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India's Pakistan Talks: Engagement without Expectation?

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Abstract

Delhi's recent decision to renew the dialogue with Islamabad, despite the lack of progress on the question of cross border terrorism, underlines the unenviable situation that India finds itself in. Few in India, expect that the resumption of the engagement, will produce substantive results in the near term. India's 'on-again, off-again' peace process with Pakistan, for more than the last decade, has shown that Delhi is not in a position to either coerce Pakistan into giving up its support to 'anti-India' militant groups or entice Islamabad into normalising relations, by offering an early resolution of the conflict over Jammu and Kashmir. With limited leverage and problems in dealing with multiple power centres across the border, Delhi has no option but to demonstrate strategic patience in managing its complex relationship with Islamabad, while India awaits structural changes in Pakistan.

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Introduction

After suspending talks with Pakistan following the outrageous terror attacks on Mumbai in November 2008, India has agreed to resume the formal dialogue with its western neighbour. After a meeting between the Indian and Pakistani Foreign Secretaries in Thimphu, Bhutan on the margins of a ministerial meeting of the South Asian Association for Regional Cooperation (SAARC) in early February 2011, the two sides announced a timeline and subjects of the meetings between senior officials of the two governments in the coming weeks and months. These will be followed by a political review of the outcomes when the foreign minister of Pakistan visits India most probably in July 2011.²

The resumption of the talks marks yet another phase in the ‘on-again, off-again’ peace process in the Subcontinent. While the international community has welcomed the announcement, there has been little popular enthusiasm in either Delhi or Islamabad for the renewed engagement between the two nations. In India, within the foreign policy community, there was a distinct sense of disappointment, if not resentment, that the UPA (United Progressive Alliance) government has dropped the preconditions for the resumption of the dialogue.³ After the Mumbai attacks, India had insisted that bringing the perpetrators of the crime in Pakistan to book must precede the resumption of a comprehensive bilateral dialogue. Delhi, however, seems to have taken a conscious and deliberate decision to return to the negotiating table without a tight linkage to either visible progress on the Mumbai trial underway in Pakistan or more broadly the question of dismantling the anti-India terror machine on its soil. The Indian decision underlines the undiluted commitment of Prime Minister Manmohan Singh to find ways to transform the bilateral relationship with Pakistan despite repeated setbacks and frequent terror attacks and considerable unease within the Indian political class.

The following is an analysis of India’s dilemmas and challenges in sustaining the negotiations with Pakistan. This essay does not purport to be an account of the causes for the repeated failures of the Indo-Pak peace process. It is an attempt to explain the Indian decision to persist in the engagement with Pakistan despite the lack of satisfaction on the question of terror and assess the likely outcomes from the present round of the dialogue.

² See ‘Agreed Outcome of India Pakistan Foreign Secretary Level Talks in Thimphu’ (10 February 2011), www.mea.gov.in/mystart.php?id=530217162. Accessed on 20 February 2011.

³ See the reaction of Satish Chandra, former High Commissioner to Pakistan and former Deputy National Security Adviser; ‘Knowing When Not to Talk’, *The Indian Express* (19 February 2011), p.13.

India's Limited Options

Prime Minister Singh's attempts to engage Pakistan against all odds and provocations from across the border are not very different from those of his two immediate predecessors – former Prime Ministers Atal Bihari Vajpayee and Inder Kumar Gujral. All the three leaders recognised the importance of transforming the relationship with Pakistan and the need to go beyond conventional political wisdom and entrenched bureaucratic positions on how to deal with their western neighbour. Gujral laid the foundations in 1997 for what has come to be known as the Composite Dialogue. Both Vajpayee and Manmohan Singh promoted and persisted in the dialogue with Pakistan despite major reverses during their tenures – the Kargil Crisis during the summer of 1999, the terror attack on the Indian Parliament in December 2001, and the attacks on Mumbai in July 2006 and November 2008 respectively. These events and the Indian responses to them demonstrated that Delhi had neither a credible option of punitive military action nor mounting sustained international pressure. In all the cases, India had to eventually revert to negotiations with Pakistan after a 'decent interval'.

In 1999, Delhi chose to limit its military response to the Indian soil and to the Kargil sector, while threatening to escalate further – horizontally to other sectors in Kashmir and the International Border and to the maritime domain – if it proved difficult to push the occupying Pakistani troops back to the Line of Control (LOC). Adopting a costly strategy that involved high casualties, the Indian Army did succeed in vacating the Pakistan Army's occupation. India also found unexpected diplomatic support from the Clinton Administration in Washington. Analyses of the Kargil Crisis suggest a possible calculation in Islamabad that even a limited conflict in Kashmir and the threat of escalation to the nuclear level would bring the United States (US) to intervene diplomatically, press for an early ceasefire, and compel India to the negotiating table on Kashmir.⁴

The US indeed did intervene diplomatically, but its emphasis was not on either ceasefire or immediate negotiations. Washington instead mounted pressure on Pakistan to immediately vacate the aggression and respect the sanctity of the LOC in Jammu and Kashmir while offering to lend its good offices to promote a dialogue with India after the restoration of the *status quo ante*. As the dust settled down in Kargil, Vajpayee sought to revive the dialogue with Pakistan, this time with General Parvez Musharraf, who had taken charge in a military coup in October 1999. Vajpayee invited Musharraf to visit India for talks in Delhi and a retreat in Agra in July 2001. While the Agra Summit failed, it underlined the Indian leadership's persistent search for a normalisation of relations with Pakistan. For critics, Vajpayee's policy of reengaging Pakistan, barely two years after Kargil, signalled Indian weakness.

⁴ Ashley J. Tellis, Christine C. Fair and Jamison Jo Medby, *Limited Conflicts Under the Nuclear Umbrella: Indian and Pakistani Lessons from the Kargil Crisis* (Santa Monica, CA: Rand Corporation, 2001).

After the attack on the Indian Parliament in December 2011, the Vajpayee government did consider the option of immediate retaliatory air strikes against terror camps in Pakistan. While some senior decision makers were confident that nuclear escalation could be contained, others were less certain about managing Pakistan's military responses. As the moment for military retribution quickly passed, the Vajpayee government embarked on 'Operation Parakram' – involving one of the largest military mobilisations in the history of independent India. As India massed its armies on the border with Pakistan, moved all its naval units to the Arabian Sea, and threatened escalation, including the nuclear level, Washington and London moved in quickly to defuse the situation. Pressure from the Anglo-American powers saw Musharraf promise in a television broadcast in January 2002 stating that Pakistan will not allow its soil to be used for terror attacks against India. After some easing in the wake of Musharraf's promise, renewed military tensions broke out in May-June 2002. The Anglo American powers intervened once again. This time, the US Deputy Secretary of State, Richard Armitage, brought a message from Musharraf that Pakistan will permanently and verifiably end cross-border terrorism and infiltration. The crisis steadily eased thereafter and India demobilised its forces after the assembly elections in Jammu and Kashmir later that year.

Months after the crisis abated, Vajpayee once again extended his hand of friendship to Pakistan in April 2003, which, in turn led to renewed contact and confidence building between the two sides and the definition of a new framework for bilateral dialogue in January 2004. The talks with Pakistan followed a broad consensus in India that Operation Parakram was a failure in the sense it did not achieve any of India's long term objectives on eliminating the sources of terrorism in Pakistan. Some have interpreted Operation Parakram as an attempt at 'coercive diplomacy'. Its objective was not to wage a war with Pakistan on the question of terrorism, but mobilise international opinion, especially the Anglo-American powers into compelling Pakistan to change its policy of instrumentalising terror groups like the Lashkar-e-Taiba (LeT) against India.⁵ Even from this perspective, India's gains from Operation Parakram were seen as limited. While India heard the right words from Musharraf, there was no denying that Pakistan retained the option of unleashing the anti-India terror groups at will.

As the baton passed from Vajpayee to Manmohan Singh in 2004, Delhi's commitment to the peace process with Pakistan redoubled. Building on the framework negotiated by Vajpayee and Musharraf, Singh invested much energy in accelerating the pace of the peace process. The Congress government took a different view of counter-terrorism at home as well as with Pakistan. It repealed a draconian anti-terror law passed by its predecessor and also began to insist that terrorism cannot be allowed to come in the way of the peace process with Pakistan.

⁵ See Polly Nayak and Michael Krepon, *U.S. Crisis Management in South Asia's Twin Peaks Crisis* (Washington DC: Stimson Centre, 2006); For an Indian perspective, see V.K. Sood and Pravin Sawhney, *Operation Parakram: A War Unfinished* (New Delhi: Sage, 2003).

But the first test for Singh came when the suburban rail system in Mumbai was attacked in July 2006 killing more than 200 people. There was little talk of military options or even coercive diplomacy of the kind Vajpayee practiced during 2001-02. The Government did suspend talks with Pakistan in the wake of the July 2006 Mumbai attacks, but was eager to find a way out. On the margins of the Non-Aligned Summit (NAM) in Havana in September 2006, India negotiated the setting up of a new bilateral panel – at senior official level – for addressing Indian concerns about Pakistan-based terrorism. Critics, however, argued that the new body was but a face-saving device for India to resume talks with Pakistan – the subsequent ineffectiveness of the panel seemed to bear out the critics.

A far bigger challenge confronted Singh in November 2008, when the terror attacks on Mumbai took place. This time, the Government under Manmohan Singh apparently considered retaliatory air strikes and possible commando raids into Pakistan. As in 2002, so in 2008, the discussion was apparently cursory with no real clarity on the possible consequences of Indian punitive actions and how to cope with them.⁶ The only immediate option was to put the peace process on hold and mobilise some international pressure on Pakistan. There was much empathy for India from the international community. The fact that many foreign nationals were killed in the Mumbai attacks also provided a stronger basis for international cooperation with India in investigating an attack. Washington was quite cooperative in providing technical and other inputs in constructing a solid case to demonstrate that the attack originated from Pakistan and compelling Islamabad to accept the fact and put some of the plotters on trial.

International cooperation, especially the assistance from the US, was useful in constructing the Mumbai dossier. At the political level, all major powers, barring China, went public with their calls on Pakistan to bring the Mumbai trial to a quick close, act against the LeT, and shut down the terror machine on its soil. But it did not take long for India to realise that there were limits to international pressure on Pakistan. As 26/11 slowly receded from memory, the empathy from the international community was bound to wane. Most countries, while pressing Pakistan to act were also suggesting that India must resume dialogue with Pakistan. India itself could not avoid contact with the Pakistani leadership on the margins of the various international forums during 2009-10. As he met the Pakistani leaders, Dr Singh offered to resume the peace process if Pakistan demonstrated good faith on the Mumbai trials. India, however, could not sustain this precondition for too long and agreed to resume the full-fledged dialogue in February 2011.

That India does not have the capacity to coerce Pakistan into accepting its terms on terrorism have once again come into bold relief. This, in turn, is rooted in the reality that ever since it acquired nuclear weapons in the late 1980s, Pakistan has eliminated India's ability to use its

⁶ For a reconstruction of the Indian debate in the aftermath of 26/11, see Pranab Dhal Samanta, 'How India Debated a War with Pakistan that November', *The Indian Express* (26 November 2011), p.1.

superior conventional military power to compel Islamabad to stop supporting cross border terrorism. India's difficult situation was summed up recently by Shyam Saran, India's former Foreign Secretary (2004-06) and Special Envoy to the Indian Prime Minister during 2006-10. Reflecting on the Indo-Pak dynamic since they declared themselves nuclear powers in 1998, Saran argues that Pakistan has concluded that 'nuclear deterrence had worked to its advantage in preventing India from escalating armed conflict with Pakistan beyond the threshold set by Pakistan'. Saran adds that 'Pakistan also believes, with good reason, that the US and China would act to reinforce Indian restraint', and concludes 'we have allowed a situation to develop where the choice to our political leadership is either to risk a war escalating to the nuclear threshold or to continue with the "dialogue-disruption-dialogue" approach with virtually nothing in-between'.⁷

Kashmir: Addressing Pakistan's Core Concern

The Indian political leadership is deeply conscious of the unenviable situation it finds itself with Pakistan. Yet the last three Prime Ministers have conducted policy on the presumption they could affect a fundamental transformation in bilateral relations with Pakistan. All three assumed that by engaging Pakistan on its 'core concern' – the question of Jammu and Kashmir – India could find a way to get Islamabad to end cross border terrorism and normalise the bilateral relationship. This translated into a readiness to modify Delhi's position on Kashmir. Until the late 1990s, Delhi held onto the position that the framework for the resolution of the Kashmir question had been settled under the Simla Agreement of 1972 and no new negotiations were needed. As Pakistan stepped up pressure in the 1990s for a negotiation of the Kashmir question, India eventually conceded the point.

It was Gujral who put the question of Jammu and Kashmir on the list of eight items for the discussion between the two sides in 1997. At the end of a roller coaster ride with Pakistan during 1998-2004, Vajpayee defined a framework for negotiating with Pakistan on Kashmir. The joint statement he signed with Musharraf in January 2004 in Islamabad included three elements. These were: Pakistan would prevent its territory from being used for terror against India; India would negotiate purposefully on Jammu and Kashmir; and the two sides would implement a comprehensive set of confidence building measures (CBMs).⁸ While Vajpayee did not survive in office to carry forward the negotiations, his successor Dr Singh carried forward the process with greater vigour. The period, 2004-07, turned out to be one of the more productive phases in the history of India's relations with Pakistan. Despite many minor terror attacks and a few major ones like the July 2006 attack on the Mumbai train system, the

⁷ Shyam Saran, 'A Different Dialogue this Time Around?', *Business Standard* (16 February 2011), p.13.

⁸ 'India-Pakistan Joint Press Statement, Islamabad', (6 January 2004), www.satp.org/satporgtp/countries/india/document/papers/indo_pak-6jan04.htm. Accessed on 24 February 2011.

level of violence was below the threshold of Indian tolerance and provided a basis for sustained engagement. A series of cooperative measures saw rapid expansion of trade, improved people to people contact and some progress in resolving such issues as the maritime territorial dispute over the Sir Creek.

The most significant progress was in relation to Jammu and Kashmir. During 2004-07, India and Pakistan agreed for the first time to open their intensely militarised LOC by launching a bus service between Srinagar and Muzaffarabad and trading in a limited range of goods. India also began to let the separatist leaders on the Indian side of Kashmir, including from the Hurriyat, to travel to Pakistan. There were also reports that India and Pakistan were close to an agreement on the demilitarisation of the Siachen Glacier in the northern parts of the state of Jammu and Kashmir. Above all, the two sides appeared to have made much progress in drafting a framework for the resolution of the Kashmir dispute itself. The negotiations were conducted through the back channel – Ambassador Satinder Lambah on the Indian side and Tariq Aziz, a top aide to General Musharraf, on the other.⁹ These were indeed the first substantive bilateral negotiations on Jammu and Kashmir since the talks between Foreign Ministers Sardar Swaran Singh and Zulfikar Ali Bhutto during 1962-63.

The agreement was said to be centred on five broad lines. One was that a final settlement would ‘not’ involve exchange of territories. Two, the agreement could change the nature of the LOC by making it porous and irrelevant to the people of the state. Three, both Delhi and Islamabad would agree to give maximum possible autonomy to the territories of Jammu and Kashmir controlled by them. Four, the most innovative part of the agreement, India and Pakistan would set up a joint consultative mechanism involving representatives of the state of Jammu and Kashmir, from both sides, with a mandate to facilitate cross-LOC cooperation on a range of issues – from water management to tourism. Finally, both sides would also reduce the presence of security forces in Jammu and Kashmir as the levels of violence came down.¹⁰ The Foreign Minister of Pakistan during 2004-07 had repeatedly affirmed the extraordinary progress made in resolving the Kashmir question and how close the two sides were to a settlement of the problem.¹¹ India’s current National Security Adviser, Shivshankar Menon, when out of office during 2009, offered a more cautious assessment. ‘Intensive back channel diplomacy’, Menon wrote, ‘made considerable progress in charting a way forward that would enable the issue to be dealt with in humanitarian and practical terms without affecting the substance of the territorial stance of each country and the legal validity of J&K’s accession to

⁹ Steve Coll, ‘Back Channel: India and Pakistan’s secret talks on Kashmir’, *New Yorker* (2 March 2009), www.newyorker.com/reporting/2009/03/02/090302fa_fact_coll. Accessed on 23 February 2011.

¹⁰ Author’s conversations on background with senior Indian government officials.

¹¹ See for example, Khurshid Mahmud Qureshi, ‘Peace Within our Grasp’, *Times of India*, (16 February 2011), <http://timesofindia.indiatimes.com/home/opinion/edit-page/Peace-within-our-grasp/articleshow/7510586.cms>. Accessed on 23 February 2011.

India. The progress achieved in these discussions was considerable but not conclusive or formalised.’¹²

As Musharraf’s power began to fade amidst the crisis over judiciary that began in March 2007, the back channel went cold. The election of a new civilian government and the succession of Musharraf by a new army chief, General Ashfaq Parvez Kayani raised questions about the continuity of commitment to the emerging Kashmir framework in Islamabad. President Asif Ali Zardari’s commitment to the peace process with India was not in doubt. But it soon became clear that he would not control the policy towards India. For Delhi, the attitude of the new Army Chief became a big question mark. For the record, General Kayani, as the head of the ISI (Inter-Services Intelligence) during the final years of Musharraf rule, was surely aware of the negotiating framework on Kashmir. Yet, India found that since General Kayani took charge of the Pakistan Army, there was a steady deterioration of bilateral relations. The attack on the Indian Embassy in Kabul in July 2008 and the 26/11 attacks on Mumbai left Delhi aware of the prospect that progress made during the Musharraf years might not survive the departed General.

More broadly it raised the question of the durability of agreements negotiated with Pakistan. From Delhi’s viewpoint, the Simla Agreement (1972) did not outlast the Pakistani interlocutor at that time, Zulfikar Ali Bhutto. The Pakistan Army, which felt the Simla Agreement was negotiated under duress in the wake of the breakup of Pakistan, also found it difficult to accept the Lahore Declaration that was drafted with Prime Minister Nawaz Sharif in 1999. If Musharraf chose to define his own framework with Vajpayee in January 2004, it is not clear if it continues to enjoy legitimacy and support within the permanent establishment within Pakistan. As he reflected on the negotiations with Pakistan, Menon argued that the ‘primary cause of the present standstill in formal India-Pakistan processes was domestic developments in Pakistan....The practical problem for India and the world is how to deal with Pakistan’s multiple centres of power and whom to talk to.’¹³ The problem has not gone away as Delhi resumes formal dialogue with Islamabad.

Prospects for the New Negotiations

The first question on many Indian minds is whether the renewed talks can take the shock of another major terror originating from Pakistan. While India has resumed the talks by dropping its condition on ending cross border terrorism, new attacks will inflame domestic opinion and in all likelihood again compel Delhi to suspend them. Put another way, Delhi is not in a position to insist on preconditions for a dialogue with Pakistan. It is also not in a

¹² Shivshankar Menon, ‘Hostile Relations: India’s Pakistan Dilemma’, *Harvard International Review*, Vol.31, No.3 (October 2009).

¹³ *Ibid.*

position, however, to effectively sustain a dialogue if there is no conducive atmosphere in terms of reduced levels of violence. This difficulty was underlined by the Indian President, Pratibha Patil, in her address to the Parliament days after the resumption of talks with Pakistan was announced, 'With Pakistan we seek a peaceful resolution of issues through a meaningful dialogue so long as Pakistan does not allow its soil to be used for terrorist activities against India.'¹⁴ Responding to the debate on the President's speech in the Lok Sabha, Prime Minister Singh reaffirmed the message, 'I sincerely hope and believe that the new ruling classes of Pakistan would grasp the hands of our friendship and recognise that, whatever are our differences, terror, as an instrument of State Policy, is something that no civilised society ought to use.... We are willing to discuss all outstanding issues with Pakistan provided Pakistan gives up its practice of allowing the use of its territory for terrorist activities against India.'¹⁵ It is very much possible, then, to visualise the paradigm described by Saran, 'dialogue-disruption-dialogue', will continue for the foreseeable future.

Another way of thinking about the future of the Indo-Pak dialogue is the prospect that India will find a way to re-engage the Pakistan Army, now under the leadership of General Kayani. Delhi has had a general difficulty of negotiating purposefully with the civilian governments of Pakistan, that have to constantly look over their shoulders in engaging India. For Delhi it is quite obvious that the current rulers in Islamabad have no control over the nation's security policy – especially on issues relating to nuclear weapons, Afghanistan, India and the relationship with the *jihadi* groups on its soil. Negotiations with such a government, *prima facie*, cannot be productive. One way of resolving this problem might be for India to find a way to engage General Kayani as the US and other major partners of Pakistan do. This would involve Delhi setting up a discreet but direct channel with General Kayani that can 'pre-cook' the possible outcomes in the formal dialogue between the two governments. Pakistani army chiefs, however, have tended to avoid engagement with India when they do not directly control the affairs of the nation. But many in Delhi are deeply sceptical of the prospects of India finding a way to alter General Kayani's approach towards India. For example, a former High Commissioner to Pakistan, G. Parthasarathy asks: 'Under directions from General Kayani, the Pakistan Government has returned to the old rhetoric about Jammu and Kashmir and disowned the framework for a solution devised earlier with General Musharraf, which was based on territorial status quo. Does our Government seriously believe that talks between Foreign Secretaries will lead to General Kayani having a change of heart?'¹⁶ If the Pakistan army is not on board with the peace process, the resumed negotiations would merely limp along rather than produce any substantive results.

¹⁴ 'President Pratibha Patil's address to Parliament on the first day of budget session', *The Hindu* (21 February 2011), www.thehindu.com/news/resources/article1476938.ece. Accessed on 23 February 2011.

¹⁵ Excerpts from Prime Minister Singh's speech in the Lok Sabha (24 February 2011), www.pmindia.nic.in/speech_24.02.11.pdf. Accessed on 27 February 2011.

¹⁶ G. Parthasarathy, 'Pak Let Off the Hook on 26/11', *The Hindu Business Line* (17 February 2011), www.thehindubusinessline.com/opinion/columns/g-parthasarathy/article1462283.ece. Accessed on 23 February 2011.

A third and more hopeful outcome could emerge if the Pakistan army's strategic calculus towards India evolves in a positive direction. If that does happen, much of the ground covered during 2004-07 talks could be quickly regained. In briefing Pakistani reporters on the decision to resume talks with India, Foreign Secretary Salman Bashir is reported to have talked of a change in Pakistan's regional situation and the need to set new directions with both Afghanistan and India.¹⁷ If this line of thinking were to hold, Delhi and Islamabad could not only expand trade and people to people contacts, but also finalise agreements on Siachen and Sir Creek that were ready for closure. It is also possible to imagine that the two sides would build on the framework agreement that has been negotiated on Kashmir. A sense of rapid forward movement can lend new stability to the peace process by reducing scepticism in both capitals. On the relevance of the progress made in the past, Bashir's response was ambivalent, 'I don't think we should jettison all the good work that was done by predecessors over the past 60 years. We should also not be lost totally in the archives.'¹⁸ The other question is whether India has the political will to sign off major agreements, for example, on Siachen, Sir Creek and Kashmir. There is already considerable opposition to such agreements in Delhi.

Conclusion

India currently is not in a position to either coerce Pakistan into giving up its support for cross-border terrorism or entice into a normalisation of bilateral relations by resolving the Kashmir question. This security condition is currently frozen by the reality of Pakistan's nuclear deterrent that has neutralised India's conventional military options. While Delhi can certainly tempt Islamabad with a deal on Kashmir, it is not clear if what India can offer can satisfy the permanent establishment in Pakistan. The situation could alter only in the event of a structural change inside Pakistan, the regional balance or its great power relations. In the interim, India will have to focus on a more effective management of the bilateral relationship. As Menon argued, 'the paradox is that while there is no alternative to dialogue, it is not and cannot be the entire answer to India's dilemma.'¹⁹ The focus of the Indian discourse on Pakistan in recent years has been too narrowly on whether and when to conduct official negotiations with Pakistan. While embarking on the formal dialogue, Delhi needs to supplement it by reaching out to interlocutors across the entire spectrum of the Pakistani society. Effective management must also include improving its capabilities to deal with extremism and terrorism, and steadily raising the costs of Pakistan's support for anti-India

¹⁷ 'Pakistan seeks role of "game-changer": Bashir', *Dawn* (13 February 2011), www.dawn.com/2011/02/13/pakistan-seeks-role-of-game-changer-bashir.html. Accessed on 23 February 2011.

¹⁸ *Ibid.*

¹⁹ Shivshankar Menon, 'Hostile Relations: India's Pakistan Dilemma', *Harvard International Review*, Vol.31, No.3 (October 2009).

militant groups. Those capabilities, however, can only be built over the longer term. Strategic patience, engagement without high expectation, and the political will to seize fleeting moments of opportunity when they present themselves must be the elements of India's renewed engagement with Pakistan.

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