writes, 'mediation can also be an instrument of distraction if applied unwisely'.<sup>34</sup> Due to contribution of the third party, mediation changes a bilateral conflict into a triangular one, making it firmer to achieve and resolve. Also, unsuccessful and unskilled mediation can lead to strengthening of the conflict and deteriorating the countryside and strength of the India-Pakistan conflict, formal mediation can further

complicate relations between the two countries rather than making them wieldier. Failed mediation would also two governments that invited international mediation, and even hold back two-sided negotiation for extended.

### **The Prospects of American Involvement in Pakistan-India Conflict**

American involvement in and facilitation of the India-Pakistan dialogue process, as recorded in the earlier part of this study, does not constitute formal mediation. Even American policy makers refuse to call 'mediation' in deference to Indian sentiments. However, the character of America's associated with the India Pakistan conflict has been facilitating and mediatory. As a premier Indian daily commented, the dictionary defines a mediator as one who acts as "go-between or peace-maker two warring countries." Since going-between and peace-maker is exactly the US mission on the subcontinent the definition firmly places America in the role of Mediator.<sup>35</sup>

The new bonhomie in Indo-American relation, however, has not removed irritants in the path of US facilitation of the India-Pakistan conflict resolution process. Indian public opinion is yet to be fully convinced about the honesty and even-handedness of America's role in the India-Pakistan conflict. Despite the evidence supplied by India, the soft approach of successive American administration towards what India calls 'Pakistan sponsored terrorism in Kashmir' has generated deep suspicion in Indian minds regarding America's commitment to fight all forms of terrorism. Indians feel convinced that the US can do more, yet is not doing enough to deal with terrorism emanating from Pakistan. By granting the status of major non-NATO ally' to Pakistan, the US has caused further erosion in its credibility as an impartial arbiter. Though the two countries share a common belief in democracy, India has failed to receive American diplomatic and political support in international forums. Instead, the US has supported a series of militarist regime, despite his having acquired power after a military coup and stifled democracy, India has failed to receive American diplomatic and political support in international forums. Instead, the US has supported a series of militarist regime in Islamabad for its own political interests. The Musharraf regime, despite his having acquired power after a military coup and stifled democracy internally by keeping major political leaders out of the country, has also received profuse praise from US policy makers. Doubts have also been raised in some quarters that the US has a secret agenda on Kashmir, and that its involvement with the conflict is not as much out of genuine desire to defuse tension between India and Pakistan, but rather out of its own long range strategic interests in

Central Asia and China, where the location of Kashmir can be of great assistance. According to this line thinking, the US role in India-Pakistan relations constitutes nothing but a form of imperialism and political control in the post-Cold War era.<sup>36</sup> Even some Pakistan scholars like Shireen Mazari have opposed the US role between India and Pakistan, because American Mediation in international conflict was ineffective, as its intervention could not restore peace in the Middle East or in Northern Ireland.<sup>37</sup>

Considering the above factor, observers believe that it is unlikely for the US to get involved to a significant degree and in a substantive manner in the resolution of the conflict between India and Pakistan. Sumit Ganguly, for instance, writes:

The neuralgic Indian reaction to any third-party intervention in the (Kashmir) dispute is well-known. Nevertheless, the United States, contrary to the fears of many in New Delhi's policymaking circles, is unlikely to get involved without the explicit request of both India and Pakistan. In recent years, both Democratic and Republican administration has stressed the importance of bilateral negotiations for settling the dispute. It is most unlikely that American policy on this issue will undergo a dramatic shift in the foreseeable future.<sup>38</sup>

The subtleties and complexities of the relationship between the communities and the countries of South Asia are best understood and handled by the people directly involved. Hence, instead of becoming an active mediator trying to solve the Kashmir and other dispute between India and Pakistan, the US should play the role of a facilitator. It can extend assistance in establishing and strengthening democracy in Pakistan, as well as in ensuring that human rights and a democratic system in the state of Jammu & Kashmir continue on course undisturbed. It has also been suggested that the US can help revitalize Kashmir's economy and remove its backwardness by encouraging foreign investment and development assistance from international financial agencies like the World Bank and the Asian Development Bank. Key area for investment is watershed development the timber industry, fruit processing, and power generation.<sup>39</sup> This, of course, would require suitable legal and administrative changes in India.

### Private and Unofficial Mediation

What is required to promote indigenous mediation is to institutionalize the endeavours of the various private citizens, group and NGOs of South Asia for peace building between India and Pakistan. Indigenous mediation is an option which should be tried by India and Pakistan because it is neither foreign motivated nor a threat to the interest of the two countries.<sup>40</sup>

Pakistani journalist and peace activist M.B Naqvi has also advocated mediation by 'respected international,

Indian and Pakistani persons' to resolve the Indian-Pakistan conflict.<sup>41</sup> The government and bureaucrats, due to the logic of power and survival, are least likely to be ready to negotiate and settle with each other. Hence, it is the intelligentsia of India and Pakistan, joined by respected international personalities like Jimmy Carter, Nelson Mandela, Mikhail Gorbachev, etc., who can start a dialogue between the two governments.<sup>42</sup>

However, the question is whether such mediation by well-intentioned individuals and organizations without policy making roles can succeed. Private mediation has neither 'sticks' nor 'Carrots' to induce favourable response from the two parties. The past record unmistakably points out that mediation by nongovernmental individuals and organizations has the least chance of successes. Such intermediaries 'fail even to have their offer of intermediary assistance considered seriously by parties in conflict'.<sup>43</sup>

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