

Jammu and Kashmir: State of the Peace Process¹

Introduction

The past decade has seen extreme highs and lows for the Jammu and Kashmir peace process. The promising India-Pakistan initiatives of 2004-6 were put on the back-burner in 2007 and were not revived after the new coalition headed by the Pakistan People's Party (PPP) came to power in 2008. This was partly due to the rupture created by the Mumbai terrorist attacks in November 2008. A brief attempt to restart an India-Pakistan dialogue was made in 2011 but had petered out by the beginning of 2012. As of now there is no India-Pakistan peace process for Jammu and Kashmir and most analysts expect that little will happen on that score in 2013 given the elections in Pakistan.

The negative impact of this breakdown of the peace process was not felt immediately in the state. A new coalition government came to power in Indian Jammu and Kashmir in early 2009, headed by a young and outward looking Chief Minister. Public sentiment appeared to indicate that Jammu and Kashmir was ready to move into post-conflict peace building. The Government of India began security reforms, with civilian security duties transferred from the army to the Central Reserve Police Forces, and then to the Jammu and Kashmir police. In early 2009, a critically important 'Quiet Dialogue' began between the Indian Home Minister and the dissident All Parties Hurriyat Conference (Mirwaiz)², which those involved considered remarkably promising. Had it not been interrupted, it could have made key breakthroughs for a sustained peace process resulting in resolution of the Kashmir conflict.

The 'Quiet Dialogue' was leaked in the media, and abruptly halted by an assassination attempt on the chief Hurriyat interlocutor, Fazl Haq Qureshi, in December 2009, which left him paralysed for nearly two years. The security reforms proved to have an ironically tragic flaw, showing that the right action can have the wrong results if it fails to take all details into account. Agitation among the youth, which began with stone-pelting following an alleged rape and murder in the district of Shopian in late 2009, snowballed in 2010. This led to clashes between young people and police in which 120 young people were killed, many of them bystanders, and nearly 2,000 police were injured. The police were woefully ill-trained, and even more woefully ill-equipped, to deal with stone-pelting crowd control in a non-lethal way.

I was one of a three-member Group of Interlocutors, appointed by the Government of India in October 2010, with the mandate of identifying ways to emerge from the terrible situation created by this summer of violence in Jammu and Kashmir, through a wide-ranging dialogue 'with all shades of opinion' in the state. Ours was a very different mission from that of the 'Quiet Dialogue'; we were to visit the state every month and seek the opinions of all its communities and groups. Our appointment was also rather unusual: while the Indian Government had appointed two previous interlocutors, Mr K.C. Pant in 2001 and Mr N.N. Vohra in 2003, both had been retired government officials and their fortnightly reports to the Government were confidential. In contrast, two of us in the Group of Interlocutors were drawn from outside government: the Chair of our group was a media man and I come from a think tank. For this reason, many observers categorised us as a civil society group, though we were a government-appointed team. Moreover, unlike the work of previous interlocutors, about which relatively little is known, ours was a very public mission.

This paper will focus on the work and outputs of the interlocutors between October 2010 and October 2011.

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2 The All Parties Hurriyat Conference (APHC), founded in 1993, is an organisation of groups subscribing loosely to the demand for the independence of Jammu and Kashmir. It enjoys the 'moral and diplomatic' support of the Government of Pakistan (terminology used by Pakistani leaders). In 2003 it split over its then Chairman's decision to engage in talks with the Government of India, with the breakaway faction now known as APHC (Geelani) and the original organisation known as APHC (Mirwaiz). Its Chairman, Mirwaiz Umar Farooq, comes from an influential clerical family.

The work of the interlocutors

On our first visit, we discovered that our task went beyond dialogue; it entailed follow-up – indeed incessant nagging – to institute immediate changes on the ground. Thus, our mission comprised two different tracks: a dialogue on what the building blocks for resolution should be, and an engagement with the concerned Central and State Ministries to push timely action on the ground. In fulfillment of this requirement, we agreed with the Home Minister that we would submit monthly reports, which would include recommendations for actions to be taken on the ground.

The structure of our dialogue process, too, was different from that of previous interlocutors, and evolved as we proceeded. As senior, if retired, government servants, the previous interlocutors mainly received delegations rather than going to them. However, given the turbulent conditions in which we were appointed, however, and the nature of our mandate, it was clearly important to reverse the process. We believed the most successful approach would be to simultaneously, but separately, address militant, secessionist and youth groups along with civil society, political and community leaders, trades unions and others.

As far as confidence-building measures (CBMs) on the ground were concerned, each of our monthly recommendations concerned implementation of the 8 Point Plan of the Cabinet Committee on Security, which was announced on 25 September 2010. These points were based on suggestions made by the All-Party Parliamentarians' Delegation which visited Jammu and Kashmir on 16 September 2010. They laid out a rough roadmap for returning peace to the state, beginning with the appointment of a Group of Interlocutors.

Our focus was on Points 2-4 (point 5 was already being implemented and the other points were not relevant to our mission), and we saw results on each. In April 2011, we were informed that all the youth arrested between July and October 2010 had been released. It took longer for the charges lodged against them to be withdrawn, as case by case procedural regulations had to be followed, but by November 2011 (one month after our mission ended) over 90% of the charges had been dropped, and only a handful accused of grievous harm had been prosecuted.

On security issues, implementation was patchy. Around 25 bunkers were removed, and there were periodic and ongoing security redeployments. But reviews of the Disturbed Areas Act, under which the army can be called in for internal security duties, have not resulted in any agreement on lifting it, either completely or district by district. The issue is thorny, because militancy has not fully ended in Jammu and Kashmir and the decline of insurgency in the Kashmir Valley was followed by the stone-pelting agitations of 2008, 2009, 2010 and most recently the hanging, in February 2013, of Afzal Guru, a Kashmiri convicted of being involved in the 2001 Parliament attack³. On the other hand, the armed insurgency has more or less ended, militancy is much reduced, and lifting the Act would be a CBM of considerable physical and psychological value.

Cabinet Committee on Security's 8 Point Plan (Extracts)

2. Advise the State Government to immediately release all students and youth detained or arrested for stone pelting or similar violations of law and to withdraw the charges against such students and youth.
3. Advise the State Government to immediately review the cases of all PSA detainees and withdraw the detention orders in appropriate cases.
4. Request the State Government to immediately convene a meeting of the Unified Command and to review the deployment of security forces in the Kashmir Valley, especially Srinagar, with particular reference to de-scaling the number of bunkers, check-points etc. in Srinagar and other towns, and to review the notification of areas as 'disturbed areas'.
5. Grant ex-gratia relief to the families of the deceased persons at Rs. 5 lakhs per person killed in the civil disturbances since June 11, 2010.

3 In December 2001, two months after 9/11, a group of terrorists attacked the Indian Parliament. All five attackers were killed, but not before they killed five policemen, a Parliament security guard, and a gardener, and injured 18 others. Investigations indicated the attack was planned by two militant groups in Pakistan: Jaish-e-Mohammed and Lashkar-e-Tai'ba. Afzal Guru helped them with logistics in Delhi. In response, the Indian Government marshalled 500,000 troops on the border and the Pakistan Government arrested hundreds of militants and closed down dozens of their offices.

Our monthly reports also recommended around 50 other CBMs for immediate action, some of which were acted on and others not. By and large, those CBMs on which central government initiatives could be taken – of course, in consultation and co-ordination with the State Government – did get implemented, while those that depended on the State Government alone either did not get implemented or were sluggish to take off (which is a common feature in regions that have suffered prolonged conflict, where governance institutions have been the first targets). Those CBMs that had political implications within the state, i.e. those which would alter ethnic, regional or community (im)balances, were not implemented.

On the dialogue process, we began by trying to implement our approach of addressing militant, ‘separatist’ and youth groups along with civil society, political and community leaders. On our first visit to the state, we visited bereaved families, the homes of some jailed political leaders and the Srinagar Central Jail, where we first met with a political leader who had just been released following our intercession, and then held a series of meetings with youth and convicted militants. For me, it was an eye-opener to find that around 80% of the militants said they belonged to Lashkar e Ta’iba (LeT)⁴, which is based in Pakistani Punjab. One young man, who claimed to be the LeT spokesman, had passed the Jammu and Kashmir civil service exam: “I will bring my ideology to the service of the people”, he said.

Nevertheless, they evinced a cautious interest in entering a peace process. We left them with the assurance that we would visit again, following their preparation of a peace plan. It never came. Perhaps it was pre-empted by the media frenzy that erupted when news came out about our prison visit and discussions. We were accused of meeting terrorists – I later discovered that two of the militants we met had attempted to assassinate the lone Communist legislator in the state, M.Y. Tarigami – and our defence, that they were safely behind bars and may be willing to orchestrate a ceasefire by militants still at large, was dismissed.

We were similarly attacked when we said Pakistan needed to be part of a Jammu and Kashmir peace process, especially in Jammu city, which had suffered division in 1948-9 and is home to a very large number of refugees from the three wars with Pakistan and the insurgency in the Valley. Significantly, though, the Government of India revived dialogue with Pakistan on Jammu and Kashmir in February 2011, at our urging that the people of the state would appreciate such an initiative.

These developments led us to restructure our dialogue, putting the focus on breadth. We decided to hold meetings in every district of the state to elicit the widest cross-section of views. By the time we completed our mission, we had been to each of the 22 districts of the state, meeting youth and women’s groups, media organisations, trades unions, NGOs, industry representatives, traders, community and religious representatives, local political leaders, civil administration and newly elected local government officials, members of dissident groups and rehabilitated militants.

By and large, we were not able to officially meet the key dissident leaders of the Hurriyat (Mirwaiz) and Hurriyat (Geelani) factions, though we did meet a few of them individually and met many of their supporters. There were several reasons for this failure: the risks for them were high given their motives would be suspected and they could be targets for militants. Their previous meetings had been at the ministerial level. We could make no commitments; at best we could be messengers, a task best performed outside the glare of publicity, and we were in the eye of the media.

Some of the negatives of the media coverage we received have been mentioned. But it also had its positive fallout to the extent that our message was carried to most households in the state, and to most decision-making echelons outside of it. In the end, our mission became a very public dialogue across the state, perhaps the first such public dialogue to take place.

4 The LeT was founded in 1990 by Pakistani Punjabi militants waging jihad in Afghanistan but by 1992 it had expanded its operations to include Jammu and Kashmir. After the establishment of Taliban rule in Afghanistan, India became its chief focus for attacks. Ideologically it seeks Islamic rule wherever there are Muslim states or former colonies of Muslim empires.

Outcomes of the process

Our Report was presented to the Home Minister in October 2012. It comprised over 100 recommendations, broadly categorized as political, CBMs (many of which had been previously recommended by the Prime Minister's Working Groups), and a roadmap. The Government of India and the State Government in Jammu and Kashmir took action on many of the CBMs, both within the state and across the Line of Control (LOC) that divides Jammu and Kashmir between India and Pakistani-held territories. The more important CBMs that were acted on included: amendment of the Jammu and Kashmir Public Security Act to limit the State Government's ability to arrest or detain juveniles; easing trade and travel across the LOC through further regularization; clearing civic backlogs such as in the delivery of passports; tightening judicial procedures and rule of law training; and creating new scholarships, vocational training, sports and cultural facilities for youth. However, the action was partial in some cases and is still in process in others.

Attempts were also made to follow up on many of the roadmap proposals, for example, to renew a dialogue with the Hurriyat Conferences and allied groups. Several Hurriyat (Mirwaiz) members visited Pakistan to explore dialogue options – a process that had been employed in the relatively promising 2004-6 peace process – but appear to have failed to make sufficient headway, since the militant groups headquartered there announced the time was for armed action.

The core political suggestion of the Report, to initiate an all-party discussion on the elements of a lasting solution, that would take autonomy (Article 370 of the Indian Constitution⁵) as its baseline, has not been followed up. Neither the national nor the regional political parties appear to wish to do so. An attempt to achieve some political consensus on the issue was made through the Prime Minister's Working Group on Centre-State relations in 2005-7, but made no progress.

Our Report also contained a chapter on relations across the LOC that dealt with the situation in Pakistani-held Jammu and Kashmir, comprising what they call 'Azad Kashmir' and Gilgit-Baltistan. In 'Azad Kashmir' there were two interesting developments: civil society moves to amend the constitutional relationship between the territory and the Government of Pakistan, and a public backlash against militancy in Mirpur district, bordering the LOC. The Pakistan Government's 2009 package for Gilgit-Baltistan, previously called the Northern Areas, conferred rights that are similar to those granted to Jammu and Kashmir under Article 370 of the Indian Constitution, though they still fall short in comparison. Civil society groups in 'Azad Kashmir' also sought similar rights. An India-Pakistan discussion on these developments could have paved the way for a revival of the peace process but, as far as I know, neither was put on the formal talks agenda of 2011.

As we had no mandate for interlocution in these territories, the Government of Pakistan did not recognise our Report. The few retired officials I have met in Pakistani Track II initiatives aver that the people of the state have rejected our Report; this judgement appears to be based on the stand taken by the Hurriyats, ignoring the responses of all the other groups.

In retrospect, how do I look at our dialogue process and the Government's response? I am, of course, disappointed that neither the Indian Government nor Parliament discussed our Report, though it has clearly been read and, to some extent, acted upon. At the same time, the formidable obstacles to getting a substantive resolution process underway in the state are evident. Without Pakistani co-operation against cross-LOC militancy, it is extremely difficult to move beyond conflict management. Moreover, dialogue with Pakistan is a must for a lasting resolution of the problems of the former princely state, given that Pakistan holds several parts of it. The India-Pakistan dialogue initiative of 2011 withered fairly quickly; a major irritant from the Indian point of view was the Pakistan Government's strategy of seeking international involvement at the same time as pursuing a bilateral dialogue. A larger problem was their refusal to pick up from where the previous peace process had left off: Musharraf's 4-point peace plan (later described, in fairly accurate detail, by then Foreign Minister Khurshid Kasuri). Broadly, it comprised self-governance/autonomy for all parts of the state, within existing state affiliations, and demilitarisation, including by non-state actors.

5 Following the accession of Jammu and Kashmir to India, Article 370 was inserted into the Indian Constitution in 1953, defining the state's relationship to the Indian Union as comprising autonomy in all areas except defense, foreign affairs and communications. The Article is classified 'Temporary'.

With elections held in May this year, the Pakistan Government is unlikely to revive a Kashmir dialogue with India anytime soon. By the time a new Pakistan Government settles in, India will be on the road to its own elections. In effect this means a further lag of close to two years before a substantive peace process can be revived, if at all.

My impression is that the Indian Government's thrust, therefore, is going to be on peacebuilding rather than peacemaking, especially on governance. We found in our mission that issues related to governance were the most significant source of grievances in the state. If redress can be provided in relation to these grievances, then solid ground will be laid for resolution. But with the Damocles' sword of militancy hanging over the state, good governance will be hard to institute.

All in all, I would say the chief success of our mission was to conduct an inclusive dialogue, one in which the people of the state felt they had a direct channel of communication to New Delhi. Circumstances made it difficult to translate that gain into tangible peace process results; clearly we are not at the ripe moment, to use Zartman's succinct term.

One final word: many in Jammu and Kashmir felt that our mission was 'a time-buying exercise'. This is an unfair criticism. The idea that time heals wounds is fairly common in Asian policy approaches to conflict, though it has most often worked when accompanying a step-by-step resolution process. India's own approach has been to use conflict management to gain time to negotiate insurgents' participation in the electoral and/or governance process: the policy was extremely successful in Mizoram, and, to some extent, in Nagaland, but is complicated in Jammu and Kashmir because the state is divided between three countries (India, Pakistan and China).

My own opinion is that Indian governments – and perhaps other Asian states, or Southern states in general – tend to take unilateral actions that elsewhere are regarded as major steps to be taken only reciprocally (i.e. according to European and/or U.S. peacemaking approaches). These unilateral actions are not seen as major steps in India, because they are not negotiated as a part of mutual commitments. Thus, for example, India has dialogued on political resolution with militants without their commitment to a ceasefire; given amnesties on individual surrenders as a matter of course; opened the LOC to trade and travel while cross-border militancy continues; and persisted in peace initiatives with Pakistan in the face of severe domestic opposition. Moreover, because these actions are unilateral they do not reap their peace dividend; rather the Indian leadership has paid a political price for them, in some cases leading to their being abandoned when the cost has grown too high.

Why is this the case? The question has too many aspects to answer in full here, but part of the answer lies in India's size and diversity – cultural, economic and political – which has made it very difficult to build a generally acceptable vocabulary of peacemaking. Without such a vocabulary being accepted, at least by political elites and opinion-makers, the cost of sustaining initiatives can often be seen as prohibitive for any political leadership.

A similar trajectory has taken place in Pakistan, for different reasons. The PPP-led (Pakistan People's Party) civilian government which assumed power in 2008 took a series of steps to make peace with India in 2009 but gave up each one in the face of opposition, chiefly from the Pakistan military. Here, too, the potential cost was too high. Whether it will remain so for the new government that takes the reins after the May 2013 elections remains to be seen.