

Executive Summary

Since January 2004, India and Pakistan have initiated a cautious peace process. The year 2004 witnessed substantial improvement in the contact between the two societies, including unprecedented visits of media persons to Jammu & Kashmir on both sides of the Line of Control. Also, unusual was the experience of bilateral cricket matches where the spectators of both the countries cheered both the teams. There is already an agreement on a tentative schedule of official meetings until September 2005. However, it is important to note that despite the peace process arms race has increased at a hectic pace. In the last 15-16 months, India and Pakistan have conducted 20 missile tests. Pakistani military leadership has been shopping for arms all around the world including new sources such as Sweden. Moreover, there are indications that a meeting of Corps Commanders held on January 6, 2005 has authorised ISI to work out a strategy with extremist groups to launch a fresh series of attack, on a limited basis, in the Indian territory beginning in March 2005.

The two countries are committed to reach a final settlement as per the Simla Agreement of 1972. At Simla, the final settlement was envisaged in the narrow context of the cartography of Jammu & Kashmir. The developments of the last 30 years compel the final settlement to be comprehensive if it really has to be final and enduring.

The crafting of the final settlement requires honest, though bitter analysis of the psychology and ground realities of the two countries. The conflict between India and Pakistan currently extends to the entire South Asian region, from Afghanistan to Bangladesh. It also engages sections of population in far-flung parts of the two countries. It is reflected in the strife in India's north-east and Pakistan's Balochistan. India accuses Pakistan of using Bangladesh as a platform to destabilize India's eastern sector. Pakistan accuses India of using Afghanistan as a platform to subvert Pakistan's western half. Of this wide spread conflict, the Jammu & Kashmir component is known internationally. The Jammu & Kashmir issue itself has several dimensions. To India, it is a test of secularism. To Pakistan, it is a source of strategically important rivers. To the people of Jammu & Kashmir, it is a matter of living in peace with dignity.

The search for final settlement therefore must be predicated on the analysis of the three essential elements in the bilateral relationship – fire, water and earth. The final settlement must also be a basis for restructuring relations between the two countries, since a settlement will not be final, unless it paves the way for a new and healthy relationship between the two countries in the place of current hostility.

Fire

The primary requirement of the final settlement is to accept the entirety of the India- Pakistan rivalry and to deal with it. At the deepest level, this confrontation can be traced to the identity crisis. India traces its origin to a civilization of 4,000-5,000 years ago. Pakistan traces its nationhood either to the Lahore Resolution of 1940, or to the conquest of Sindh by Mohammad bin Qasim in 712 AD. If the Lahore Resolution is the basis of Pakistan's identity, the State of Pakistan is a protest against Indian dominance of the region. If Mohammad bin Qasim's conquest is the basis, the State of Pakistan is a representation of foreign conquest. The final settlement requires first and foremost, that Pakistan perceives itself not in terms of protest or conquest, but simply as a normal and progressive state. The people of Pakistan deserve that their leaders treat their state as Pakistan, and not as “non-India”.

The final settlement also needs recognition of the factual reality that there is no psychological divide on the basis of religion in the South Asian region, though there are cultural differences. More than two thirds of the Muslims in the subcontinent have chosen to live on the basis of coexistence or ethno-linguistic nationalism. Less than one third of the region's Muslims live in Pakistan, the state created on the basis of theological identity. Even among them, it is still uncertain if some will choose ethno-linguistic nationalism.

While India has a clear identity as a nation, it is striving to define its role in the world. While India aspires to play a global role, it often thinks and behaves as a power seeking regional dominance. The final settlement will require a mind-set change, whereby India defines a global role for itself in a way that carries Pakistan and other neighbours with it, as partners in progress, the way the United States is able to carry Canada, or France and Germany are able to carry Benelux. In other words, both India and Pakistan will need to redefine their identity on a much higher plane than their current obsessions indicate.

The redefinition of Indian and Pakistani identity calls for the curbing of extremism. It is necessary to do so for internal restructuring of the two nations, which is essential for the restructuring of relations between them into a positive and peaceful mould. It is a tough call for Pakistan, which has been using terrorist groups as tools of state policy. Pakistan has shown its ability to reverse this policy to serve American interests. It needs to extend its commitment to deconstructing terror by ending the use of terror as a state policy in toto. Once it is determined to travel on this path, it will have to take tough action against a large number of terrorist organisations involved in violence and unlawful activities. Many of them aspire to Islamise Pakistan, dismantle India, capture assets of the two states and then conquer the world. Except for a few groups, which are focused on Kashmir, the others have much wider objectives extending to the entire subcontinent and eventually the world. They will not be satisfied with the resolution of the Jammu & Kashmir issue. The only way to curb their activities would be for the Pakistani government to arrest top leaders of all such organisations, and freeze their assets, ensuring that these measures apply to any new organisations with which any of the individuals associated with earlier banned organisations, might be associated. Pakistan also needs to ban schools associated with Jama'at-ud-Dawa, ensure that the madrassa education system is not misused by vested interests to recruit students for training in violence, and to protect government and private schools from encroachment by militant organisations for recruitment and indoctrination. The final settlement will depend on Pakistan ensuring that it destroys all groups that aspire for the destruction of Pakistan itself in its present form, and also India.

There is a growing Jhang-Peshawar Consensus among sections of the army, political parties and jihadi groups to convert Pakistan into a hard-line Sunni Muslim state, annihilating Shi'a professionals and maintaining hostility against India to fuel the internal power game. At the same time, a growing section of the middle class is seeking reconciliation with India and alignment with the West. Pakistan is thus seized by a contest between the forces of socio-economic modernisation and religious orthodoxy. General Pervez Musharraf and his corps commanders are on both sides of the contest. In their personal belief and public relations, they prefer modernism. In their operational strategies, they have no hesitation to use orthodox extremism. The final settlement between India and Pakistan will depend on the final settlement of balance of power in favour of progress and modernism within Pakistan.

India also needs to contain extremism in the country, even though no extremist group in India advocates the dismantling of Pakistan. However, there are groups that support arms race and hostility towards Pakistan. It is essential to ensure that such groups are not allowed to vitiate the atmosphere when the government is trying to restructure relations with the neighbour.

Besides redefining identity and containing extremism, the final settlement will also depend on India and Pakistan developing a shared vision of the South Asian region. Both the countries are vulnerable to external subversion due to flaws in their internal governance processes. Several groups in Sindh and Balochistan have launched separatist agitations from time to time, particularly since the beginning of 2004. Similarly, there are many groups in India's north-east that demand varying degrees of autonomy, including complete secession. India and Pakistan accuse each other of using neighbouring countries as platforms to assist secessionist movements in India's north-east and Pakistan's western and southern provinces. The final settlement will require an agreement to refrain from such subversive tactics and joint efforts to help stabilise the weak neighbouring countries, particularly Afghanistan and Bangladesh.

The partition of 1947 and 1971 are fait accompli, since it is not possible to roll back history. However, partition and division cannot be the model for future political arrangements. Partition often serves to satiate the greed of powerful men in the name of accommodating distinct identities of people. There is no end to the process of division and sub-division in as much as there is no limit to the greed of powerful men. The final settlement must be one based on principles of cultural and social identities, and political unity. It must be a settlement that allows cohabitation of different ethos, creating a large ethos of peace in the region.

Water

If India and Pakistan take a political decision to restructure their relations, they will have to ensure that water serves as a flow to bring them together, rather than taking them further on the course of conflict. Since 1999, every proposal made by Pakistan through track two diplomacy, either directly or indirectly, refers to water as a core issue.

The statements made by Pakistan's military officials, Kashmiri leaders and newspaper editorials describe Jammu & Kashmir as a supplier of crucial rivers, and project the bloodshed there as the sacrifice made by Kashmiri youth to ensure Pakistan's water security.

Pakistan's per capita water availability has declined from 5,600 cubic metres at the time of independence to 1,200 cubic metres in 2005. It is expected to reach the threshold level of 1,000 cubic metres before 2010, or perhaps even 2007. Groundwater table is depleting in 26 of 45 canal commands. Due to heavy silt load carried by the Indus, Pakistan's water storage capacity is declining. About 50 per cent of it is expected to be lost by 2010, making it difficult to support cotton sowing and wheat maturing. While all provinces are suffering from water shortages, there is a tendency to force Sindh to bear a disproportionately higher share of burden than Punjab. The army leadership is keen on ensuring water supply to Punjab at the cost of Sindh. Senior officers, including General Pervez Musharraf, have purchased land in Punjab.

The diversion of water upstream has resulted in the decline of water downstream. As a result, the discharge of seawater into the sea is going down and the intrusion of seawater into the mainland is going up. Sea intrusion has destroyed 1.5 million acres of farmland, resulting in the evacuation of three commercial towns, extinction of certain species of fish, and the loss of revenue to large numbers of farmers and fishermen. About 75 per cent of Sindh's ground water resources are brackish. About 88 per cent of agricultural land is affected by salinity and water logging. Moreover, during 2000-2005, Sindh's share in irrigation water was cut by 25-40 per cent. As a result of water shortage, industries are shifting from Sindh to Punjab and NWFP. Sindh's position as an industrial centre is in peril. The people of Sindh fear that the plans to construct the Kalabagh dam and Thal Canal will further aggravate their problems. Sindh has launched massive agitation against Kalabagh and Thal, threatening secession. In 2004, demonstrations were held in the province almost daily, where speaker after speaker compared the present situation in Sindh to the one in East Pakistan in 1971.

Pakistan needs fresh sources of water in areas where dams can be constructed. As a result, Pakistan has been proposing, through track-two diplomacy, that it should be given parts of the Kashmir valley and Jammu, so that it can have physical control on the Chenab basin. India cannot oblige Pakistan since water availability in India's northern provinces has been declining, leading to conflict between Punjab and Haryana.

The final settlement will have to be based on realistic analysis of the water situation in the entire Indus River Basin. The construction of Mangla dam has led to resentment in the Mirpur area of Kashmir on the Pakistani side of the Line of Control. There is also resentment in the Kashmir valley on the Indian side of the Line of Control, because the Indus Waters Treaty undermines the potential to develop hydroelectricity and irrigation projects. There is a direct conflict between Pakistan and the people of Jammu & Kashmir. Pakistan wants the Kashmir valley and parts of Jammu to be able to build dams to divert rivers for Punjab's benefit at the cost of the Kashmiris. On the other hand, Jammu & Kashmir needs to come out of the Indus Waters Treaty to improve its own irrigation, hydroelectricity and employment prospects. Pakistan is not interested in the full accession of Kashmir, if it involves giving equal rights to Kashmir along with other provinces. Pakistan's interest is in having Kashmir as a semi-autonomous state, which cannot demand equal rights with other provinces, but which allows the federal government to exercise political control on its resources.

There is a general misunderstanding that Pakistan wants to annex the Kashmir valley for political reasons. This option would mean major disaster for Pakistan, as it will lose Chenab resulting in up to 17 per cent reduction in water flows. Also, the Indus Waters Treaty may stand dissolved. Punjab will not be affected much as it will continue to draw water from Jhelum. As the flow of Indus will decline, Sindh will be compelled to start a civil war.

Therefore, Pakistan is not interested in Kashmir alone. Pakistan wants Kashmir plus those districts of Jammu that form the catchment area of the Chenab. The physical control over the Chenab valley would provide Pakistan an opportunity to build dams upstream and regulate river flows to Punjab and Sindh. Currently, India has identified nine sites on Chenab for hydroelectricity development. The river has the potential for building dams, which could be bigger or comparable to Tarbela and Mangla dams in Pakistan. India, under the Indus Waters Treaty, can only build run-of-the-river hydroelectric stations. However, if Pakistan takes control of the area, it will have no such restrictions. It will be able to take more advantage of the high speed and momentum of upstream Chenab. It would also provide strategic depth for the Mangla dam and the important Pothohar region, from where more than half of the army personnel are recruited. However, India would lose the strategically vital Akhnoor area in Jammu and also access to Ladakh. India may then

Therefore, the Chenab formula should be rejected at this stage of discussion in the interest of peace and stability in South Asia.

Unilateral abrogation of the Indus Waters Treaty should not be considered by either party. For more than 40 years, the Indus Waters Treaty has proved to be an outstanding example of conflict resolution. It is based on the division of the Indus River Basin with Pakistan having effective control of the three western rivers (Indus, Jhelum and Chenab) and India having an effective control on the three eastern rivers (Ravi, Sutlej and Beas). Due to increase in the water stress in the two countries since the early 1990s, the treaty has come under strain. It may find it difficult to survive the next 10 years, even though there is no exit clause. It is imperative for both India and Pakistan, to envisage comprehensive development and planning of the Indus River Basin. A holistic approach to water resources recognizing the linkages between water, land, users, environment and infrastructure is necessary to evade the crisis of water scarcity in the subcontinent.

Water needs to be managed as a commodity. It is essential to jointly set up an organisation with representatives from both countries, whose functions would entail identifying short term and long term supply capacity of the basin and its integrated development, setting up of infrastructure and coordinating activities of the different technical agencies. The development of such a plan would require large financial and technical resources. It should be possible to mobilise such resources from around the world, perhaps with the World Bank agencies playing a lead role.

The integrated development approach may be Utopian, but all the other options will lead to destruction sooner or later. It is only possible with a paradigm shift in the mindset. It will require a complete end to hostilities, both physical and psychological, from both sides. It will have to be a part of the final settlement in letter and spirit.

Earth

The debate on Jammu & Kashmir has so far avoided public focus on water, concentrating on the political status of the area. The UN resolutions call for Pakistan to vacate the Jammu & Kashmir territory. In the modern context, it must not only involve the withdrawal of military forces but also the dismantling of terrorist infrastructure. The second part of the UN resolutions calls for a plebiscite to determine accession to India or Pakistan. There is no provision for complete independence.

The public opinion in Jammu & Kashmir is divided. Some groups, notably Jammu & Kashmir Liberation Front and All Parties National Alliance, want complete independence. Some groups, such as National Conference and People's Democratic Party, want to be with India. Some groups, such as Muslim Conference, want to be with Pakistan. Some groups functioning on the Indian side, such as components of the Hurriyat, seek integration with Pakistan. Some groups functioning on the Pakistan side, such as Balawaristan National Front, seek integration with India. With such plurality of opinions, it is unfair to consider any proposal that explores accession of the full state to either India or Pakistan.

Those seeking complete independence seem unsure about the idea of independence. At the superficial level, this appears to be a desire for freedom. However, a closer look suggests that all the votaries of independence actually want political independence but with full economic integration with India, as well as Pakistan. They want free movement of factors of production, as well as goods and commodities. This is like Poland or Hungary wanting to join the European Union for economic benefits, without their accepting the political objectives and commitment to democracy and plurality. Pakistan and India are both opposed to this option. Moreover, an independent and landlocked Jammu & Kashmir will only mean continuation of India-Pakistan rivalry in another form. It will merely change the nature of the conflict, not end it.

Some scholars propose conversion of the Line of Control into an international border. Most Kashmiri leaders oppose such a division of state. Pakistan's rulers describe this as an Indian strategy to freeze the status quo, while the Indian government is bound by a parliamentary claim to Kashmir on the other side of the LoC. The people of India are bound to disallow their government to consider this option when they come to know about the plight of the people in Gilgit-Baltistan and the strong desire among people there to be relieved from the control of Pakistan. Also, people of Pakistan do not want to let India have the Kashmir valley, and more importantly, Jammu, because of

rivers, as discussed earlier.

As accession, independence and the conversion of Line of Control into the international border are not viable, the search for unconventional options has seized the minds of scholars and practitioners. Some aim at decimating the Kashmiri identity into narrow cleavages in the fashion of post-Yugoslavia formation of the Balkans. The latest such proposal was floated by General Musharraf, towards the end of 2004.

An alternative proposal could be based on gradual unity of the people of Jammu & Kashmir and gradual amity between the people of India and Pakistan. Thus, the Line of Control should be transformed into a Line of Cooperation. On either side of the Line of Cooperation, considering the polarity of preferences that range from complete independence to preference for the same side to accession to the other side, the only reasonable via media would be autonomy and devolution. It will be up to multiple interest negotiating bodies from the Pakistani side of Kashmir, including Gilgit-Baltistan to work out the details of autonomy with Islamabad. Similarly, it will be for a multiple interest forum on the Indian side to negotiate the details with New Delhi. Nevertheless, at the minimum level, the Indian central government must restrict the powers of the Governor and repeal the laws that may be considered draconian by the Jammu & Kashmir Bar Association. Similarly, on the Pakistani side, Gilgit-Baltistan must be integrated with Kashmir. In the interim period, it must have an elected chief minister. The President of Kashmir, including Gilgit-Baltistan, must be a ceremonial one like a provincial governor. Gilgit-Baltistan needs the withdrawal of the Frontier Crime Regulations laws, as also an independent judiciary in the interim period.

It must be emphasised that autonomy is not proposed here as a political arrangement for power sharing or cooption of locally important voices in power structures. Rather, it is meant to be the foundation of a new society. Therefore, a package of reconciliation and reconstruction measures would be essential.

Once New Delhi, Islamabad and the groups in Jammu & Kashmir accept the framework of devolution, reconciliation and reconstruction, a set of new institutions will be required, such as:

- a. A permanent body with the task of monitoring the efficient functioning of the autonomy. Teams negotiating the autonomy issue could form this body.
- b. Committees appointed by the assemblies of both sides of Kashmir should meet biannually to discuss various issues including economic, social and cultural.
- c. The governments of India and Pakistan should hold official meetings on a regular basis, specifically on Kashmir.

Most important, it will be necessary to establish Joint Economic Development Council of Jammu & Kashmir to promote trade, investment and joint ventures. The Council should also undertake the task of joint development of the Indus Water Basin, treating water as a commodity. The Council must set rules for a fast track visa process for all Kashmiris, who have bona fide business or family interest. Visa windows can be established in Srinagar and Muzaffarabad for this purpose. This fast track visa process can slowly move towards the free flow of people once:

- a. Terrorism subsides, as borders cannot be opened up if the violence persists.
- b. A similar arrangement for the free flow of all the citizens of India and Pakistan is reached, as it will not be feasible to open up the borders for the Kashmiri people and then prevent them from entering into the other parts of either India or Pakistan.

It is necessary to have joint patrolling of the Line of Cooperation by Indian and Pakistani troops to stop flow of criminals, drug dealers and terrorists who will be tempted to take advantage of the privileges offered under fast track visa system and the Joint Economic Development Council.

Conclusion

The agenda for containing fires spreading far and wide across the South Asian region, introducing joint water development, and converting the Line of Control into a Line of Cooperation is ambitious. It is impossible to implement such an agenda if the final settlement is perceived as a result of secret negotiations between ambitious men. It is not feasible to restructure relations between India and Pakistan if secret talks take place on the one hand and missile tests, terrorist training camps, and strategically planned dams and canals become the order of the day on the other. The final settlement is about tremendous forces of fire, water and earth. Above all, the final settlement is about our identity, about us, about redefining the kind of people we want to be!