



Program Director:
Radha Kumar

DELHI POLICY GROUP

Program on Developing Durable Peace Processes & Partners

Simulation IV

Simulation Exercise: *Frameworks for a Kashmir Settlement*

Summary

In May 2006, the Indian Prime Minister held a Round Table Conference in Srinagar, the capital of Jammu and Kashmir, at which 5 working groups were set up to produce ideas on how to move the Kashmir peace process forward. The working groups are on:

- CBMs with Pakistan, including cross-border and cross-LOC relations;
- Center-State Relations;
- Good Governance;
- Infrastructure and Economic Development; and
- CBMs within Jammu and Kashmir, including for widows and orphans of the violence, return of displaced persons, and return of people who crossed over during the insurgency.

This simulation is based on **one** of the working groups dealing with **Center-State Relations**. We have chosen this working group because it touches on the crux of the problem: Kashmir's political status.

Simulation Structure

This simulation is of 1 working group meeting, so it will take place as one round table meeting throughout.

Opening session: 1 1/2 hours

Chair introduces the subject of the working group, describes mandate, mandate is then discussed.

Session II: The different issues of Center-State relations are distinguished, with inputs from all members according to their political/group interests.

Session III & IV: **If university coordinator chooses, experts on different aspects of Center-State relations in J&K context can be invited to present their views before working group and be questioned by its members.**

Session V & VI: Working groups members go around the table with each one putting forward his recommendations on what should be done.

Session VII and VIII (concluding): Chair and working groups members try to come up with a consensus document listing possible options on Center-State relations. Please note: a consensus document does not mean all members have to agree on each recommendation – they merely have to agree that the recommendation can be included, as the view of a specific party/group.





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Brief Description of the Working Group Meeting

This is the first meeting of the working group on Center-State Relations. The group comprises about 30-35 people. You begin by discussing the parameters of the work/mandate of the group, and then focus on various proposals that have been made on center-state relations for Kashmir.

Parameters:

The two chief aspects of Centre-State relations that your working group has been asked to look at are:

- A. What should be the relationship between Jammu and Kashmir and the rest of the Indian federation? and
- B. Is there a case for internal devolution, and in this context, what should be the relations between Jammu, the Kashmir valley and Ladakh?

However, you can consider adding to these parameters:

(a) Relations between Pakistan-administered Kashmir—“Azad Kashmir” and the Northern Areas – and the Pakistani federation, and

(b) Relations within “Azad Kashmir” and between “Azad Kashmir”, Gilgit and Baltistan.

A third connected issue of relations between Jammu and Kashmir and Pakistan-administered Kashmir is to be considered by a different working group, the one on cross-border CBMs. But if any of your members hold strong views on what should be done on this issue in the context of Center-State relations (for example, joint institutions between J&K, AJK, Gilgit and Baltistan), you can discuss them with the intention of passing on ideas to the concerned working group.

The questions before you are:

- *Is there a solution based on devolution (interpreted in its widest sense)¹ that can be found directly between New Delhi and the people and leadership of Jammu & Kashmir? If so, what is it?*

Or

- *Do Pakistan, and Pakistani-administered Kashmir have to be a part of the solution, and if so, in which ways?*
- *Can an agreement between New Delhi and Srinagar, or New Delhi, Islamabad and Srinagar, bring about a lasting peace, or do discussions on devolution have to include Jammu and Ladakh, and as well regions of AJK, Gilgit and Baltistan?*
- *Finally, do the “azaadi” groups have to be a part of this process for a solution to be arrived at, and if so, in which ways? Should/can they be drafted into the working group? If not, should there be a parallel track of discussion on this issue with them?*

And

- *Should the same options apply to the armed groups? If so, should it be on condition that they renounce violence/declare a ceasefire?*

¹ “Devolution” can range from autonomy to Panchayati Raj to (con)federal ties to special status of various other kinds. A guide to the many existing proposals for a political solution along these lines is attached.



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Issues for the Working Group:

A. Centre-State Relations

Jammu and Kashmir's relationship to the Indian federation was originally defined by **Article 370** of the Indian Constitution, which granted substantial autonomy to the State (see enclosed Article 370). It was, however, amended several times subsequently, and many of its provisions were vitiated. Moreover, on the ground most of its provisions were not respected.

Should Article 370 be restored in its entirety? Or is it no longer valid? If it is restored, what are the guarantees that it will be respected?

Secondly, though Article 370 is the only Constitutional provision determining Jammu and Kashmir's relationship to the Indian federation, there are several other proposals that have been made on this issue over the years. These include:

The Delhi Agreement (which predates Article 370)
The National Conference's Autonomy Plan
The PDP's proposal on "Self Rule"
The Kashmir Study Group's proposals
The Delhi Policy Group's proposals
The Jandayal Plan

Are any of the recommendations in these documents useful additions/replacements for Article 370? What combination will provide the most potentially durable basis for peace?

Thirdly, while some of these proposals concern Centre-State relations between Jammu and Kashmir and the Indian federation alone (Delhi Agreement, National Conference's Autonomy Plan, PDP's proposal on "Self Rule"), others go further and look at relations between "Azad Kashmir", the Northern Areas and Pakistan, as well as potential relations between India, Pakistan and the different parts of divided Kashmir (Kashmir Study Group, Delhi Policy Group, Jandayal Plan).

Should Center-State relations between India and Jammu and Kashmir, and Pakistan and Pakistani-administered Kashmir, be uniform/harmonized? What should be the relationship between AJK and the Northern Areas?

Will cross-LOC relations between the different parts of Kashmir strengthen/weaken Center-State relations?

B. Internal Devolution

After 17 years of conflict, many Indians, Kashmiris and Pakistanis are convinced that overall devolution (Centre-State Relations A) will only work – i.e., lead to a stable peace – if it is accompanied by internal devolution between Jammu, the valley and Ladakh. Proposals on internal devolution have been on the Kashmir agenda pretty much since India and Pakistan gained independence, but were never implemented by the governments of Jammu and Kashmir, while in Pakistani-administered Kashmir, the problem was buried for 50 years by the ceding of the Northern Areas to direct Pakistani rule. Recently, however, the Northern Areas have been granted a small degree of self-rule through the establishment of a Legislative Council, some of whose members are elected.





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In 2003 the Jammu and Kashmir government took a first step towards internal devolution by creating Hill Councils for the Leh and Kargil districts of Ladakh, which led to similar demands by groups in Doda district of Jammu. Most political leaders feel that it would be wiser to have an overall plan for regional, and possibly local, devolution, rather than ad hoc creation of new political-administrative units.

Important documents on devolution within Jammu and Kashmir include:

Balraj Puri's *Regional Autonomy Report*
National Conference Regional Autonomy Proposals
Constitution of Jammu and Kashmir

Will internal devolution contribute towards peace-building in Kashmir?

How will it square with the Jammu and Kashmir Constitution?

Can regional/district level councils solve the governance deficit, or is Panchayati Raj also required?

Finally, most proposals for devolution are based on territorial administrative units. Yet communal – especially minority – polarization has become an important element of continuing conflict in the State(s). Clearly some form of minorities' protection has to go into any devolution package, whether it is through provision of elected representatives or special administrative forums, such as a Minorities Commission.

What are the best provisions for minorities' protection and rights? How can they be enshrined in the Constitution of Jammu and Kashmir? Will you make special provision for the return of displaced minorities, such as the Pandits?

C. Consensus Building

Even if you do reach agreement on any proposals, which is a moot point given the wide-ranging composition of your working group, you will have to consider how you will “sell” these proposals to the people of Jammu and Kashmir.

How will the armed groups react to the proposals you make? Will you also choose your proposals keeping their reaction in mind?

As the “azaadi” groups have a strong position on Center-State relations, do you need to take their views into account when making proposals, especially in the context of consensus building?



D. Pakistani-Administered Kashmir

Finally, there is the issue of whether you want to make recommendations on Center-State relations for Pakistan-administered Kashmir (“Azad Kashmir” and the Northern Areas). Given that the working group is supposed to provide ideas that could make up the framework for a lasting solution, some of the ideas that you generate will feed into the India-Pakistan peace process. It might therefore make sense for you to also consider the situation in Pakistan-administered Kashmir.

Important documents in this context are:

The Karachi Agreement of 1949
The AJK Interim Constitution

Delhi Policy Group Proposals
Kashmir Study Group Proposals





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Should the same provisions for autonomy/devolution apply to Pakistani-administered Kashmir as to Jammu and Kashmir? If so, what changes would be required at the Constitutional as well as the administrative level?

Secondly, you may feel that representatives from Pakistani-administered Kashmir should address these issues, just as your working group is addressing them.

Should you suggest that similar working groups be set up in AJK, Gilgit and Baltistan? Or should you consider inviting expert testimony from representatives in AJK, Gilgit and Baltistan for a future meeting?

Composition of the Working Group:

The working group is supposed to be made up of representatives from all the political parties, and regional and community leaders. Students will each be allocated one of the following roles:

National Conference Representative: One of the oldest political parties in Jammu and Kashmir, the National Conference has ruled the State for most of its existence within the Indian federation. Its leader, Sheikh Abdullah, negotiated Article 370 with the Indian National Congress. Since your party also authored the State and Regional Autonomy Reports, you will be presenting and arguing for its proposals.

PDP Representative: As a young party (founded in 2002), you want to establish your difference from the NC. You say you want “self-rule” rather than autonomy, and define self-rule as something more than autonomy and something less than independence. You have also put forward a set of proposals for fiscal devolution.

Congress Representative: Your party agreed autonomy for Jammu and Kashmir within the Indian federation, and supported a Kashmiri identity based on language and pluralist values, but then fell back on the mantra of the State as an “integral” part of India. Now you are in government, with orders from your chairperson to keep the peace process moving. You are tempted to opt for Panchayati Raj as the best means of devolution, but you know that you are also expected to take a broader political position. What will it be?

BJP representative: Your party has traditionally opposed Article 370 and argued for full integration of Jammu and Kashmir into India, but following Mr. Vajpayee’s peace initiatives of 2000, you have dropped your opposition to the idea of special status for Kashmir. You stayed out of the Srinagar Round Table, but have agreed to come to this working group meeting. You will make a lot of noise on the issue of Jammu and Ladakh’s regional rights to devolution, but you still have to come up with a position on the overall status of the State.

CPI-M Representative: You support Article 370 as well regional and local devolution, and have been active at the Track II level in India-Pakistan and intra-Kashmiri dialogues.

Panther’s Party Representative: You want more powers for Jammu. You are against the idea of state autonomy.

Union Territory Front Representative: You want to separate Ladakh from Jammu and Kashmir, and are asking for Union Territory status within the Indian federation. You are aware that most of the Muslim population of Kargil will not wish to separate from the State, and may be willing to contemplate the separation of Leh district.





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Kargil Hill Council Representative: Though you had made a live and let live arrangement with the Union Territory Front, there are simmering communal tensions within Kargil. You now oppose the UTF demand and prefer to push for regional devolution within Jammu and Kashmir. You feel strongly that there should be devolution for the Northern Areas, in fact you would like to invite representatives from Baltistan to the working group, as you share culture, language and divided families.

Leh Hill Council Representative: You were instrumental in making the peace between Kargil and the UTF, and are willing to see whether devolution within Jammu and Kashmir will allow Ladakh a large measure of opportunity to develop. You fear, however, that autonomy will allow Srinagar to return to its neglect of Ladakh, or even worse, pit Kargil against Leh. If autonomy is accompanied by guarantees of regional devolution you might consider it, but your preference is for closer integration of the State with India.

Gujjar/Bakerwal Leader: You insist that any agreement for more powers to the state be accompanied with political, social and economic safeguards for the community. You want political and social reservations for the community like scheduled tribes elsewhere.

Shia Leader: Your voice will depend on the region to which you belong. (e.g. in Kashmir and Ladakh their demands will be different)

Kashmiri Pandit Representative: You left the Kashmir valley in 1990 and live in government provided housing, called a “migrants’ camp” in Jammu. You want closer integration of Jammu and Kashmir to India, and oppose autonomy on the grounds that you will be even more threatened than you currently feel, but you do not support the demand for an “independent Pandit homeland” in Jammu and Kashmir that some of your more radical fellow Pandits make. On the issue of internal devolution, you want protections, especially through reserved jobs, for the Pandit minority to be written into devolution mechanisms.

Sikh Representative: Your community has dwindled during the years of conflict, especially in the valley and the border regions of Jammu. You have traditionally had good relations with all communities in Jammu and Kashmir, but presently feel most comfortable in Jammu. You are concerned that displaced Sikhs from AJK who fled during the 1948 war have not been adequately rehabilitated or compensated. 25 seats are reserved in the Jammu and Kashmir legislature for representatives from Pakistan-administered Kashmir; you believe that at least 2 should be allocated to displaced Sikhs.

Regional Representatives: 1 each for

Doda: You are for autonomy, might even be pro-independence. You want Hill Council status for your district, and are accused of wishing to divide Jammu province along communal lines (Doda being majority Muslim). You would be willing to support an overall devolution plan, so long as it devolves powers to district councils rather than via Jammu.

Poonch-Rajouri: You want powers to be devolved from Jammu city. You insist that Jammu province should not be considered synonymous with Jammu city and institutional safeguards be put in place so that your problems are not shunted to the background.

Uri-Kupwara-Baramulla You want the policy makers to make sure that adequate attention is paid to your problems and Srinagar district does not take the bulk of their attention.





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Anantnag-Pulwama You will like to be well connected politically with Srinagar, the nerve center of Kashmir's politics. Mostly you will follow Srinagar's lead and insist on more powers to the state in every way.

Udhampur-Kathua You will go along with Jammu city given the similarity of your demographic profile, and better connectivity with it. You will be against any change in status quo that might give more power to state. Mostly you agree with BJP's political stance on the Kashmir settlement.

Jammu City You are the most vocal voice abrogation of Article 370. You would like the state to have the same political relationship with the center as other Indian states have.

Srinagar City You come from the heartland of Kashmiri nationalism and with political awareness that has a full sweep over the state's history. You will like to get the maximum from the federal government in case of devolution. You will like safeguards to be put in place to maintain the unique centuries old Kashmiri identity on the cultural plane, and will want maximum political concessions like reverting back to pre-1953 status.

Chair: Senior Eminent Indian Muslim

