

Kashmir and the Process of Conflict Resolution

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Abstract

For the just and fair resolution of the Kashmir conflict, an alternate architecture for peace is essential. Only through a process of purposeful dialogue can the Kashmiris, Indians and Pakistanis ensure a better world for themselves and also for the people of South Asia. There is no other way to defeat the forces of darkness who have kept South Asia's poor and underdeveloped by not abandoning the path of confrontation and following the path of reconciliation and cooperation. The study tries to explore the peace process efforts to tackle longstanding unsolved Kashmir issue.

Key Words: *Peace, Efforts, Solution, Kashmir*

Introduction

Conflict resolution means a process of resolving dispute or disagreement. It mainly aims at reconciling opposing arguments in a manner that promotes and protects the human rights of all parties concerned. In other words it is the process of ending a disagreement between two or more people in a constructive fashion for all parties involved. Conflict resolution is conceptualized as the methods and processes involved in facilitating the peaceful ending of some social conflict. Often, committed group members attempt to resolve group conflicts by actively communicating information about their conflicting motives or ideologies to the rest of the group (e.g., intentions; reasons for holding certain beliefs), and by engaging in collective negotiation.¹ Ultimately, a wide range of methods and procedures for addressing conflict exist, including but not limited to, negotiation, mediation, diplomacy, and creative peace building.

Kashmir as a major source of conflict in Indo-Pak relations is now passing through a process of transformation. From a bilateral issue the conflict of Kashmir is now changing its shape and witnessing the gradual involvement of people of Jammu and Kashmir (J&K) in a process of conflict management and resolution.

An attempt has been made to examine the process of conflict resolution between India and Pakistan in the light of the Kashmir conflict. For Pakistan, there cannot be peace and stability in Indo-Pak relations without the resolution of the Kashmir conflict. Whereas for India, Kashmir may be a major issue negatively affecting Indo-Pak relations, but is certainly not the only issue as repeatedly stated by Pakistan.

The stiff positions taken by India and Pakistan on the Kashmir conflict resulted into stalemate in their relations, heavy military expenditures and ineffectiveness of regional cooperation in South Asia. The holding of composite dialogue between India and Pakistan to discuss various critical issues, including Jammu and Kashmir, is a positive development as far as the process of conflict resolution in that troubled area is concerned. The gradual softening of Line of Control (LoC) and the

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holding of ceasefire between India and Pakistan along LoC since November 2003 account for the step-by-step management of the Kashmir conflict. The important themes, which will be examined in this research paper, are as follows:

1. Obstacles and pitfalls in the process of conflict resolution in Kashmir;
2. Alternative architectures of peace and conflict resolution between India and Pakistan on the Kashmir conflict;
3. The relevance of alternate architectures of conflict resolution in resolving the Kashmir conflict; and
4. Future prospects of conflict management and resolution of the Kashmir conflict.

Background of the Problem

The Kashmir conflict is the outcome of a process of neglect, discrimination, suppression of Kashmiri identity and the pre-eminence of power centric approach held by the successive regimes of India and Pakistan. Even the end of the cold war at the superpower level couldn't bring any qualitative change in the attitude of people at the helm of affairs in both these countries. On the other hand, Indo-Pak tension over Kashmir reached new levels after the outbreak of an uprising in the Indian controlled Valley of Kashmir in the late 1980s. The question is not the failure of the past initiatives for conflict reduction, management and resolution in Indo-Pak relations but how an alternate structure of peace and conflict resolution could be created and what can be done at the state and society level to solve the issue. Will the contradictions which exist among them further delay the process of conflict resolution in the region?

Formulating a reasonable solution of the Kashmir conflict within the parameters of maintaining the state structures, order, fairness and justice is a difficult task. For around 65 years, the people of Jammu and Kashmir (J&K) have been suffering from a number of issues: injustices, insecurity, violence, terrorism and identity crisis. For the people of J&K this is compounded by a longer term threat to their survival because of an uncertain future, the region of South Asia, particularly India and Pakistan is also a victim of "conflict and violence process" in Kashmir. These two processes are primarily the outcome of the failure of New Delhi and Islamabad, the two major players in the Kashmir conflict, to create conditions for peace and providing people of J&K relief from years of bloodshed and violence.

Three critical realities which grip India, Pakistan and J&K relate to the forces that are against altering the territorial status quo; those who want to change the map of J&K to their own advantage and those who want to seek a middle path and resolve the Kashmir conflict through a process of dialogue. The first two forces, who since the partition of the India in August 1947, have followed the paths of confrontation, stubbornness and war in dealing with the Kashmir conflict are now exhausted thus giving an opportunity to the third force to play a more meaningful role and start the process of peace.

In general, the conflict in Kashmir has four important dimensions creating an impact on Indo-Pak relations and the future of South Asia as a whole. First, the role of state actors, second centrifugal forces who at the present are out of the power structure, third the question of security and insecurity engulfing the people of Jammu and Kashmir and fourth the broad question of religion and ethnicity. In order to understand the conflict resolution in Kashmir in a better manner all these dimensions are to be analysed. As far as the state actors are concerned, to a large extent, the position

taken by Pakistan and India on the issue of Jammu and Kashmir has remained intransigent and of much rigidity. After the offering of a hand of friendship by the then Indian Prime Minister, Atal Behari Vajpayee to Pakistan on April 18, 2003 and Islamabad's positive response, one can see some change in the positions taken by India and Pakistan on the Kashmir conflict. The meeting which took place in the sidelines of 12th SAARC summit held in Islamabad on January 6, 2004 between Vajpayee and President Musharraf resulted in the holding of a composite dialogue so as to resolve various issues, including the one related to Jammu and Kashmir, through negotiations. With the unleashing of the Indo-Pak normalization process from early 2004, one can see some progress as far as the resolution of Kashmir conflict is concerned.

Whether other regions of Kashmir, like Jammu, Ladakh and the Northern Areas of Pakistan, accept the authority of Srinagar in unified Jammu and Kashmir is a critical question, which is raised by different quarters in India, Pakistan and J&K. If external exploitation is replaced by internal colonization, the outcome may be the outbreak of a new phase of violence in those regions of J&K where the perceived domination of Srinagar may become a major impediment to a unified Jammu and Kashmir.

CR Process and Kashmir

If seen from a theoretical perspective, the Kashmir conflict is a classical case of a distinct ethnic and religious community (Muslims) feeling socially and politically deprived. The J&K conflict may be classified as a "protracted social conflict" because of feelings among Kashmiris of "economic and technological under-development, and unintegrated social and political systems, including distributive injustice, economic, social and extreme disparities in levels of political privilege and opportunity."⁴ As substantiated by Edward E. Azar, "protracted social conflicts universally are situations which arise out of attempts to combat conditions of perceived victimization stemming from the following:

1. A denial of separate identity of parties involved in the political process.
2. An absence of security of culture and valued relationships.
3. An absence of effective political participation through which victimization can be remedied."⁵

For Azar, the best possible solution for dealing with the protracted social conflict is the decentralization of political structures so as to provide the discriminated group its identity and fulfilling its political needs. Decentralization, if introduced, can promote local participation and self-reliance and give a sense of control to marginalized groups over their affairs.⁶ While examining Azar's protracted social conflict theory in the context of the Kashmir situation, three things can be taken into account. First, the question of identity; second the issue of security of culture; and third the absence of an effective political participation. The culture of violence and insecurity in J & K has been created because people living in that region faced a discriminatory attitude from state actors and the heavy centralized structure of governance further deepened the state of conflict. If a solution to the Kashmir conflict is reached based on securing the identity of the people of J&K, ensuring them basic security, cultural protection and political participation in a viable democratic process, it is possible that militant and elements will not be able to sustain the environment of fear and violence. Protracted social conflict can only be dealt with the proper involvement of the parties concerned and providing them a stake with which to encourage them to reach a plausible solution in a decentralized state structure.

Dynamics of the Kashmir conflict

The Kashmir conflict is not only limited to the internal contradictions of J&K, it also includes historical, political, economic, cultural and security aspects. External factors also contribute to shaping the dynamics of the Kashmir conflict. According to Madhumita Srivastava, “the Kashmir conflict is primarily and fundamentally an ethnic conflict, though some forces in India as well as in Pakistan are trying their best to make it a communal one because of the identity of Kashmir people from the rest of India and Pakistan. That the Kashmir problem has always been a problem of ethnic identity Kashmiriyat and its resolution may be found in upholding, rejuvenating and establishing the Kashmiriyat in an acceptable framework in the larger freedom and political order”⁷

On the other hand, Sumantra Bose argues that, The Kashmir conflict has multiple dimensions and is defined by a complex intersection of an international dispute with sources of conflict, internal to the disputed territory and its Indian and Pakistan – controlled parts. Any approach to resolving this multi-layered conflict must necessarily involve multiple, but connected and mutually reinforcing, tracks or axes of engagement and dialogue.⁸ She further expressed that, “Kashmiris simply wanted basic democratic rights, including representative, accountable government and a voice in determining the destiny of their homeland. But, the Indian State appeared to interpret popular opposition to Pakistan as further licence to continue trampling on those very rights.”⁹

Nonetheless, “the politics of Kashmiri identity was transmitted into ethnic nationalism, associated with a distinct Islamic tinge and a transfer from India to Pakistani loyalty. The ruling elite of Pakistan, unreconciled with the idea of the loss of Kashmir readily responded to this historic opportunity. Kashmir became one of the worst tragedies of international politics, degenerated into a pawn in Indo-Pak rivalry. The unfortunate victim of this process has been the people of Kashmir.”¹⁰

The dynamics of the Kashmir conflict could be divided, into two distinct phases. The first phase starting from 1987-1989 can be considered as the period of “build-up” to “insurgency.” The second phase beginning in 1989 until the present day is the period of actual full-scale insurgency. The major difference between these two is: first the intensity of public alienation from India and second, militant activity in Kashmir. Both have become much greater in later part. However, one could argue that, recently, a third phase relates to the internationalisation of the Kashmir conflict. This phase involves the escalation of hostilities from Indian Kashmir based conflict, between Kashmiri Muslims and Indian security forces, to direct conflict between India and Pakistan.¹¹

She further argues that, “Kashmir today is in a state of conflict. It has been so since 1989.” Initially, the Kashmiri grievances were primarily of three types: first, New Delhi's policy to undermine the Kashmiri identity by violating article 370 of the Indian constitution which guaranteed special status to the territory of J&K. Autonomy for the people of Jammu and Kashmir was guaranteed by the Indian Government when in October 1949 India's Constituent Assembly inducted Article 306A in India's constitution, affirming that New Delhi's jurisdiction in the Indian Jammu Kashmir would remain limited to three categories of subjects specified in the Instrument of Accession, i.e. Defence, Foreign Affairs and Communications. However, when India became a Republic on January 26, 1950, Article 306A became the basis of Article 370 of the Indian constitution, which guaranteed autonomy to J&K within the Indian Union. The forces opposed to granting autonomous status to J&K gained strength in Delhi resulting into the issuance of a constitutional order in May 1954, which replaced the 1950 constitutional order. While the 1950 constitutional order had guaranteed the autonomous status of J&K, the 1954 order gave the Indian Central Government the right to legislate in the Indian Kashmir to the majority of subjects on the Union list.

Second, the economic backwardness of J&K led to unemployment and lack of adequate economic opportunities because no viable industrial infrastructure was created by New Delhi in that state. The tourist industry in J&K was not developed in a professional manner and moreover, it was not a substitute for proper employment opportunities. Third, political suppression resulting in arrests and detention of those who were critical of the Delhi supported government in Srinagar and their backers in Delhi. State sponsored manipulation in the J&K assembly elections also created political alienation among people against India. For instance, “the response of the Indian Government to the rising popular unrest and militant activity following the 1987 elections was highly significant because there was still a chance then that political concessions by New Delhi given to Kashmiri people could have controlled the insurgency. If in 1987 there was a chance that conflict could have been prevented, by 1990, Indian policies made it a certainty.”¹² All the three grievances contributed to the escalation of conflict in J&K and the transformation of political and civil rights' movements among Kashmiris to the rise of extremism and fanaticism.

Viewed as a complicated but tragic conflict, J&K is a sore point in Indo-Pak relations. The people of that region have suffered immensely but are unable to get relief. The story of their sufferings is quite old as both India and Pakistan vied to seek a legitimate status of that territory, but seldom took the feelings and aspirations of Kashmiri people into account. That led to the widening of the conflict and deepening of sharp mistrust and suspicions among the Kashmiri people about the intentions and policies of these two countries. Unfortunately, as pointed out by Wirsing, “the end of the cold war has brought neither peace dividend nor peace of mind to the South Asian region. It has, on the contrary, made unmistakably plain the enormous differences in the capabilities of India and Pakistan, elevated the importance within each of them of the armed forces, and given an enormous push in each to the acquisition of advanced weaponry, both conventional and nuclear.”¹³

The changing dynamics of the Kashmir conflict tend to put the people of J&K in a very critical situation because of two main reasons. First, if their leadership fails to play the cards well, they can again be cheated and get a raw deal. It has happened in the past and can also happen in the present and future. Second, if an element of conflict fatigue is prevailing over India and Pakistan, then it will become easier to think in terms of providing a just and fair settlement of the Kashmir conflict. What is predictable in view of the futility of resolution efforts is management of the Kashmir conflict.

Pathways to Resolution

There is no short cut to the resolution of such an intricate conflict as Jammu and Kashmir. Realistically speaking, all pathways to the resolution of J&K conflict could be blocked if the basic principle of fairness and justice is not taken into account. The ground reality of the Kashmir conflict is its asymmetrical nature. Kashmiris being a weaker party is conscious of their disadvantaged position vis-à-vis India. And, considering asymmetry, there is also a sharp imbalance in the power configuration of India and Pakistan. For that purpose, it is not wrong to argue that the only party which enjoys an edge vis-à-vis Kashmiris and Pakistan is India. Any viable settlement on J&K must be backed by New Delhi. The question is how India and Pakistan can find a path for the resolution of the Kashmir conflict? Sumantra Bose argues that, The key to breaking the deadlock in Kashmir lies in the metropolitan capitals of India and Pakistan. Concerted sustained intergovernmental cooperation between India and Pakistan is the essential basis of any Kashmir process. If such intergovernmental cooperation were to occur the other dimension of the Kashmir problem might turn out to be surprisingly tractable. In its absence, however, no lasting, substantial progress is possible on those other fronts, and the Kashmir question will continue to be a prime source of international tension,

regional instability, and violent internal conflict.¹⁴

According to Bose, the longer-term Kashmir settlement necessitates that the LoC be transformed from an iron curtain of barbed wire, bunkers, trenches, and hostile militaries to a linen curtain between self-governing India and Pakistan regions of Jammu and Kashmir. Self-rule framework for Pakistan and Indian controlled Jammu and Kashmir must be complimented by cross-border institutional links between the regions under Indian and Pakistan sovereignty.¹⁵

A self-rule framework for Indian and Pakistan J&K would require, as suggested by Bose, cross border Jammu and Kashmir Ministerial Council which will include Ministers from Indian and Pakistan controlled J&K so as to give impetus to cross border cooperation as a path to resolve the Kashmir conflict. The issues to be dealt with by such a council would be, *inter alia*, intra J&K trade and commerce, intra J & K waterways, cross border transport, environmental protection and preservation, agriculture, cultural matters and tourism. Such institutional links would also include cooperation between the elected members of Indian and Pakistan controlled J&K so as to transform the myth of soft border into a reality. Other matters like foreign affairs, external defence, currency and macro economic policy and some aspects of communication would be controlled by the governments of India and Pakistan.¹⁶ However, any agreement on Kashmir must be ratified by the participants of India and Pakistan, as well as by other relevant bodies in the two countries. It should also be put to popular referenda, conducted separately in the Indian and Pakistani parts of J & K.¹⁷ In his regard she focuses on two things: first, not disturbing the territorial status quo and second involving the people of J&K in a proactive process of economic and political interaction resulting in the de-escalation of tension and development of a better understanding at the popular level on the issue of soft border.

On the other hand, Robert Wirsing suggested that, “there must be a formal commitment by India and Pakistan to the establishment of a joint commission on Jammu and Kashmir responsible for the LoC’s administration, liaison with UNMOGIP, prevention of violations, oversight of such measures of demilitarisation of LoC as may be eventually agreed. By endorsing such principles, India and Pakistan would be committing themselves to the creation of a permanent, internationally monitored and routinely functioning instrument for the bilateral management of security cooperation in J&K. Vital to the successful adoption and implementation of the above principles is the formal and simultaneous commitment by the five permanent members of the UN Security Council to the formation of a suitably empowered international agency, perhaps a revived UN Commission on India and Pakistan (UNCIP II), responsible for negotiating the terms of India and Pakistani acceptance of these principles.”¹⁸

Wirsing's proposal for resolving the Kashmir conflict involves the international community, including the UN, which may not be acceptable to India but will have support in Pakistan. India has bitterly opposed the involvement of a third party or any other international participation in J&K conflict, even if such initiatives support the bilateral track of negotiations, but may agree to form a joint commission composed of India and Pakistan for bettering the conditions in that region.

Addressing a closed door symposium organized by the India Today Conclave 2004 via satellite from Islamabad on March 13, Pakistan's President Pervez Musharraf referred to his initiative to resolve the Kashmir dispute. According to him:

1. Centrality of the Kashmir dispute should be accepted.
2. Talks should commence to resolve that dispute.
3. All solutions not acceptable to any of the three parties be taken off the table.

4. The most feasible and acceptable option be chosen.¹⁹

One major problem with Musharraf's proposal is that India doesn't accept the centrality of the Kashmir conflict and calls it one of the issues negatively impacting on India-Pakistan relations. Otherwise, the last three points do not conflict with the Indian position on J&K conflict. As far as the Kashmiri groups are concerned, they have no problems with the road map proposed by Musharraf for resolving the Kashmir conflict.

Four important points, which form the basis of Musharraf's new approach on Kashmir, are as follows:

1. Step by step demilitarisation of Jammu and Kashmir.
2. Self-governance.
3. Soft borders.
4. Joint management of J&K

In a conflict resolution process, the willingness of the parties concerned to unleash the process of negotiations is the key. As long as there is stubbornness and conditions attached in order to be able to start negotiations, the prospects for a plausible resolution of any conflict are remote. The same requirement applies in the case of J&K conflict.

Some of the obstacles and pitfalls, which could be identified in the conflict resolution process in Kashmir are as follows:

1. State policies
2. Marginal role of civil society
3. Hard line and extremist groups
4. Zero sum game approach
5. Role of external elements
6. Failure of international community to side with the Kashmiri struggle of self-determination, and
7. Missed opportunities for peace

The architecture for peace and conflict resolution in J&K, which has existed till now, ignored two fundamental realities: first, the participation of the people of J&K in the process of peace and conflict resolution and second, adopting a flexible position on issues which have created a stalemate and impeded reaching a solution for a long time. It primarily focused on either maintaining or changing the territorial status quo without considering the basic fact that political will, commitment and seriousness exercised on their part could have made things better, not only for the people of J&K, but also of people of South Asia.

The vision of a constructive settlement would include not only meeting the grievances of the people of Jammu and Kashmir, but also taking care of the rights of minorities in Indian and Pakistani controlled J&K. Unless the minorities, whether Hindu, Muslim, Sikh or Buddhist, in different regions of J&K feel safe and secure in any future settlement on J&K, it will become impossible to guarantee the success of conflict resolution. However, the question arises, what incentives should be given to India to pursue a flexible approach on Jammu and Kashmir? Pakistan has made it clear that it can pursue a flexible approach on J&K provided India reciprocates. From a realistic standpoint, the

biggest incentive for India, and for that matter also Pakistan, for the peaceful resolution of the Kashmir conflict is an end to around six decades of hostility, the diversion of huge resources from human development to defence expenditures and the hope of bettering the lives of millions of people, not only India and Pakistan, but also the whole of South Asia.

That type of an initiative must come from the side of those who have contributed to the sufferings of people and those who have suffered. In that case, New Delhi and the Kashmiri resistance groups can think in terms of such a commission, which will create goodwill, harmony and tolerance in J&K.

Two important benefits which India can secure by following a flexible approach on J&K conflict are: first, for an emerging power like India, the solution of the Kashmir conflict will positively elevate its image at the international level. If India aspires for a permanent seat at the UN Security Council then it needs to improve its relations with its neighbours and also seek a peaceful resolution of the Kashmir dispute. Second, its relations with Pakistan may substantially improve, thus having a positive impact on the process of regional cooperation in South Asia. As far as Pakistan is concerned, the ruling establishment will have to reconcile itself to the fact that it cannot take Kashmir by force and any solution of the Kashmir conflict must be within the domain of larger autonomy. The benefits for Pakistan if the Kashmir conflict is resolved will primarily relate to reducing its defence expenditures, improving relations with New Delhi and getting more recognition and support from the international community.

Problems and challenges in creating an alternate architecture for conflict resolution in Kashmir are numerous. First, the forces that have benefited from the decades of violence in J&K will create maximum obstacles to the process of reconciliation, peace and conflict resolution. So far, the vested interest groups have succeeded in subverting efforts for purposeful dialogue and settlement. It is yet to be seen how the present positive trends in Indo-Pak relations, which have raised hopes for the resolution of the Kashmir conflict will help neutralize such forces. Second, false egos and stubbornness of the parties involved in the Kashmir conflict will also make things difficult for either establishing or strengthening an alternate architecture for conflict resolution process in Kashmir. Until the time, there is an element of maturity, prudence and sincerity among those who matter in the Kashmir conflict, it will be difficult to change the paradigms of conflict and remodel these on pragmatic and realistic lines.

According to Iftikhar H. Malik, in any realistic resolution of the Kashmir conflict, the larger interest of the Kashmiris must receive priority. For a long time, rather than being the focal point, they were simply regarded as a side issue. Yet, it is the Kashmiris who, for generations, have continued to suffer from decisions made about them without consultation.²⁴

The following are the alternate architecture for conflict resolution those can help to resolve the Kashmir conflict:

- A. Mutual stakes of the conflicting parties to resolve the conflict
- B. Proper unleashing of processes and the simultaneous monitoring of progress
- C. Building of trust and confidence
- D. Benefits of peace and cooperation
- E. Learning from past failures
- F. Stabilization in political, economic and security relations.

G. Involvement of people in the process of CR

Building of trust is the key in order to secure benefits of peace and cooperation. If the parties in a conflict are unable to learn lessons from the dynamics of conflicts, failures and successes, it becomes difficult to stabilize political, economic and security relations among parties who are in the process of resolving the conflict and cementing peace in the post conflict environment.

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