
THE MEDIATING ROLE IN THE KASHMIR DISPUTE BETWEEN INDIA AND PAKISTAN

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The long-standing and ever-unfolding conflict between India and Pakistan over the fate of the former Princely State of Jammu and Kashmir has consistently provided those nations with dangerous opportunities for violent engagement.¹ A land of pristine beauty nestled in the shadow of the Northern Himalayas, its people, mountains, rivers and valleys have been the object of conquest by wave upon wave of successive invaders, including Dogras, Tatars, Moguls, Afghans, Sikhs and the British. The Princely State was constituted from its distinct parts and peoples via the 1846 Treaty of Amritsar, in which the British government transferred the territory as nominally independent to Gulab Singh, a Hindu who had assisted the British in their wars against the Afghans and the Sikhs. Since 1947 it has been contested by India, which claims it as an integral part of its secular, state-based federation, and by Pakistan, which claims it as an integral part of a separate Muslim nation born of the partition of British India. Movement toward resolution of this conflict is essential as it is the principal underlying cause of hostility between Pakistan and India. This also has implications for China/India tensions, for regional nuclear and conventional arms races, and for South Asia's struggle to emerge from the developing world.

The lengthy diplomatic record concerning Kashmir since the partition of British India has been, unfortunately, a record of failure, if success is considered a function of satisfying the needs and interests of all concerned parties.² This paper examines the possibility that the U.S. government mediate the conflict between India and Pakistan over Kashmir, which is considered by Pakistan and the United Nations (though not India) to be disputed territory whose fate has never been definitively resolved. This paper asks whether and to what

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extent certain circumstances and relationships that permitted and prolonged the stalemate have changed to increase the prospects for a U.S.-mediated de-escalation process. The convergence of Indian, Pakistani and U.S. interests, as well as the U.S./India and U.S./Pakistani relationships, continues to progress, facilitating a mediating role for the United States in this protracted conflict.

Historical Origins and Nature of the Kashmir Dispute

Pakistan and India have fought three wars since partition in 1947, two of them explicitly over the Kashmir dispute: once in 1947-1948 and again in 1965. In the 1971 war that preceded the dismemberment of East Pakistan from West Pakistan and the consequent creation of Bangladesh, Pakistani and Indian troops again fought on Kashmiri soil. Here they continue, day after day, to face each other high atop the Siachen Glacier in the Himalayas, engaging in deadly high altitude combat in a poorly defined portion of the so-called Line of Control (LOC) or cease-fire line first negotiated by the United Nations in 1948. In 1988, the Kashmiris, particularly Muslim residents of the Vale of Kashmir, erupted into open and violent rebellion against their occupiers, even while the Indians and Pakistanis engaged in a resource-draining nuclear and conventional arms race that ominously holds open the possibility of nuclear confrontation on the subcontinent. Indeed, in 1990 as a result of the Kashmiri uprising, Pakistan and India came very close to renewing open warfare and possibly using nuclear weapons.³

Roots of the Kashmir Conflict

The present phase of the conflict, like many conflicts over disputed territory, has its roots in the demise of an empire, in this case the British empire in India. The fate of people's self-determination too often lay in the hands of surveyors, cartographers, soldiers and statesmen, whose faith in ink-drawn boundaries overshadowed their appreciation for the actual lines of division and affiliation among their former subjects.

On the eve the British Transfer of Power in August 1947 to the two new successor dominions of India and Pakistan, the fate of the 565 Indian "princely states" not formally under British colonial rule, who nonetheless had been subject to the lapsing British paramountcy, was left to their respective "rulers" to decide. They could choose to accede to India or Pakistan, based on geographical contiguity and demographic composition of the population, or, in defiance of the wishes of the Viceroy, attempt to secure autonomy and independence. States that were majority Hindu could, in principle, accede to India, while Muslim majority states could accede to Pakistan. Prime Minister Pandit Nehru, himself of Kashmiri origin, envisioned India as a secular nation and considered the question of religious affiliation to be irrelevant to the accession of the "princely states." Pakistan, founded on the notion of separateness of Muslims and Hindus as nations, could not help but see things otherwise.

Kashmir, with a predominantly Muslim population, has never achieved self-determination for its indigenous residents. Rather, pieces of it have been par-

celed out among more powerful dynasties, empires, and now, nation-states. At the time of India's partition it was led by a Hindu ruler, Maharajah Hari Singh. Hari Singh did not at first accede to either state, but held out for independence. As a condition for receiving Indian military reinforcements to repel an invasion of Pathan tribal raiders, Hari Singh signed a letter of accession to India on October 26, 1947. The next day, Lord Louis Mountbatten, as Governor General of (independent) India, provisionally accepted the accession, stating in his letter of reply that "the question of the State's accession shall be settled by a reference to the people." The question of the validity and permanence of the accession has been the subject of endless and unresolved polemic. The plebiscite has never been held and the area we refer to here as Kashmir is currently divided between Pakistan and India, with a small area under Chinese control. The Indian-held portion is known as "Jammu and Kashmir State" and includes the Kashmir Vale and part of Ladakh. In the Pakistani sphere, a small western portion of the former Princely State is known as "Azad (Free) Kashmir" although it is ostensibly independent from Pakistani rule. The northern areas of Gilgit and Baltistan are under Pakistani administration. A portion of Ladakh, the Aksai Chin, is under Chinese control.

In the latter half of the twentieth century, Kashmir has been a proxy battleground for global and regional superpower conflicts, the dynamics of which likely prolonged and complicated the conflict by introducing armies, armaments and conflicting claims of sovereignty. This internationalized the stakes involved in resolving the dispute, thus making resolution more difficult. Not surprisingly, mediation by a superpower such as the United States (in 1990), the Soviet Union (at Tashkent in 1965-1966) or an international organization (such as the United Nations from 1948-1958) has been the principal means of conflict management.

The Need For Mediation

Relations between India and Pakistan had been steadily declining over the past several decades and in 1995 reached their lowest point since the 1971 war. Tensions in 1994 culminated with a mutual expulsion of diplomats by the end of the year. Until mid-1996, no high level bilateral talks had been held since January 1994. Pakistan also refused to extend Most Favored Nation status to India; India subsequently threatened to take legal action. The ongoing development of nuclear weapons and acquisition of ballistic missile technology add urgency to the resolution of the Kashmir conflict. The current state of affairs is perceived as intolerable by all parties to the conflict, but no party appears to be able to break the stalemate via unilateral moves.

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Jacob Bercovitch identified four conditions under which mediation is likely to be used to address an international dispute: "(a) a dispute is long . . . and complex, (b) the parties' own conflict management efforts have reached an impasse, (c) neither party is prepared to countenance further costs or loss of life, and (d) both parties are prepared to cooperate to break their stalemate."⁴ These conditions relate to the degree to which the parties find the conflict intolerable. Analyzing the Kashmir situation using these criteria reveals that the conflict is approaching its fiftieth year without resolution; even bilateral talks between India and Pakistan at the prime minister level have failed to produce a breakthrough. This paper will explore whether the parties are prepared to pay higher costs, forego opportunities to de-escalate, and ultimately, whether they would accept the intervention of the United States as mediator.

Intolerability of the Status Quo

In the last five years, the Vale of Kashmir has come under military occupation by India. This state of affairs has been described by observers as "brutal" as a result of grievous human rights violations such as torture, rape, destruction of property, homes and even entire settlements and villages. Abduction and extrajudicial killings are further consequences of India's goal of stamping out the secessionist movement in Kashmir. It is believed that between 10,000-20,000 people, mostly civilians, have been killed since that time.⁵

Former Indian Prime Minister Narasimha Rao hoped to transform the situation by permitting state elections in 1995 and by conceding moderate measures of autonomy, thus ending direct military rule from New Delhi. His plans had been seriously compromised by the ever more violent reaction to the ongoing Indian military presence in Kashmir which, for example, resulted in the destruction of the region's most ancient and revered mosque and surrounding town, Charar Sharif, on May 11, 1995.⁶ The civilian population has also been victimized by violent acts, including rape and assassination, by the various Kashmiri militant groups. Human rights violations by both militants and Indian forces have been documented by the International Commission of Jurists, Asia Watch, Physicians for Human Rights, Amnesty International, Kashmiri and even Indian human rights organizations.⁷ The situation has clearly been intolerable for the Kashmiris.

Another measure of the parties' tolerance for the *status quo* is found in their degree of willingness to forego the benefits of peaceful coexistence. Pakistani diplomats openly concede that the opportunity cost of the ongoing state of hostility between Pakistan and India is both high and difficult to measure: regional cooperation in commerce, technology transfer, security and development remain at a standstill due to the inability of India and Pakistan to extricate themselves from the Kashmir issue. Neither country can afford the present conflict (a "criminal waste of resources," in the words of one Indian diplomat),⁸ nor can they afford a full-scale conventional war that could escalate into a nuclear exchange. Pakistan's Ambassador to the United States, Dr. Maleeha Lodhi, recently remarked that "the peace dividend in South Asia will free 1 billion people from the burden of their Cold War."⁹ Both India and

Pakistan cry out for the economic benefits that peace would bring. The motivations and need for resolution of the Kashmir dispute are firmly in place.

The Nuclear Dimension

The issue of nuclear weapons in South Asia is ultimately tied to the Kashmir dispute. Pakistan is unlikely to relinquish its quest for nuclear weapons unless it has guarantees that India—with whom it has fought and lost three wars, all of which involved Kashmir—will do so. India claims that it must maintain and develop its nuclear capabilities in order to deter China, against which it lost the 1962 Sino-Indian Border War over the area of Kashmir currently controlled by China. India and Pakistan both reserve the option of responding in kind to nuclear weapons buildups or possible attacks. The nexus between the Kashmir conflict and nuclear weapons makes it likely that any negotiations on the nuclear issue will implicate the Kashmir issue and vice versa. “The Kashmir revolt underlines the fact that the region is a nuclear tinderbox,” warned Ambassador Lodhi.¹⁰

Context of the Mediation Process: Timing and Ripeness

Only a third party who has consistent and stable relations with all the parties simultaneously can properly “expand the pie” and address nonproliferation, security, noninterference and disengagement concerns. That third party’s interests must also coincide with those concerns. Currently, the most suitable third party would appear to be the United States. “Mediators,” wrote negotiation scholars Saadia Touval and I. William Zartman, will intervene “only when a conflict threatens their interests, or when they see an opportunity to advance them.”¹¹ In addition, certain factors related to the parties’ adversarial relationship and respective domestic and international contexts must also be examined in terms of the suitability of introducing a third party as mediator at a given point in the life of a conflict. The very complexity of the Kashmir dispute has enabled newly articulated U.S. policy goals to be advanced simultaneously with an attempt at resolution of the conflict.

The Adversarial Relationship

Pakistan and India are unable to extricate themselves from a mutually damaging deadlock: a “hurting” stalemate now exists between them over Kashmir. Neither appears to be able to “achieve its aims, resolve the problem, or to win the conflict by itself” and such a situation may drive the parties to “re-evaluate their policies.”¹² The parties must see that their available alternatives via unilateral action or joint inaction are unlikely to achieve underlying interests or strategic objectives.¹³

It cannot be overlooked, however, that both parties have a high threshold for suffering since their differences are perceived to arise from conflicting core religious and political values. The public rhetoric of India and Pakistan links the issue of who acquires title to the territory of the Princely State of Kashmir to the deeper issue of why these two states came into being in the first place.

It is thus more likely that a mediator who allows the parties to see the conflict through alternative frameworks such as internal stability, national security, and economic development, rather than ones related to the very existence of Pakistan and India, would be far more likely to propose creative mediation options.

Louis Kreisberg has enumerated certain other conditions in the adversarial relationship that may affect the likelihood of de-escalation moves: in the case of the Pakistan/India adversarial dynamic, we are presented with a conflict that has *institutionalized* itself between parties without a history of cooperation and coexistence, a conflict that provides the impetus and justification for military modernization and proliferation (a *vested interest* in the continuation

of conflict), both of which impede de-escalation.¹⁴ Furthermore, there is a long history of power disparity between India and Pakistan that discourages flexibility on the part of India, the stronger power.

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These adversarial dynamics are now either changing or being affected by other circumstances. Military power disparity (or at least the perception of it) is rapidly diminishing with the acquisition of nuclear weapons and delivery systems by both sides, although India is still considered the stronger military party. There are palpable costs to all parties involved and they are increasing with time. It is at such a point that a party can either attempt to tilt the balance in its favor, or be convinced to move toward de-escalation.¹⁵ The present stage is ripe for third party mediation: mediator efforts initiated now will have the greatest impact, assisted

by the pressure and costs of the stalemate, as well as the fear of sticks and hope for carrots that can only be provided by third-party leverage.

The Domestic Context and the Shortfalls of Bilateralism

Past negotiations, both direct and mediated, have proven to be unsuccessful in changing the basic dynamic between India and Pakistan. They have utterly failed to factor in the one party that no one, until recently, has taken into account: the Kashmiris themselves. Like other people who have long sought self-determination, such as the Kurds and Palestinians, the Kashmiris suffer internal division and find themselves on different sides of *de facto* international borders. Like the Kurds and Palestinians, competing armed groups have emerged among them. These groups' aims range from union with Pakistan to total Kashmiri independence.

Aggravating the difficult negotiating process is that the ruling parties of both Pakistan and India (Pakistan People's Party, [PPP], and the Congress Party, respectively) face complex domestic situations that affect foreign rela-

tions with the other country. In the words of one observer, "Frail governments hesitate to pursue bold strategies of reconciliation and accommodation with old adversaries and instead look to exploit regional enmity through public posturing, emotional mass appeals and external scapegoating. Potentially fruitful negotiations are avoided entirely, or, if held, their results are unceremoniously jettisoned."¹⁶

"Weak governments preoccupied with domestic crises have less time to devote to foreign affairs, and their negotiating flexibility is sharply circumscribed. Domestic problems, moreover, spill over across borders," observed Thomas Thornton about Pakistan and India.¹⁷ This is a root cause of the cumulative failure of past negotiations to resolve the Kashmir conflict: vocal constituencies in both countries are the audience before which the drama of international diplomacy must be played, and in both countries, that audience displays a combustible disposition; any sign of weakness in negotiating positions can arouse manipulable public outcry and vigorous political opposition. It has been noted that domestic pressure can encourage "government leaders to assert demands against adversaries that handicap de-escalation."¹⁸

India's secular democracy is challenged by various secessionist movements spread throughout India, a militant Hindu nationalist movement (the Bharatiya Janata Party, or BJP) and a population whose participation in politics is ever more vocal.¹⁹ Nonetheless, the BJP's short-lived electoral triumph in May 1996 did little to test the theory that their political rise would lead to widespread communal violence. The BJP's replacement with the moderate, regionalist government of Prime Minister H.D. Deve Gowda in June 1996 has led to renewed hopes for political stability both within India and between India and her neighbors. Pakistani Prime Minister Benazir Bhutto wrote to Deve Gowda in the first few weeks of his administration, inviting India to renew high level talks which had been suspended since January 1994. No preconditions are attached to the invitation to continue the talks, which were to have resumed as early as July 1996.²⁰

Pakistan faces its own array of internal problems. Pakistani democracy was recently challenged by an often hostile relationship between Prime Minister and President, as exemplified in the November 1996 dismissal of Prime Minister Bhutto and the dissolution of the Assembly. The influx of weapons and over 3 million Afghani refugees into Pakistan also had dramatic effects on Pakistan's society and economy, causing significant internal migration that directly contributed to the rise of ethnic separatism in Sindh and the Northwest Frontier Province. This, in turn, was cited as a cause for the dismissal of Prime Minister Bhutto by President Ishaq Khan in 1990. Pakistan also faces religious political parties, as well as a restive military that has previously demonstrated a willingness to seize the reins of government.

Opposition groups and sensitized, religious constituencies within both Pakistan and India contribute to a domestic situation that directly affects foreign policy by keeping the PPP and Congress Party weak in terms of their negotiating positions. Each side perceives it has much to lose (especially loss of face) from the resolution of the conflict, as long as resolution means that core con-

cessions will have to be made. Herein lies an opportunity for a third party to intervene by partially circumscribing the power deficit of the weak parties and deflecting from them the full scrutiny of the internal opposition, acting as an international relations "lightning rod."

The International Context and Current Calls for Mediation

South Asia may be the only geopolitical region without a regional forum for discussing security-related issues. Although there are regional organizations such as the South Asian Association for Regional Cooperation, its Charter language precludes the airing of security concerns.²¹ India has shown little inclination to participate in regional security talks. In the last few years, numerous third-party options have been made available to Pakistan and India, including offers by the Chinese government, UN Secretary General Boutros Boutros-Ghali, the Egyptian government, UK Prime Minister John Major, the late Francois Mitterrand, the late Willy Brandt, and the governments of Kuwait and Saudi Arabia. However, none of these parties' interests are so well linked to India and Pakistan as the United States'. The Clinton Administration has expressed its willingness to mediate if accepted by both New Delhi and Islamabad, and has intensified its activities there despite distractions in the former Yugoslavia, Haiti, China and Iraq.

Assistant Secretary of State for South Asian Affairs Robin Raphel, recently appointed to this newly created post, told the U.S. Senate, "We are continuing efforts to persuade [India and Pakistan] to begin a serious attempt to resolve this dispute."²² Secret discussions are reported to have taken place in 1994 and 1995 among informal representatives of India, China, Pakistan and the United States on at least the related nuclear issue.²³ And at public and private conferences, ongoing contact continues to be made at the informal level between South Asian scholars and professionals.

A negotiation mediated by the United States would take place against a backdrop of changing geopolitics at the domestic, regional and global level, as well as changing relationships between the parties and the United States. The disintegration of the Soviet Union and the push for market reforms in China have changed the status of two of the interested superpowers. In terms of securing their bread and butter, the countries of the developing world have embarked in recent years on reforms that seek to transform their economies along market principles. This implies openness to foreign investment *and* the political influence and conditionality that accompanies it, as is the case with Pakistan and India. The United States can readily insert its expressed interests into such a context.

Since 1990, the United States has grown further apart from Pakistan. U.S. interests subsequently shifted from enhancing Pakistan's international stature and utilizing it as a "front-line state" to deter the Soviet Union in Afghanistan, to deterring proliferation of nuclear weapons.²⁴ The distance between the two postures is illustrated by the Pressler Amendment, described more fully below. During the days of cozy U.S.-Pakistan relations, U.S. economic and military aid had amounted to over \$7 billion. Simultaneous to its distanc-

ing from Pakistan, the United States and India have grown closer, their relationship propelled forward by India's program of economic liberalization and the disappearance of Soviet patronage. This new relationship has been characterized by joint military naval maneuvers, increased trade and investment and a doubling of U.S. aid to India. Clearly, the international context, particularly in the wake of the Cold War, has created new opportunities for the insertion of U.S. interests into South Asian affairs, as Pakistan attempts to regain a dignified relationship with the United States and India develops a new one.

During the spring of 1995, in speeches at Johns Hopkins University and the Fletcher School of Law and Diplomacy at Tufts University, Pakistan's Prime Minister Benazir Bhutto and its Ambassador to the United States Maleeha Lodhi, respectively, issued explicit calls for U.S. mediation of the Kashmir dispute. Pakistan appears to consider the resolution of this dispute to be the linchpin of further cooperation and negotiation with India on such essential issues as nonproliferation of nuclear and conventional weapons, trade and other cross border concerns.

Heightened U.S. Interest in South Asia

The United States now maneuvers in a geopolitical atmosphere unfettered by the baggage of Cold War alignments and seeks to solidify a new role in international politics and conflict management. The concept of "national security" must be broadly construed to include new and old nonmilitary strategic interests. Such a definition encompasses the need to remain commercially competitive, secure mutually beneficial economic relationships, manage the transfer of technology and information, and understand the changing nature of global politics, including intrastate and international ethnic conflicts and their resolution.

In the past, the geopolitical distance between the United States and India stemmed in part from India's historic courting of the Soviet Union. Pakistan has felt U.S. indifference since October 1990, when Congress passed the Pressler Amendment to the Foreign Assistance Act. The Amendment cut off all economic and military aid to Pakistan, and withheld \$1.5 billion worth of U.S.-made military equipment already paid for, and will remain in place until the U.S. President is able to certify to Congress that "Pakistan does not possess a nuclear explosive device." Pakistan considers this a "blatantly discriminatory law" given the U.S. aid relationship with Israel, which Pakistan believes to possess nuclear warheads.²⁵

The United States has increasingly turned its attention to South Asia and its interest has focused on three primary concerns: (i) security, including military/nonproliferation issues, (ii) economic/commercial relations, and (iii) a group of concerns that deals with the rise of militant religious movements, the weakening of secular, democratic government, and international terrorism. (It can be argued that issues such as human rights and concerns for democratic development, although articulated by the past and current

Administrations, are in practice related but subsidiary to U.S. security and economic interests.) We will examine each of these in the dynamic context of U.S. relations with the parties.

The strategic importance of South Asia is due in part to the proximity of India and Pakistan to the Indian Ocean, heavily trafficked by the oil industry. Another strategic consideration arises from the United States' need to build

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and maintain coalitions that support its own foreign policy goals as well as those which are expressed in the forum of the UN Security Council. Bruce Riedel, Deputy Assistant Secretary of Defense for Near Eastern and South Asian Affairs, recently asserted before the House International Relations Committee, "The willingness of [Pakistan and India] to commit their forces to causes we support makes them particularly significant in our strategic calculations."²⁶

Linking the Kashmir conflict to U.S. nonproliferation goals and economic relations would allow the United States to engage India and Pakistan more equally and help foster its acceptance as a third-party mediator. This would dramatically increase its leverage to push Indian and Pakistani perceptions toward a shared vision of conflict resolution.²⁷

Security: De-escalation and Nonproliferation

In official statements to the U.S. Congress, the Clinton Administration, referring to the Kashmir dispute, made clear that "South Asia is the one area of the world where a regional conflict has the potential to escalate to a nuclear exchange, with devastating consequences in the region and beyond," hence the superpower motivation for its resolution.²⁸ During its first term, the Clinton Administration stated that its long term goal is to "cap . . . reduce, and . . . eliminate weapons of mass destruction and ballistic missile delivery systems in South Asia," underlining the Administration's concern that such systems can be passed from democratic, secular governments to autocratic, religious ones with antipathy toward U.S. interests.²⁹ However, it is not necessary for extremist regimes to take power in South Asia in order for nuclear weapons to be deployed. This scenario almost took place in 1990, and both India and Pakistan's current regimes have reiterated their commitment to maintaining a nuclear option.

As it has demonstrated, the United States will go to great lengths to forestall the acquisition of nuclear weapons by certain states, most recently Iraq, North Korea and Iran. Its tactics have ranged from full-scale war to diplomacy to technology embargo, respectively.³⁰ The possibility that U.S. technology (or indifference) may have facilitated the nuclear development of Iraq and Pakistan may underlie Washington's urgency regarding nonproliferation.³¹ It

may also partially explain Pakistan's eagerness to mend fences with the United States, as demonstrated by 1995 visits by both Prime and Foreign Ministers to Washington, cooperation with U.S./UN peacekeeping initiatives, and explicit calls for U.S. mediation of the Kashmir conflict. As noted by Saadia Touval, "it appears safer to have a superpower play the mediator than risk that superpower aligning itself with one's enemy."³² We might add the corollary that *it is safer to have the superpower play the mediator than risk that superpower going to war with you over a regional dispute you are embroiled in*, a bitter lesson taught to Iraq in the recent past.

The United States has taken three steps toward pursuing common security interests in the region. It has increased cautious military negotiations with China with an eye toward "transparency of China's intentions and strategies" and to "encourage China to discuss with India mutual threat perceptions."³³ To further assist India, U.S. Secretary of Defense William Perry in January 1995 signed an agreement outlining eventual Indo-U.S. security arrangements. Under the U.S. Pacific Fleet Command's "Cooperative Engagement Strategy," all branches of the U.S. armed forces participate with India in officer exchange programs, port calls and instructor pilot exchanges, all of which are jointly coordinated by high ranking officers from both countries.³⁴ Such arrangements have the potential to provide India with the confidence to enable it to move toward de-escalation in the Kashmir conflict and on the nuclear issue by reducing perception of strategic threat from China, especially if U.S. cooperation carries with it some conditionality.

Pakistan, however, has been marginalized since the enforcement of the Pressler Amendment, but Secretary Perry also promised Prime Minister Bhutto that the defunct U.S.-Pakistan Consultative Group on security issues was being "revitalized," which signaled that Pakistan's security concerns once again matter in Washington, DC. This military liaison group began meeting in May 1995 to discuss threat perceptions, foreign policy perspectives, joint exercises, and such topics of mutual interest as peacekeeping, counter-narcotics and counter-terrorism.³⁵

The United States is increasing its military presence with regard to both Pakistan and India. This, by establishing international links, reduces perceptions of isolation and threat. This provides the United States with enhanced leverage. Due to the fact that neither India nor Pakistan could be convinced to sign the Nuclear NONPROLIFERATION Treaty in May 1995 or again in 1996 (India, in particular, objects to the absence of a timetable for disarmament for existing nuclear powers), the United States must be vigilant about maintaining and enhancing the leverage required for mediation and accomplishing its NONPROLIFERATION goals. Further sources of leverage are to be found in the U.S. economic and commercial interests in the region.

Economic Relations

According to official U.S. government statements, it was in the wake of an averted war between India and Pakistan in 1990, with the end of the Cold

War imminent, that "India and the United States began to rediscover each other as friends and potential partners."³⁶ That rediscovery has an essential economic component. India's economic liberalization program, commenced in 1991, is calculated to attract the foreign investment and trade needed to modernize the country and substitute for Soviet patronage. The U.S. Department of Commerce subsequently identified India as one of ten "big emerging markets" that hold the greatest promise for gains in U.S. exports, mainly due to its large middle class (200 million people) and its position as the largest single South Asian market (1 billion people by the year 2000).

During the late Secretary of Commerce Ron Brown's trip to India in January 1995, the United States, already India's largest trading partner and foreign investor, established the U.S.-India Commercial Alliance to promote private sector interaction. This netted an estimated \$7 billion in business deals for American companies. Secretary Brown's visit was preceded by that of Secretary of Energy Hazel O'Leary, who emphasized cooperation on energy issues. O'Leary's visit was followed by a visit to the United States from Prime Minister Rao. According to one official at the State Department, the United States wants to capitalize on "first-mover advantage," since Japanese investors have yet to discover the Indian market.³⁷

This rapprochement between India and the United States comes at an opportune time in the life of the Kashmir conflict. Such cooperation provides increased mediating leverage for the United States, should it decide to link ongoing economic relations to peaceful resolution of the Kashmir dispute, progress on human rights violations, and nuclear nonproliferation.

We must note that India still considers itself a superior military power with respect to Pakistan, and maintains publicly that the Kashmiri uprising is an internal affair aggravated by Pakistani interference. India also maintains that Kashmiri independence or its accession to Pakistan simply are not acceptable outcomes. Given these conditions, the increasing leverage available to the United States will have to be creatively exploited in order to play up the futility of the *status quo*, and to propose outcomes that further the interests of all concerned parties.

The defining criterion of Pakistan's relationship with the United States since 1947 has been, as noted, a strategic one. The demise of that relationship coincided with a return to democratic rule in Pakistan and consequently, an attempt to build a multidimensional relationship with the United States more in line with Pakistan's domestic concerns. Like India, Pakistan has also embarked on an aggressive economic liberalization program meant to attract foreign investment and trade that would bolster its developing economy.³⁸ Pakistan also comprises part of the potentially enormous South Asian market for U.S. exports, and the United States is currently Pakistan's second largest trading partner, behind Japan, comprising 11 percent of Pakistan's total trade.³⁹ The United States has articulated its interest in securing free-trade access to such emerging markets for U.S. exporters and investors. This interest is only increasing in importance as economic relationships replace strategic ones in the post-Cold War world. Pakistan, sensing this component of U.S. policy, is tout-

ing itself as an English-speaking, moderately Islamic, capitalist democracy that can provide legal, financial and commercial consulting services to U.S. investors looking toward Central, South and Southwest Asia.

One impediment to increased U.S. investment in Pakistan comes from intensifying domestic instability and the social violence that accompanies it (some of it aroused by resentment against the United States for leaving Pakistan with an enormous influx of refugees, drugs and arms as the legacy of the war in Afghanistan). But, the main impediment has been, until recently, U.S. law itself: the Congressional Pressler Amendment prevented the U.S. federal government, via the Overseas Private Investment Corporation and other agencies, from guaranteeing U.S. exports to and investment in Pakistan.⁴⁰

Thus, while the unfolding U.S.-Pakistan economic relationship is affected by the great leverage the United States wields, it is also affected by Pakistan's leverage deriving from U.S. interests in nonproliferation. Indeed, the Clinton Administration's declared intent to pursue its interests in South Asia has led to a modification of the Pressler Amendment. This may facilitate a more positive, re-energized U.S.-Pakistan relationship that permits effective third-party mediation.

Subsidiary U.S. Interests: Development as a Prerequisite for Stability, and Human Rights

According to some international relations scholars, there is a "close relationship between chronic underdevelopment at the subnational level, instability at the subnational and national levels, and instability among nations."⁴¹ One author links the regional conflicts in South Asia to problematic human development there, providing us at once with one paradigm through which to see the roots of conflicts such as the one raging in Kashmir, while also giving us a key to effective conflict management, and therefore, mediation. This perspective illustrates a pathway for the international community, and therefore, the third-party mediator, to follow in playing a greater role in regional stability by pointing directly to deficiencies of human development that "play a powerful role in exacerbating" international disorder, especially when experienced on the large scale of South Asia's political landscape. There is demonstrated need for resolution of water, environmental and land distribution issues, improvement of literacy, education and health care, as well as other, typically ignored indicators of national quality of life.⁴²

Development assistance to Pakistan and India can be creatively tied to projects that require their mutual cooperation, and even tied to progress on the issues that divide them, such as Kashmir. Such assistance could effectively be used to create incentive for de-escalation moves. Up to 50 percent of Pakistan's national budget is dedicated to defense expenditures, obviously siphoning off resources from other human and social needs. Reduction of regional tensions through mediation could lead to a dramatic Pakistani "peace dividend."

The Clinton Administration has already expressed concern for human rights in international relations, but so far has not been willing to exercise leverage to secure greater human rights in any significant manner, as has been clearly demonstrated in the evolution of trade relations with China. Any stronger language coming from Washington on Kashmiri human rights is not likely to be welcomed by India, which insists that any violations are isolated incidents committed by soldiers who are duly disciplined. Some experts believe such criticism would be counterproductive,⁴³ especially as India observes that China has not suffered economic sanctions for its suppression of human rights. Nonetheless, *calling attention to* the severity of the human rights problem in Kashmir could be a positive step that would demonstrate U.S. interest while reserving for itself the option to modify military and commercial relations.

The Emergence of the United States As Mediator

A New Geopolitical Space in South Asia

The exclusion of one superpower patron from a conflict that formerly involved two adversaries, each of which was supported by a large power, may also have the effect of facilitating the formation of a bargaining triad, since it weakens the symmetry that can result in or from deadlock. The demise of the Soviet Union led to the replacement of the Indo-Soviet Treaty of Friendship with a new accord that does not commit Russian military or economic support to India in case of war. Russia's distancing itself from the region has the effect of excluding Russian interests from the strategic calculus; this "superpower" can no longer exercise bargaining leverage. A historical precedent for the creation of a triad occurred during Henry Kissinger's 1974-1975 shuttle diplomacy between Israel and Egypt, which may not have been accomplished without the exclusion of Egypt's Soviet patron, for "as long as the bargaining structure remained symmetrical, with each superpower representing the interest of its smaller partner, neither would be willing to coerce its ally."⁴⁴

The Limitations of the Simla Agreement and Bilateralism

The bilateral approach, as its name implies, left the possibility of resolution of the Kashmir conflict deeper within the folds of the historically asymmetrical Indo-Pakistani relationship, where it was increasingly unlikely to be resolved. India and Pakistan negotiated a cease-fire December 17, 1971 in the war that created Bangladesh. One outcome of that cease-fire was the Simla Agreement of July 1972, an accord which is widely seen to have removed the hostile Indo-Pakistan relationship from the multilateral context it had acquired via constant UN intervention. In its place, an emphasis on bilateralism emerged in the management of Kashmir, as well as other unresolved conflicts. Having just lost a war in which it was dismembered, Pakistan conceded provisions in the Simla Agreement that were mitigated the United Nations' mediation and

peacekeeping roles in Kashmir, a clear concession to India's reservations about the international community's role.⁴⁵

Pakistan's territorial claims, which depend on international guarantees and peacekeeping forces provided by the United Nations, were not strengthened by the bilateral approach. The United Nations' role of interposing UN Military Observer Group forces between Indian and Pakistani troops has been reduced by the Simla Agreement to near-bystander status in the wake of the Kashmiri uprising and the accompanying breaches of the cease-fire by Indian and Pakistani forces. Since the onset of the Kashmiri uprising, Pakistan has increasingly attempted to focus international attention on the plight of the Kashmiris and on the broader conflict in an effort to break the stalemate and offset Indian hegemony, superiority and inflexibility. Bilateral talks have a history of starting out with pledges of fraternal goodwill and ending with dead-locked delegations who complain of intransigence (India's) or single-minded focus (Pakistan's) concerning Kashmir.

The Formation of a Bargaining Triad

The preceding sections have explored the convergence of U.S. interests with each of the parties' interests and sought to establish that, at the very least, a viable space for mediation has opened into which the United States can insert itself as the third party. Once the United States, Pakistan and India have decided to engage in a mediated negotiation process (which can emerge from forums as diverse as an open regional peace conference or a back-channel type format), each party can then engage in direct bargaining with the mediator, since the groundwork for such bargaining has been laid with the United States' articulation of its new foreign policy goals for South Asia.

The resultant bargaining triad of a prospective U.S.-brokered mediation process corresponds well to the enlarged U.S. role in South Asia. The United States has new weight deriving from that position and ". . . because the weight of the mediator as the pivotal party is determining, each of the other two participants seeks to secure the mediator's support and assistance." Consequently, the mediator has substantial leverage that derives from its crucial position as coalition-maker, and "the importance of the mediator predisposes each of the other two participants to bargain directly with the mediator."⁴⁶

It is well established in various disciplines of the social sciences that the intervention of a third party disrupts the stability of a dyadic relationship. Social psychologist Jeffrey Z. Rubin explained, "There is a powerful tendency for a coalition of two [parties] to form at the exclusion of the third—with the excluded third constantly attempting to form a dyadic relationship with one

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of the other two."⁴⁷ The continuing failure of the Indian and Pakistani governments to negotiate the Kashmir conflict effectively via high-level bilateral channels, coupled with the new emerging U.S. presence with both parties, sets the stage for acceptance of a triadic approach to conflict resolution in which India and Pakistan each attempt to consolidate competing dyadic relationships with the United States, while the United States creates links between the two adversaries.

The Biased Mediator

Given the different political history and the distinct current relationship each party has developed with the United States, charges and countercharges of U.S. partiality have been and will be leveled by India and Pakistan as the triad emerges, as was foreshadowed in the content and tone of India's press statements from 1993-1995. These concerned themes such as the release of F-16 fighters paid for by Pakistan but withheld by the United States due to the Pressler Amendment and official statements by Clinton Administration officials doubting the validity of the Letter of Accession and affirming that Kashmir is regarded as disputed territory.⁴⁸

Traditional definitions of mediation have included impartiality among the positive attributes of a prospective mediator; this idea is embodied in Chapter I, Article 1, Paragraph 1 of the U.N. Charter, arguably one of the most active and effective mediators of conflict during the latter half of the twentieth century.⁴⁹ Lack of vested interest in outcome, reliance on moral persuasion and prestige are the cornerstones of UN mediation.

Nonetheless, Saadia Touval has cited at least 104 international conflicts that were not mediated by the United Nations, but rather by the United States, the Soviet Union or both jointly, from 1945-1989.⁵⁰ In the absence of true international governance, superpower involvement is a frequent occurrence in international conflict management. Several scholars have recognized that it is unlikely that a third nation will act as mediator in the absence of its own interest in the parties, the conflict and the conflict's outcome. This reality gives rise to the possibility that the mediator will be biased. Jeffrey Rubin observed that "the inclusion of a third party . . . thus invites the formulation of a coalition between one disputant and the third party, as when the third party favors (or is believed to favor) the position of one [party] over the other . . ."⁵¹ Such bias is recognized by some scholars as a factor that can potentially *facilitate* the conduct of mediation.⁵²

Pakistan, and eventually India, will accept U.S. mediation despite the fact that both the new U.S.-India relationship and the historic U.S.-Pakistan relationship permit India and Pakistan to suspect and allege U.S. bias. This is because each now will perceive that heightened U.S. interest in a relationship with it gives it "leverage over the mediator." Each will believe that the mediator, by virtue of good relations with the adversary, can extract concessions from that adversary, precisely because said adversary allows the mediator to exercise leverage over it.⁵³

The United States, for its part, can actually foster such perceptions without

damaging the mediation process. The observation has been made that "by proclaiming its evenhandedness, the United States may have heightened the probability of a military confrontation" in the conflict between Britain and Argentina over the Falkland Islands.⁵⁴ Neither of those parties perceived even a *biased* U.S. interest in preventing a war and so Argentina could interpret the U.S. position as approval of its respective posture while Britain may have perceived that U.S. mediation would not produce a satisfactory outcome. It can be hypothesized that frank mediator declarations of interest—even biased interest—can indicate to each party that combinations of mediator-adversary coalitions are possible, which, in turn, might demarcate acceptable limits of behavior and reasonable expectations of the mediation. These outcomes may help prevent further escalation and actions that deepen the stalemate. Saadia Touval explains this idea as follows: "the additional perception of bias strengthens the mediator's leverage, since the party that considers itself favored by the mediator will seek to preserve its good relations and prevent a rapprochement between the third party and the adversary. The party that views the mediator as favoring its antagonist will seek to reverse the relationship and win the mediator's sympathy,"⁵⁵ and one may assume that sympathy seeking can preclude escalatory behaviors and possibly encompass de-escalatory ones.

In active, open and honest pursuit of its interests, the United States can take advantage of the fact that its interest in the region has been noted by the disputants and *encourage constructive perceptions of bias* by both Pakistan and India, and so maximize its leverage with each disputant respectively.

Process of the Mediation

Issue Structure

One of the first tasks of the mediator will be to determine the scope of the issues to be resolved and formulate a process appropriate to those issues, in short, to modify the issue structure. The issues of most pressing urgency (without assigning them priorities) are: (i) avoidance of international nuclear (or conventional) war over Kashmir, (ii) resolving conflicting Pakistani and Indian claims to Kashmir, (iii) ending the stand-off between the Kashmiris and the Indian government, and (iv) resolving Kashmiri self-determination claims. Issues (i) and (ii) comprise a bilateral set of issues that chiefly concern India and Pakistan, while (iii) and (iv) comprise a set of internal conflict issues that chiefly concern India and the residents of the Vale of Kashmir. Of course, there are strong links between both sets of issues.

India is the party common to both conflicts; it is in a dispute with both Pakistan and the Kashmiris, giving the impression that perhaps they are two separate conflicts that can be separately mediated. Although this may be procedurally true, Kashmiri and Pakistani claims affect each other and cannot be cleanly severed from each other. Therefore, bilateral issues would be most likely to control a U.S. mediation agenda. However, the skillful mediator will attempt to prioritize the bilateral issues while keeping sight of and determin-

ing the best method for addressing the Kashmiri self-determination issues, possibly in a parallel facilitated negotiation process that is conceptually linked to the mediation between India and Pakistan. Jeffrey Rubin, basing his conclusions on decades of negotiations research, believed that a holistic approach, in which a comprehensive set of issues to be resolved, is preferable to one in which issues are addressed piecemeal, due to the enhanced ability to make later and wiser concessions via the linkage of issues in dispute.⁵⁶

Communication/Physical Structure

"An effectively functioning third party must know when to encourage communication between the principals, and when such communication should be curtailed."⁵⁷ Facilitating effective communication will be one of the more essential roles the mediator will play, as both parties complain bitterly of ineffective communication with the adversary. The record of bilateral talks on Kashmir testifies to the difficulties of communication experienced by both India and Pakistan, a situation that demands a third party who can reframe issues, remind parties of points of agreement and disagreement, clarify and translate concerns and positions, elicit proposals and concessions.

Related to communication is modification of physical structure, or site of the mediation. Strict control of the site would likely be conducive to a positive negotiating atmosphere, as the parties would be freed from scrutiny and the inflexibility of their own "dominant responses," which Rubin noted, can be exacerbated by the presence of an interested audience.⁵⁸ The greater the concealment, the more likely de-escalatory movement is to occur. Pakistan's Ambassador Lodhi openly suggests that the United States conduct the mediation in "back-channel" format, much as the Norwegian brokered Palestinian-Israeli talks were conducted. This would have the obvious advantage of saving face for the principals and deflecting negative attention from them, as well as permitting considerable mediator freedom.

A caveat is in order, however. The removal of the process from the public eye can back-fire on the parties if carried too far and characterized as a sell-out, especially if the governing political parties are weak and face sectors with a vested interest in the continuation of the conflict, as may be the case with the defense establishments of each country. Extremely negative reactions in the editorial pages of Pakistani newspapers accompanied the rumors that India, Pakistan, China and the United States had engaged in informal secret talks over the nuclear nonproliferation issue.

Formula and Strategy

"India and Pakistan still tend to view international affairs, including relations with the United States, as a zero-sum game."⁵⁹ This perception underlies problematic relations between India and Pakistan. However, since it is the United States that is actively engaging the adversaries in new relationships, the United States can work toward changing this perception. According to the Assistant Secretary of State for South Asian Affairs, Robin Raphael, the United States is continuously trying to "nurture" "strong and friendly relations" with

the adversaries, while simultaneously urging them to take confidence building measures such as reducing Pakistani support for the insurgency and encouraging Indian initiative on dialogue with Kashmiris.⁶⁰

There are several bilateral arrangements and UN resolutions that can provide a starting point for mediation. One recent proposal put forth by a U.S. geographer entails creating an international border along the LOC while permitting significant border adjustments, and creating a Kashmiri Autonomous Region (KAR) under nominal Indian sovereignty. It also contemplates conducting a modified version of the regional referendum first proposed in 1950 by Owen Dixon, an Australian jurist and UN representative in India.⁶¹ This approach postulates that regions and peoples predisposed to accede to Pakistan or India should be able to do so without prejudicing the status of the entire former Princely State. Kashmiris who desire greater autonomy should be provided with an opportunity to create an autonomous regime with free trade and travel between the KAR and both India and Pakistan.

If sufficient mediator leverage is attained so that the mediator can propose such creative options and have them entertained by the parties, it then becomes an issue of creating incentives for their acceptance and raising the costs of non-agreement, situations which are created by manipulating and expanding the military and commercial relations the United States has with each party, modifying the aid relationship between the United States and each party, or conceivably even applying coercive pressure. Of course, behavior that is flexible can be rewarded while even the rewards can be creatively conditioned, such as supplying development aid that is contingent on mutual cooperation and execution of joint projects.

In constructing the strategic aspect of the mediation, it is useful to consider Peter Carnevale's model of strategic choice in mediation.⁶² Depending on the mediator's perception of common ground between the parties, as well as the mediator's evaluation of the parties' aspirations, the mediator will choose between strategies of pressing, inaction, compensation and integration. According to the Carnevale framework, the United States mediation strategy would combine lowering the parties' aspirations and compensating them for de-escalation, although certain positions may be amenable to integration.

Conclusions

All attempts at resolution of the conflicting claims to the former Princely State have thus far failed. An analysis of the interests of the United States in South Asia reveals that there is an emerging but strong convergence among U.S.-Pakistani and U.S.-India interests. This convergence has created an opening for effective third-party intervention that the United States can take advantage of, should it decide to employ the leverage it is acquiring over the parties in the conflict. While it is not yet clear that the United States will definitively *exercise* its new leverage with respect to the Kashmir conflict, this would appear to be the direction U.S. foreign policy is taking. The potential to play such a role is present and growing.

The continuing failure of the Indian and Pakistani governments to definitively resolve their conflict over Kashmir via bilateral high-level channels, in combination with a re-energized U.S. presence with the parties, sets the stage for acceptance of a triadic approach to conflict resolution: India and Pakistan may each attempt to consolidate competing dyadic relationships with the United States while the third party creates links between the two adversaries and simultaneously satisfies its own geopolitical interests.

The asymmetry of the past and current relationships each party has with the United States will not necessarily impede, but can actually facilitate, a mediation process through skillful management of bias perceptions. The United States is in possession of sufficient resources to create incentives for de-escalation and possesses sufficient force and leverage to coerce a lowering of aspirations, avoidance of hostilities and halting of nuclear proliferation. There is a basis for an effective bargaining triad to emerge in which U.S., Pakistani and Indian interests can be mutually addressed and met.

A comprehensive solution comprising a final settlement of the secessionist claims as well as the Indo-Pakistani rivalry is not likely to be attained in an initial mediation between India and Pakistan due to the sheer complexity of the issues to be resolved, the profound depth of the secessionist aspirations of the Kashmiri militants, and the dynamics of conflict resolution manifest in internal conflicts in contrast to international ones. Separate but complementary efforts to negotiate may have to be made between the Kashmiri insurgents and India. Nonetheless, resolution of the Kashmir conflict *as it affects the relationship between India and Pakistan* is more likely than ever before to be attained given the new, heightened interests and prevalence one superpower has in the region, and the linkage the superpower has begun to make between its regional interests and resolution of the Kashmir conflict. Such a process would have the potential to ultimately facilitate the attainment of a just, peaceful and mutually beneficial resolution of differences between India and the Kashmiris opposed to continued Indian governance.

Notes

1. Hereinafter I will use the term *Kashmir* to mean the entire disputed area, unless discussing only a certain portion.
2. For a concise description of the principal attempts at conflict resolution, see Robert G. Wirsing, *India, Pakistan and the Kashmir Dispute* (New York: St. Martin's Press, 1994), Appendix 1.
3. Seymour M. Hersh, "On the Nuclear Edge," *The New Yorker*, March 29, 1993.
4. Jacob Bercovitch, "The Structure and Diversity of Mediation in International Relations," in *Mediation in International Relations: Multiple Approaches to Conflict Management*, eds. Jacob Bercovitch and Jeffrey Z. Rubin (New York: St. Martin's Press, 1992).
5. John F. Burns, "Rebels in Kashmir and Indian Army Ready for Long Fight," *The New York Times*, May 16, 1994, A6.
6. Burns, "Indian Prime Minister Hints at Concessions to Kashmir Muslims," *The New York Times*, May 18, 1995, A15.
7. Key factual material concerning human rights violations by government troops and militant groups was obtained especially from two investigatory documents: Interna-

- tional Commission of Jurists, *Human Rights in Kashmir: Report of a Mission* (Geneva, Switzerland: International Commission of Jurists, 1995) 18-25; see also Asia Watch & Physicians for Human Rights, *The Human Rights Crisis in Kashmir: A Pattern of Impunity* (New York: Human Rights Watch, March 1993): 26-35.
8. M.K. Lokesh, Counselor for Political Affairs, Embassy of India to the United States, "Debate on the Status of Kashmir," Northeastern University, May 10, 1995.
 9. Maleeha Lodhi, Ambassador of Pakistan to the United States, Speech at The Fletcher School of Law and Diplomacy, Tufts University, February 17, 1995.
 10. Ibid.
 11. Saadia Touval and I. William Zartman, "Mediation in International Conflicts" in *Mediation Research: The Process and Effectiveness of Third Party Intervention*, eds. K. Kressel and D.G. Pruitt (San Francisco: Jossey-Bass, 1989).
 12. Ibid.
 13. I. William Zartman and Saadia Touval, "Third Party Diplomacy and Informal Peace-making" in *Resolving Third World Conflict: Challenges for a New Era*, eds. S. J. Brown, and K. M. Schraub, (Washington, D.C.: United States Institute of Peace Press, 1992).
 14. Louis Kreisberg, "Timing Conditions, Strategies, and Errors" in *Timing the De-escalation of International Conflicts*, eds. L. Kreisberg and S. J. Thorson (Syracuse, NY: Syracuse University Press, 1991): 7-9.
 15. Touval and Zartman, "Mediation in International Conflicts."
 16. Wirsing, "U.S. Security Interests in South Asia," Prepared Testimony Before the House International Relations Committee, Subcommittee on Asia and the Pacific, *Federal News Service*, December 6, 1995.
 17. Thomas P. Thornton, "The United States and South Asia," *Survival* 35, no. 2 (Summer 1993): 110-128.
 18. Kreisberg, "Timing Conditions, Strategies, and Errors" in *Timing the De-escalation of International Conflicts*, eds. L. Kreisberg and S. J. Thorson, 7.
 19. Raju G. C. Thomas, "Secessionist Movements in South Asia," *Survival* 36, no. 2 (Summer 1994): 92-114.
 20. Embassy of India to the United States, interview with the author, June 18, 1996.
 21. Michael Krepon, Prepared Testimony Before the House International Relations Committee, Subcommittee on Asia and the Pacific, "U.S. Security Interests in South Asia," *FDCH Congressional Testimony*, December 6, 1995.
 22. Robin Raphel, Assistant Secretary of State for South Asian Affairs, "Nonproliferation Policy in South Asia," Statement before the Subcommittee on Near Eastern and South Asian Affairs of the Senate Foreign Relations Committee, Washington, D.C., March 9, 1995," *U.S. Department of State Dispatch* 6, no. 12, March 20, 1995.
 23. See for example, two editorials which appeared in the Pakistani press, "Secret Nuclear Talks and Our FO" *The Pakistan Observer*, March 2, 1995 [Foreign Broadcast Information Service, March 3, 1995], and "Unofficial Nuclear Talks" *The Nation (Islamabad)*, March 1, 1995 [Foreign Broadcast Information Service, March 2, 1995].
 24. Samina Yasmeen, "Pakistan's Cautious Foreign Policy," *Survival* 36, no. 2, (Summer 1994): 115-116.
 25. Lodhi, Speech at The Fletcher School of Law and Diplomacy.
 26. Bruce O. Riedel, Deputy Assistant Secretary of Defense for Near Eastern and South Asian Affairs, "U.S. Security Interests in South Asia," Prepared Testimony Before the House International Relations Committee, Subcommittee on Asia and the Pacific, *Federal News Service*, December 6, 1995.
 27. Raphel, "U.S. Policy Toward South Asia," Statement before the Subcommittee on Near Eastern and South Asian Affairs of the Senate Foreign Relations Committee, Washington, D.C., March 7, 1995," *U.S. Department of State Dispatch* 6, no. 13, March 27, 1995.
 28. Raphel, "Nonproliferation Policy in South Asia."
 29. Raphel, "U.S. Policy Toward South Asia."

30. The Persian Gulf War against Iraq was a response to Iraqi aggression against Kuwait, but the degree of response may have been affected by another concern: access to oil, a strategic resource, as well as nonproliferation issues.
31. Hersh, "On the Nuclear Edge."
32. Touval, "The Superpowers as Mediators" in *Mediation in International Relations: Multiple Approaches to Conflict Management*, eds. Jacob Bercovitch and Jeffrey Z. Rubin (New York: St. Martins Press, 1992).
33. Raphel, "Nonproliferation Policy in South Asia," and "U.S. Policy Toward South Asia."
34. Riedel, "U.S. Security Interests in South Asia."
35. Ibid.
36. Raphel, "U.S. Policy Toward South Asia."
37. U.S. State Department, interview with the author, April 18, 1995.
38. Lodhi, Speech at The Fletcher School of Law and Diplomacy.
39. Yasmeen, "Pakistan's Cautious Foreign Policy," *Survival* 36, no. 2 (Summer 94): 121.
40. The Clinton Administration engineered a one-time Congressional exception to the provisions of the Pressler Amendment in order to ameliorate what was considered an unfair situation: Pakistan had paid for, but never received, significant arms deliveries. Under this revision, the "Brown Amendment," the United States will "release about \$370 million worth of military equipment that has been embargoed under Pressler sanctions," and will have "greater cooperation with Pakistani military forces in counter-narcotics, counter-terrorism and peacekeeping activities." The Clinton Administration asserts that the "unfairness" of the Pressler sanctions was undercutting its abilities to push its nonproliferation agenda with Pakistan. See Riedel, "U.S. Security Interests in South Asia."
41. Sandy Gordon, "Resources and Instability in South Asia," *Survival* 35, no. 2 (Summer 1993): 66-87.
42. India and Pakistan, according to the United Nations Development Programme, rank 134 and 128 out of 174 countries analyzed for progress made toward improving actual quality of life and expanding opportunities for human improvement. The criteria for measurement of the "human development index" are life expectancy, educational attainment and standard of living. Clearly human development issues present an opportunity to make a difference for a vast population. See United Nations Development Programme, *Human Development Report 1995* (New York: Oxford University Press, 1995): 155.
43. Wirsing, *India, Pakistan and the Kashmir Dispute*, 237-254.
44. Janice Gross Stein, "Structures, Strategies, and Tactics of Mediation: Kissinger and Carter in the Middle East," *Negotiation Journal* (October 1985): 331, 332.
45. Wirsing, *India, Pakistan and the Kashmir Dispute*. Also, see the International Commission of Jurists' 1995 report on Kashmir, in which two other characteristics of the Agreement were noted which will have an impact on any future conflict management efforts, in addition to the implications of the consequent bilateralism of the Simla Agreement. First, Indira Gandhi and Zulfikar Ali Bhutto in the Simla Agreement implicitly recognized that the cease-fire line (LOC) as of December 17, 1971, constituted a *de facto* partition of the entire state, which had previously been claimed in its entirety by both parties. Second, the Kashmiri people were not party to that Agreement. These particular aspects of Indo-Pak bilateralism have implications for the process and content of the prospective mediation. International Commission of Jurists, *Human Rights in Kashmir: Report of a Mission*.
46. Gross Stein, "Structures, Strategies, and Tactics."
47. Rubin, ed. *Dynamics of Third Party Intervention: Kissinger in the Middle East* (New York: Praeger Publishers, 1981): 6.
48. Wirsing, *India, Pakistan and the Kashmir Dispute*.
49. "The Purposes of the United Nations are: 1. To maintain international peace and security, and to that end...bring about by peaceful means...adjustment or settlement of

- international disputes..." Charter of the United Nations, Chapter 1, Article 1, Paragraph 1.
50. Touval, "The Superpowers as Mediators" in *Mediation in International Relations: Multiple Approaches to Conflict Management*, eds. Jacob Bercovitch and Jeffrey Z. Rubin (New York: St. Martins Press, 1992).
 51. Rubin, ed. *Dynamics of Third Party Intervention: Kissinger in the Middle East*, 6.
 52. Numerous authors address the bias issue. See for example, William P. Smith, "Effectiveness of the Biased Mediator," *Negotiation Journal* 1(1985): 363-372; Touval, "The Context of Mediation," *Negotiation Journal* 1 (1985); Touval, "The Superpowers as Mediators" in *Mediation in International Relations: Multiple Approaches to Conflict Management*, eds. Jacob Bercovitch and Jeffrey Z. Rubin; Touval and Zartman, *International Mediation in Theory and Practice* (Boulder, CO and London, UK: Westview Press/Foreign Policy Institute of SAIS, 1985).
 53. Smith, "Effectiveness of the Biased Mediator," 368-369.
 54. Ibid., 369-370.
 55. Touval, "The Context of Mediation," *Negotiation Journal* 1 (October 1995): 376.
 56. Rubin, ed. *Dynamics of Third Party Intervention: Kissinger in the Middle East*, 30-32.
 57. Ibid., 21.
 58. Ibid., 23-24.
 59. Raphel, Assistant Secretary of State for South Asian Affairs, "U.S. Security Interests in South Asia," Prepared Testimony Before the House International Relations Committee, Subcommittee on Asia and the Pacific, *FDCH Congressional Testimony*, December 6, 1995.
 60. Ibid.
 61. Joseph E. Schwartzberg, "An American Perspective II," [University of South Carolina Symposium on Kashmir], *Asian Affairs: An American Review* 22, no. 1 (Spring 1995): 78-80. For the text of the Dixon plan, see Owen Dixon, UN Representative for India and Pakistan, *Report to the Security Council*, September 15, 1950, reprinted in H. S. Gururaj Rao, *Legal Aspects of the Kashmir Problem* (New York: Asia Publishing House, 1967), Appendix XXIII.
 62. Peter J. D. Carnevale, "Strategic Choice in Mediation," *Negotiation Journal* 2 (1986).



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