

SUMMER 2026

VOLUME 7 | ISSUE 1

JOURNAL OF  
**PEACE AND DIPLOMACY**

Institute of Peace and Diplomatic Studies  
Islamabad

# Journal of Peace and Diplomacy

Summer 2026

Volume 7

Issue I

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ISSN (E): 2959-0272

ISSN (P): 2710-0502

Volume 7 Issue 1 Year 2026

DOI: <https://doi.org/10.59111/JPD.007.001.0187>

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**Pathways to Stability: Rethinking Alternative Dispute Resolution and Conflict  
Prevention Management in the Horn of Africa**

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**Abstract**

This study explores the role of Alternative Dispute Resolution (ADR) and Conflict Prevention, Management, and Resolution (CPMR) in promoting sustainable peace and justice in the Horn of Africa, situating them within both indigenous traditions and contemporary innovations. Drawing on a qualitative comparative analysis of Somalia, Kenya, Ethiopia, South Sudan, and lessons from Rwanda, the study finds that while community-based mechanisms remain central to everyday justice, their effectiveness depends on institutional recognition, safeguards for rights, and integration with formal judicial systems. Rwanda's Abunzi and Kenya's Alternative Justice Systems (AJS) demonstrate the potential for scaling localized mediation through state support, while Somalia's ADR centres illustrate the promise of people-centered justice despite gaps in inclusivity. The Moyale cross-border CPMR initiative highlights the importance of regional cooperation in addressing pastoralist conflicts that transcend national boundaries. Findings reveal that legitimacy alone is insufficient unless accompanied by enforceability, inclusivity, and rapid linkages to early warning systems like CEWARN. Recommendations stress the need for standardization of ADR practices, survivor-centered safeguards, cross-border frameworks, and technology-driven innovations such as Online Dispute Resolution (ODR). The study concludes that by blending indigenous wisdom with modern institutional support, the Horn of Africa can transition from fragmented approaches to a coherent justice architecture capable of preventing conflict and fostering long-term stability.

**Keywords:** Alternative Dispute Resolution, Conflict Prevention, Horn of Africa, Mediation, Peacebuilding

## 1.0 Background

The Horn of Africa Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, and Sudan, with lessons also from Rwanda has long been defined by cyclical violence, state fragility, and cross-border conflicts<sup>1</sup>. Drivers include political instability, ethnic tensions, competition over grazing and water resources, climate variability, and porous borders<sup>2</sup>. Formal justice systems often remain centralized and inaccessible, particularly in rural and pastoralist areas, leading communities to rely on customary dispute resolution led by elders, chiefs, and clan councils<sup>3</sup>.

While indigenous systems have legitimacy, they face challenges in rights protection, enforceability, and inclusion of women and youth. This has spurred interest in new tools: formalized Alternative Dispute Resolution (ADR) centers, state-recognized Alternative Justice Systems (AJS) policies, and Conflict Prevention, Management and Resolution (CPMR) frameworks supported by regional organizations such as IGAD's CEWARN early-warning system (IDLO, 2024a; UNODC, 2020). Rwanda's Abunzi mediation committees and Somalia's ADR centers demonstrate that hybridized models can deliver fast, low-cost justice while maintaining community legitimacy (Mutisi, 2012; IDLO, 2024b).

Rwanda illustrates how state recognition and resourcing can scale community justice: Gacaca (for post-genocide accountability) and Abunzi mediation committees (for everyday civil disputes) embedded reconciliatory practices into law and routine access to justice<sup>4</sup>. In Somalia, ADR Centers formalize customary forums, clearing thousands of cases at low unit cost while

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<sup>1</sup> IGAD. (2024b). *Annual report 2023*. <https://igad.int/wp-content/uploads/2024/03/Annual-Report-2023-Final-Final-signed-8th-07-2024.pdf>

<sup>2</sup> International Peace Institute. (2010). *Preventing conflicts in Africa: Early warning and response*. [https://www.ipinst.org/wp-content/uploads/publications/ipi\\_e\\_pub\\_preventing\\_conflicts.pdf](https://www.ipinst.org/wp-content/uploads/publications/ipi_e_pub_preventing_conflicts.pdf)

<sup>3</sup> Shiferaw, R. M. (2024). Indigenous conflict management practices in Ethiopia: A systematic review. *Cogent Social Sciences*, 10(1), 2327122. <https://doi.org/10.1080/23311975.2024.2327122>

<sup>4</sup> Mutabazi, P. (2025). *Community justice and mediation in Rwanda: The evolution of Abunzi committees*. Kigali: Rwanda Justice Commission

working toward due-process safeguards (IDLO, 2021, 2023; 2024a). In Kenya, the Alternative Justice Systems (AJS) Policy integrates traditional and informal mechanisms with the judiciary, an approach now reflected in national justice reporting (UNODC, 2020; McConkie, 2024) South Sudan's chiefs' courts remain the main venue for everyday disputes; new policy efforts seek to reform customary justice and curb harmful practices (Almeida et al., 2024; ICTJ, 2024; IOM, 2025).

These insights justify the need to strengthen Alternative Dispute Resolution (ADR) and Conflict Prevention, Management, and Resolution (CPMR) as integrated tools to address structural weaknesses in both formal and customary systems.

## **1.2 Objectives**

1. To examine how ADR and CPMR mechanisms are currently used in the Horn of Africa.
2. To assess their effectiveness in preventing escalation of local disputes into violent conflicts.
3. To identify best practices and propose policy recommendations for scaling and institutionalizing ADR and CPMR

## **2.0 Literature Review**

While traditional ADR remains culturally resonant, the complexity of modern conflicts in the Horn cross-border migration, pastoralist competition, GBV, political disputes demands integration with CPMR:

## 2.1 Customary justice as the backbone and its dilemmas

Research across the Horn of Africa consistently finds that customary authorities elders, clan fora, chiefs' courts deliver most everyday justice, prized for speed, proximity, and social repair. Jackson (2023) synthesizes how these authorities have become central to security and justice interventions in the Horn and proposes engagement models that recognize their legitimacy while acknowledging dilemmas such as elite capture, gender exclusion, weak procedural safeguards.

A systematic review by Shiferaw (2024) on indigenous conflict management in Ethiopia similarly concludes that mechanisms such as Jaarsummaa are culturally resonant and effective at restoring relationships, yet outcomes are unevenly documented and rarely integrated with state enforcement making durability and rights protection variable<sup>5</sup>.

Much of the literature celebrates legitimacy and access, but offers limited, comparable outcome metrics e.g., recurrence rates, compliance at 6–12 months and often notes weak or adhoc links to formal courts. Jackson's call for structured engagement with customary authorities underscores this evidence gap<sup>6</sup>.

## 2.2 Institutional ADR and people-centred justice

Where customary practice is institutionalized through policy, centers, or court linkages, evidence shows scale of improvement. In Somalia, IDLO's multi-year support to ADR centres demonstrates high caseload resolution and strong user uptake; yet impact briefs flag shortfalls in

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<sup>5</sup> Shiferaw, R. M. (2024). Indigenous conflict management practices in Ethiopia: A systematic literature review. *Cogent Social Sciences*, 10(1), 2327122. <https://doi.org/10.1080/23311975.2024.2327122>

<sup>6</sup> Jackson, P. (2023). Whose security? Whose justice? Customary authorities in security and justice interventions in the Horn of Africa. *Journal of Peacebuilding & Development*, 18(3), 261–278. <https://doi.org/10.1080/14678802.2023.2283553>

GBV referral, protection and inclusion that require standard operating procedures and monitoring<sup>7</sup>. In Kenya, the Alternative Justice Systems (AJS) Policy formalizes non-state justice and referral pathways with the judiciary; UNODC’s foundational policy documents and subsequent analyses detail how administrative recognition boosts enforceability and data visibility<sup>8</sup>. On the rights to safeguards in plural systems, the scholarship and practitioner reports agree that institutional ADR helps but they also show inconsistent survivor centred protocols especially for GBV and children’s cases, and variable due process across forums without clear “red-line” referrals to courts<sup>9</sup>.

### **2.3 CPMR architectures: early warning still needs faster hand-offs**

At regional level, IGAD’s CEWARN monitors five human-security sectors namely economy, social, governance, security, environment and supports cross-border prevention platforms in Moyale cluster. This institutional CPMR backbone is widely cited as good practice. Still, policy syntheses note that alerts do not reliably trigger time bound mediation or resource-sharing deals unless specific local architectures exist<sup>10</sup>. Literature on early warning in the Horn of Africa applauds monitoring coverage but is thinner on operational timelines that convert high-risk alerts into convened mediations within days leaving a prevention gap the ADR ecosystem could fill with clear protocols.

### **2.4 Rwanda’s routinized community justice transferable lessons**

Rwanda offers a dual track: transitional justice Gacaca, historically and routinized everyday mediation via Abunzi committees, now embedded by policy and capacity strategies

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<sup>7</sup> IDLO. (2024). *Inclusive practices in alternative dispute resolution: Delivering people-centred justice in Somalia* (PDF). [https://www.idlo.int/sites/default/files/2024/publications/documents/somalia\\_adr\\_centre\\_issue\\_brief.pdf](https://www.idlo.int/sites/default/files/2024/publications/documents/somalia_adr_centre_issue_brief.pdf)

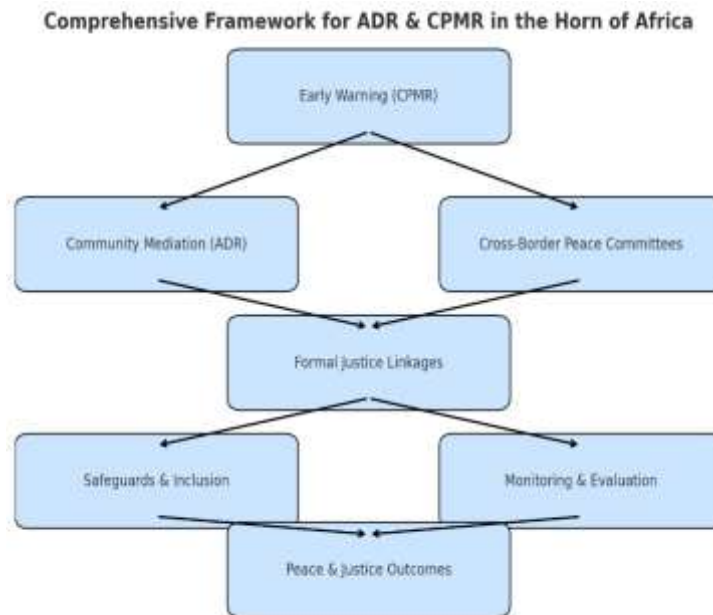
<sup>8</sup> UNODC. (2020). *Policy framework for Alternative Justice Systems in Kenya*. [https://www.unodc.org/documents/easternafrika/Criminal%20Justice/AJS\\_Policy\\_Framework\\_2020\\_Kenya.pdf](https://www.unodc.org/documents/easternafrika/Criminal%20Justice/AJS_Policy_Framework_2020_Kenya.pdf)

<sup>9</sup> McConkie, D. S., Jr. (2024). Promoting and reforming Kenya’s customary justice through AJS. *Emory International Law Review*, 38, 821–874. <https://scholarlycommons.law.emory.edu/eilr/1327>

<sup>10</sup> IGAD. (2024c). *IGAD establishes local migration network in Moyale*. <https://igad.int/igad-establishes-local-migration-network-in-moyale>

under MINIJUST. Government policy documents ADR Policy: Abunzi Capacity Building Strategy and independent evaluations show standardized structures, training, and supervision that many in the Horn of Africa programs lack; the literature treats Rwanda as a transferable model for scaling while maintaining local legitimacy<sup>11</sup>. Compared to Rwanda's standardized, nationwide approach, many initiatives in the Horn of Africa remain projectized and fragmented, with duplication and uneven minimum standards across local forums.

## 2.5 Conceptual Framework



The visual conceptual framework is for ADR and CPMR in the Horn of Africa. It shows how Early Warning systems (CPMR) feed into Community Mediation and Cross-Border Committees, which then link to Formal Justice systems. Safeguards, inclusivity, and monitoring ensure that outcomes translate into peace and justice.

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<sup>11</sup> Mutisi, M. (2012). *Local conflict resolution in Rwanda: The case of Abunzi mediators*. ACCORD. <https://www.accord.org.za/wp-content/uploads/2024/06/Monograph-July-2012-Local-conflict-resolution-in-Rwanda-The-case-of-abunzi-mediators.pdf>

### 3.0 Methodology

This study adopted a qualitative comparative case study approach combined with a desk-based literature review. This methodology has been widely used by other scholars analyzing peacebuilding and justice systems in Africa for example, Mutisi (2012) used a case study approach to assess Rwanda's Abunzi mediators, showing how community-based justice builds legitimacy. Jackson (2023) conducted qualitative analysis of customary authorities in the Horn, underscoring their role in security and justice. Shiferaw (2024) applied a systematic literature review to map indigenous conflict management in Ethiopia, highlighting strengths and gaps across multiple ethnic groups. The methodology was appropriate because it provides contextual depth, comparative insight, and policy relevance. It allowed the study to integrate multiple perspectives, identify gaps, and highlight best practices across the Horn of Africa and Rwanda. By building on established scholarly approaches, the study ensures methodological rigor while responding to the practical realities of conflict prevention research in complex and diverse environments<sup>12</sup>.

### 4.0 Results and Discussion

This section presents the results of the study and a critical discussion of the findings, organized around the three research objectives. Structuring the analysis in this way ensures clarity and flow, while allowing for direct linkage between the study's aims, the evidence gathered, and the implications for practice.

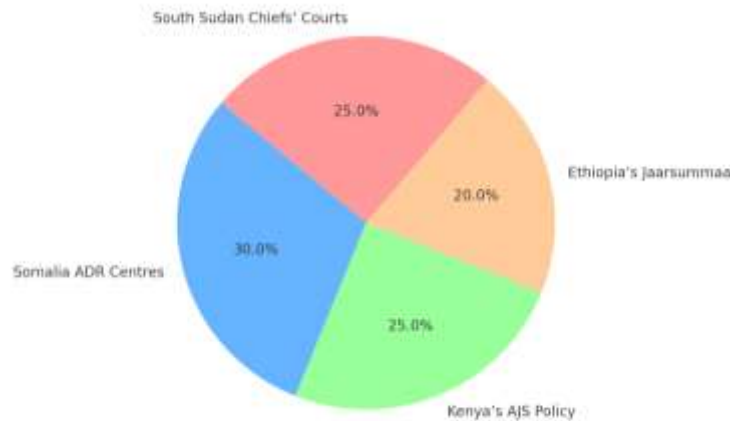
Under objective one, it highlights that ADR is deeply embedded in the Horn of Africa societies, but its effectiveness depends on the degree of institutional recognition and rights protection. Countries like Kenya are moving toward formal integration, while Ethiopia and South Sudan remain reliant on customary legitimacy without robust state backing. Somalia represents a

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<sup>12</sup> Haguruka. (2022). *ADR community-led assessment (Rwanda)*. <https://haguruka.org.rw/wp-content/uploads/2022/05/ADR-Community-Led-Assessment.pdf>

hybrid, where donor-supported ADR centres demonstrate high throughput but struggle with inclusivity for examples, in Somalia ADR Centres, the Institutional ADR resolved 5,433 cases in 15 months across 15 centers. These forums are popular because they are accessible, low-cost, and culturally legitimate, but gaps exist in gender-sensitive case handling and GBV referrals<sup>13</sup>.

In Kenya's Alternative Justice Systems (AJS) Policy, the judiciary has formalized customary dispute resolution by creating legal pathways for registration and oversight of community-based outcomes (UNODC, 2020). This enhances enforceability and trust, though harmonization with statutory courts is ongoing<sup>14</sup>. Similarly, in Ethiopia's Jaarsummaa: Elders' reconciliation (araara) effectively resolves local land and family disputes, but settlements often lack recognition in state courts<sup>15</sup>. South Sudan Chiefs' Courts remain dominant for everyday disputes but face criticism over harmful practices and gender bias, prompting reform initiatives (ICTJ, 2024; IOM, 2025).



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<sup>13</sup> IDLO. (2024, April 30). *Inclusive practices in alternative dispute resolution: Delivering people-centred justice in Somalia (Issue brief)*. <https://www.idlo.int/publications/inclusive-practices-alternative-dispute-resolution-delivering-people-centred-justice>

<sup>14</sup> UNODC. (2020). *Policy framework for Alternative Justice Systems in Kenya*. [https://www.unodc.org/documents/easternafrika/Criminal%20Justice/AJS\\_Policy\\_Framework\\_2020\\_Kenya.pdf](https://www.unodc.org/documents/easternafrika/Criminal%20Justice/AJS_Policy_Framework_2020_Kenya.pdf)

<sup>15</sup> Roba, D. A. (2024). Jaarsa Biyyaa and Jaarsummaa among the Arsi Oromo. *African Journal on Conflict Resolution*, 24(1). [https://www.scielo.org.za/scielo.php?script=sci\\_arttext&pid=S2309-737X2024000100004](https://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S2309-737X2024000100004)

**Source: Researcher, 2025**

Figure one shows Somalia ADR Centres as having the largest emphasis due to their widespread use and documented caseloads. Kenya and South Sudan follow closely, each with institutional relevance and challenges. Ethiopia contributes significantly but with weaker due to lack of legal backing.

**4.1 Effectiveness of CPMR in preventing escalation of local disputes into violent conflicts**

This study established that, CPMR mechanisms are effective at reducing escalation of conflicts were linked to local mediation structures. Rwanda demonstrates routinization, while Moyale shows the value of cross-border committees. For instance, Moyale Cross-Border Peace Committees in the border of Ethiopia and Kenya, IGAD-CEWARN supported the establishment of a 25-member peace committee and local migration networks. These mechanisms helped de-escalate pastoralist conflicts by addressing disputes early and facilitating cross-border peace cooperation<sup>16</sup>. While IGAD CEWARN it generates timely alerts in five sectors namely economic. Security, social, environmental and governance, scholars note delays in linking warnings to rapid mediation responses (IGAD, 2024). Literature on early warning in the Horn applauds monitoring coverage but is thinner on operational timelines that convert high-risk alerts into convened mediations within days leaving a prevention gap the ADR ecosystem could fill with clear protocols<sup>17</sup>.

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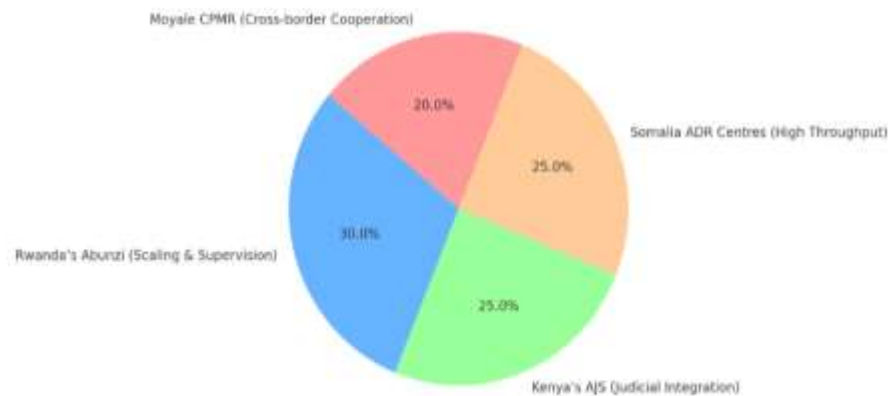
<sup>16</sup> GIZ. (2025). *Strengthening cross-border conflict prevention and peacebuilding in the Horn of Africa*. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

<sup>17</sup> IGAD. (2024b). *Annual report 2023*. <https://igad.int/wp-content/uploads/2024/03/Annual-Report-2023-Final-Final-signed-8th-07-2024.pdf>

## 4.2 Best practices and policy recommendations for scaling and institutionalizing ADR and CPMR

This section highlights best practices and emerging models of ADR and CPMR across Africa, with a focus on their relevance to the Horn. Rwanda’s *Abunzi* committees showcase how state-backed standardization can achieve nationwide mediation. Kenya’s AJS policy demonstrates effective integration of informal justice with the judiciary to strengthen enforceability. Somalia’s ADR centres and Moyale’s cross-border CPMR initiatives illustrate evolving approaches that, while still facing gaps in rights safeguards, show promise for enhancing community resilience and preventive diplomacy<sup>18</sup>.

The pie chart Figure 2 highlights the relative distribution of ADR & CPMR best practices in the Horn of Africa with Rwanda as a comparative case. Rwanda’s *Abunzi* (30%): Demonstrates nationwide scaling with training and supervision while Kenya’s AJS (25%): Shows strong judicial integration, boosting enforceability. Somalia ADR Centres (25%): High throughput in resolving disputes, but gaps in rights safeguards. Lastly, Moyale CPMR (20%): Effective cross-border collaboration in conflict prevention.



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<sup>18</sup> IDLO. (2024). *Inclusive practices in alternative dispute resolution: Delivering people-centred justice in Somalia* (PDF). <https://www.i>

**Source: Researcher, 2025**

It can be concluded that Figure 2 pie chart emphasizes Rwanda's Abunzi as the strongest institutionalized model, followed closely by Kenya's AJS and Somalia's ADR centres. Moyale CPMR, though smaller in scale, is critical for addressing cross-border conflicts, making it highly significant despite a smaller share. Scaling requires not just replication of forums but also standardization, state recognition, and integration with regional early-warning systems. Rwanda and Kenya show what is possible with strong policy frameworks, while Somalia and Ethiopia illustrate ongoing challenges in rights protection and enforceability.

**5.0 Key Findings**

- ADR and CPMR are widely practiced across the Horn but remain fragmented and unevenly institutionalized.
- Customary legitimacy ensures accessibility and trust, but gaps persist in enforceability, gender inclusion, and rights protection.
- Institutional frameworks (Kenya AJS, Rwanda Abunzi) demonstrate that scaling is possible with state recognition and oversight.
- CPMR mechanisms (CEWARN, Moyale committees) help prevent escalation of conflicts but require faster "warning-to-mediation" hand-offs.
- Regional cooperation is vital in cross-border pastoralist zones where disputes frequently spill across national boundaries.

**6.0 Recommendations**

- Legal Integration by recognizing ADR outcomes in national laws, with appellate oversight for fairness and rights compliance.

- Safeguarding mandate referral pathways for GBV and child-related disputes; train mediators in survivor-centered practices.
- Develop national ADR standards for mediator training, case documentation, and monitoring drawing on Rwanda's Abunzi model.
- Establish Cross-Border Frameworks for example Establish bilateral MoUs between Ethiopia, Kenya, Somalia for recognition of ADR outcomes and shared mediator rosters.
- Linkage to Early Warning and early response by creating service-level agreements within CEWARN that require convening mediation within seven to ten days of high-risk alerts.
- Inclusivity for women and youth participation in peace committees and ADR forums.
- Need for metrics outcomes to move beyond outputs to measure recurrence rates, compliance, and user satisfaction in annual justice reporting.
- Fund ADR centers and committees sustainably, linking resources to performance on outcomes and inclusion.

## **7.0 Conclusion**

The study has demonstrated that Alternative Dispute Resolution (ADR) and Conflict Prevention, Management, and Resolution (CPMR) are not only deeply rooted in the cultural fabric of the Horn of Africa but are also critical to shaping the region's future stability. Across Somalia, Kenya, Ethiopia, and South Sudan, customary and community-driven mechanisms continue to provide accessible justice, yet their effectiveness varies depending on the degree of institutional support, rights safeguards, and integration with formal systems. Rwanda's routinized Abunzi committees and Kenya's AJS framework stand out as models of how local legitimacy can be scaled through state recognition and policy backing, while Somalia's ADR centres and cross-border CPMR in Moyale highlight the promise of innovation and regional collaboration.

The findings underscore a central message: legitimacy alone is not enough. For ADR and CPMR to prevent conflict and sustain peace, they must be strengthened by legal enforceability, inclusivity, and rapid response linkages to early warning systems. This requires political will, sustained investment, and coordinated regional action under IGAD and similar platforms.

Ultimately, ADR and CPMR offer the Horn of Africa an opportunity to move from fragmented, project-based interventions to a coherent and preventive justice architecture. By drawing on indigenous wisdom, adopting proven models, and embracing innovations such as online dispute resolution, the region can establish itself as a leader in peacebuilding. If fully realized, these mechanisms will not only address immediate disputes but also lay the foundations for long-term stability, economic growth, and social harmony in the Horn and beyond.



ISSN (E): 2959-0272

ISSN (P): 2710-0502

Volume 7 Issue 1 Year 2026

DOI: <https://doi.org/10.59111/10.59111/JPD.007.001.0222>

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**Pakistan's Position on Western Sahara conflict: Determinants and  
Significance**

**Dr. Mounia Rahimi**

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**Abstract:**

This study examines Pakistan's abstention from voting on UN Security Council Resolution 2797 (2025) concerning the Western Sahara conflict. Using a qualitative analytical approach based on official documents, UN records, and foreign policy literature. The paper investigates the determinants and analytical significance of Islamabad's position. The findings show that Pakistan's abstention did not reflect hostility toward Morocco or support for rival actors. Rather, it represented a pragmatic balancing strategy rooted in strategic autonomy, diplomatic caution, and adherence to multilateral legitimacy. The study concludes that Pakistan's position is consistent with its broader multidirectional foreign policy and its tendency to avoid costly alignments in peripheral disputes.

**Keywords:** UN Security Council Resolution 2797; Moroccan–Pakistani relations; abstention; balancing strategy; Western Sahara conflict; Pakistan's foreign policy.

**Introduction:**

Pakistan's position on the Western Sahara conflict has remained largely stable since its inception. This holds true despite major transformations at the level of recommendations issued by the United Nations General Assembly and resolutions adopted by the UN Security Council, culminating in Pakistan's abstention from voting in favor of the Moroccan Autonomy Proposal, which was endorsed by the most recent Security Council Resolution No. 2797 of 31 October 2025. Accordingly, this study deliberately refrains from dividing Pakistan's foreign policy toward this dispute into distinct chronological phases, as its core orientation has remained stable, notwithstanding shifting regional and international contexts. Conversely, examining the determinants and justifications of Pakistan's position remains essential in order to explain Islamabad's continued adherence to this approach to date, despite its good and steadily developing relations with the Kingdom of Morocco.

Within the hierarchy of Pakistan's foreign policy priorities, the Western Sahara conflict is perceived as geographically distant from its core strategic sphere and as having no direct impact on its national security. This perception has led Pakistan to adopt a general, cautious, and principled approach based on minimal commitment, without deep engagement or explicit alignment. Amid the structural transformations affecting the international system and the decline of unipolarity, Pakistan, as a middle power, has increasingly embraced a multidirectional balancing strategy. This approach grants it greater decision-making autonomy and spares it from alignment in conflicts that do not touch upon its vital interests. Within this framework, abstention emerges as a calculated diplomatic option aimed at preserving balanced relations with all concerned parties while minimizing the costs associated with rigid positioning.

This study aims to analyze the determinants of Pakistan's position on the Western Sahara conflict, with particular focus on its abstention from voting on UN Security Council Resolution No. 2797, and to assess whether this stance reflects a shift in its foreign policy or a continuation of established strategic patterns. It hypothesizes that Pakistan's abstention does not indicate hostility toward Morocco or alignment with opposing actors, but rather constitutes a practical expression of multidirectional balancing aimed at preserving strategic autonomy and diplomatic flexibility.

To address these objectives, the research employs a multi-method qualitative interpretive approach, integrating historical analysis, to situate the evolution of Moroccan–Pakistani relations within their broader diplomatic context and to account for the background shaping Pakistan's position on the Western Sahara conflict. Discourse analysis is applied to Pakistan's explanation of vote in the Security Council as delivered by the Permanent Representative of Pakistan to the United Nations, in order to examine the framing, justifications, and policy signals embedded in the diplomatic statement. Comparative analysis is employed to identify patterns of convergence and divergence between Pakistan's position on Western Sahara and Morocco's positions on the secession of Bangladesh and the Kashmir dispute. This comparative lens is intended to clarify how both states articulate principles of territorial integrity, respond to secessionist claims, and position themselves within multilateral diplomatic settings.

The empirical material is drawn primarily from official United Nations documentation, including the text of Security Council Resolution 2797, voting records, meeting transcripts, and the explanation of vote delivered by the Permanent Representative of Pakistan to the United Nations. These sources are supplemented by official communications from Pakistan's Ministry of

Foreign Affairs and its Permanent Mission to the United Nations, alongside selected scholarly literature on Pakistani foreign policy and the Western Sahara conflict.

Nevertheless, the study is subject to several limitations. It does not address all dimensions of Moroccan–Pakistani bilateral relations in their entirety, but rather confines itself to highlighting the most important historical milestones that formed the general framework of relations between the two states. In addition, reliance on official and publicly available sources may not fully capture internal policy deliberations. Finally, the limited scholarly literature on Pakistan’s position regarding the Western Sahara conflict constrains broader comparative depth. To date, there is a notable absence of academic literature specifically addressing the determinants of Pakistan’s stance on this issue, with existing references largely confined to journalistic commentary and general analyses of Pakistan’s foreign policy. In this context, the present study constitutes one of the first systematic academic attempts to examine this case.

### **Pakistan’s Abstention on UNSC Resolution 2797: Context and Significance**

Non-permanent membership in the UN Security Council constitutes one of the most prominent instruments employed by states in their efforts to enhance their presence within the United Nations system, particularly through effective participation in decision-making mechanisms, foremost among which is the voting process. Voting represents the primary institutional expression of states’ positions on international security issues. In this regard, voting modalities within the Security Council (namely approval, rejection, absence, non-participation, and abstention), each carry distinct legal and political significance, and constitute a decisive factor in assessing the level of engagement of member states and their ability to influence the trajectory of adopted resolutions.

On this basis, Pakistan's non-permanent membership in the Security Council<sup>1</sup>, falls within its broader diplomatic strategy aimed at consolidating its position as a middle power, seeking to expand its margin of influence within the structure of the international system. Specialized literature indicates that middle powers often leverage such membership to enhance their political influence, build networks of alliances, and manage delicate balances with major powers, benefiting from the centrality of voting as a tool for expressing positions and shaping alignments within multilateral institutions. In this context, Pakistan's non-permanent membership in the Security Council represented a pivotal moment in the formulation of its stance on Western Sahara conflict, as it became required to articulate a clear official position through its participation in the vote on the historic Security Council resolution that recognized Moroccan sovereignty over its southern provinces within the framework of autonomy.

Non-permanent membership in the United Nations Security Council is widely regarded as a key mechanism through which states seek to enhance their visibility and participation within the UN system, particularly in relation to decision-making processes. Voting constitutes the primary institutional expression of state positions on international security issues. Within the Security Council, voting outcomes—including approval, rejection, abstention, non-participation, and absence—carry distinct legal and political implications, and serve as important indicators of member states' levels of engagement and influence over resolution outcomes.

In this context, Pakistan's non-permanent membership in the Security Council reflects a broader diplomatic orientation aimed at consolidating its role as a middle power and expanding its

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<sup>1</sup> United Nations Security Council, "Countries Elected Members of the Security Council", *United Nations Security Council*, accessed January 9, 2026, <https://main.un.org/securitycouncil/en/content/countries-elected-members>.

influence within the international system. The literature on middle powers suggests that such states often leverage Security Council membership to strengthen diplomatic networks, navigate power asymmetries, and manage relations with major powers, with voting behavior serving as a key instrument of foreign policy signaling in multilateral settings.

Against this background, Pakistan's tenure in the Security Council represented a significant moment in the articulation of its position on the Western Sahara conflict. It required Islamabad to formulate an explicit diplomatic stance through its participation in the vote on Security Council Resolution 2797 (October 2025), which addressed the question of Western Sahara within the broader framework of proposed autonomy arrangements.

### **Pakistan's Abstention on UNSC Resolution 2797: Context and Significance**

Non-permanent membership in the United Nations Security Council constitutes one of the most prominent key instruments through which states seek to enhance their presence within the United Nations system, particularly through effective participation in decision-making mechanisms, most notably voting. Voting represents the primary institutional expression of states' positions on international security issues. In this regard, voting modalities within the Security Council (namely approval, rejection, absence, non-participation, and abstention) each carry distinct legal and political significance, and constitute a decisive factor in assessing the level of engagement of member states and their ability to influence the trajectory of adopted resolutions.

On this basis, Pakistan's non-permanent membership in the Security Council forms part of its broader diplomatic strategy aimed at consolidating its position as a middle power, seeking to expand its margin of influence within the structure of the international system. Specialized

literature indicates that middle powers often use Security Council membership to enhance their political influence, build networks of alliances, and manage delicate balances with major powers, benefiting from the centrality of voting as a tool for expressing positions and shaping alignments within multilateral institutions.

In this context, Pakistan's tenure on the Council represented a pivotal moment in the formulation of its stance, as it became required to formulate an explicit official stance through its participation in the vote on the United Nations Security Council resolution that recognized Moroccan sovereignty over its southern provinces within the framework of autonomy.

**Abstention from Voting: Between Procedural Norms and Political Function:**

Scholarly analyses of Security Council practice, notably that of Sydney D. Bailey, emphasize that abstention from voting represents a fundamental procedural mechanism within the Council's decision-making system. It represents a means by which states express a reserved position toward proposed or adopted resolutions. The significance of this voting pattern lies in its dual nature: a procedural dimension that allows the decision-making process to continue, and a political dimension that enables states to articulate nuanced or ambiguous positions in contexts marked by political tension and competing legal interpretations. Consequently, analyzing abstention from voting allows for a more precise understanding of voting behavior within the Security Council, as a procedural mechanism used to reconcile the requirements of adopting resolutions and ensuring the continuity of the Council's work, on the one hand, with the need to express national political positions of member states, on the other<sup>2</sup>.

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<sup>2</sup> Sydney D. Bailey, "New Light on Abstentions in the UN Security Council", *International Affairs* 50, no. 4 (October 1974): 554–573, <https://doi.org/10.2307/2615923>

From a legal perspective, abstention from voting within the Security Council is a recognized procedural practice. It is not counted as a negative vote against a draft resolution and does not prevent its adoption unless an explicit objection is expressed by one of the permanent members. This is grounded in Article 27 of the Charter, which confines the blocking effect on substantive resolutions to the exercise of veto power. Accordingly, abstention is understood as a procedurally neutral position in terms of legal effect, reflecting a reluctance to record explicit approval or rejection, without affecting the binding force of the adopted resolution or its entry into force within the UN system. This practice also illustrates the flexibility of the Council's procedural framework, allowing it to maintain effectiveness and continuity in fulfilling its primary function of maintaining international peace and security, despite the absence of full consensus among its members<sup>3</sup>.

In this connection, it is important to note that abstention in the Security Council may take different forms. Article 27(3) of the UN Charter establishes an obligatory abstention rule for members that are parties to a dispute under Chapter VI, the case examined in this study falls outside this legal framework. Pakistan's abstention does not stem from a formal legal obligation, but rather from a discretionary diplomatic choice, highlighting the political and strategic dimensions of abstention as an instrument for managing balance<sup>4</sup>.

However, limiting the analysis to the legal-procedural dimension is insufficient to grasp the full meaning of abstention from voting. In diplomatic practice, this behavior acquires political dimensions that go beyond its immediate legal effects. It is often employed as a diplomatic tactic that allows states to avoid the costs of alignment in sensitive or conflictual issues, particularly

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<sup>3</sup> James E. Todd, "An Analysis of Security Council Voting Behavior", *The Western Political Quarterly* 22, no. 1 (March 1969): 65–77. <https://doi.org/10.2307/446147>

<sup>4</sup> Akira Kato, "Revitalizing the Obligatory Abstention Rule in the UN Security Council: An Interpretation of the Proviso in Article 27(3) of the UN Charter", *Journal of Conflict and Security Law* 30, no. 1 (2025): 3–22. <https://doi.org/10.1093/jcsl/kraf002>

when their interests are tied to complex relations with multiple parties, or when they fear that a “yes” or “no” vote might be interpreted as alignment with a specific state or international bloc. In this way, abstention becomes a tool for managing delicate balances, maintaining channels of communication with all parties, and avoiding damage to bilateral or regional relations. Abstention may also convey a political message to the sponsor and supporters of the resolution, indicating that the abstaining state has reservations or observations regarding the content of the resolution but does not wish to block it entirely. Diplomatic studies often describe this practice as constructive abstention, especially in cases where legal principles intersect with geopolitical calculations<sup>5</sup>.

### **Statement of Abstention: Between Normative Commitment and Diplomatic Courtesy**

The statement delivered by Pakistan’s Ambassador Asim Iftikhar Ahmed before the Security Council, during its 10030th meeting held on 31 October 2025, in the course of deliberations on Resolution No. 2797 concerning the extension of the mandate of the United Nations Mission for the Referendum in the Western Sahara, addressed a set of principled and legal considerations that constitute the established reference framework of Pakistan’s position on the conflict.

In this context, the statement affirmed that the right to self-determination represents the cornerstone of Pakistan’s position, describing it as a “sacred and protected right” and as one of the foundational principles of international law in the post–Second World War era<sup>6</sup>. It further emphasized that Pakistan has, for decades, relied on previous Security Council resolutions as the primary reference for any settlement. It also expressed reservations regarding what it described as substantive modifications in the wording of the new resolution compared to earlier ones, changes

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<sup>5</sup> M. Eugenia Bartoloni, “Simple Abstention and Constructive Abstention in the Context of International Economic Sanctions: Two Too Similar Sides of the Same Coin?” *European Papers – European Forum* (2017), <https://www.europeanpapers.eu/europeanforum/simple-abstention-and-constructive-abstention-in-context-of-international-economic-sanctions>.

<sup>6</sup> United Nations Security Council, Provisional Verbatim Record of the 10030th Meeting, Statement by Ambassador Asim Iftikhar Ahmed (Pakistan), October 31, 2025, <https://digitallibrary.un.org/record/4020385>.

that Pakistan viewed as undermining the balance of the text and departing from the Council's historical approach. It stressed that any solution to the dispute must be "just, lasting, and mutually acceptable", and must take place within the framework of "a comprehensive negotiating process involving all concerned parties", in line with the essence of the UN-sponsored political process. Accordingly, Pakistan's statement does not reflect support for the Moroccan autonomy proposal, nor does it contain an explicit rejection thereof<sup>7</sup>.

In parallel, the Ambassador underscored the strength of Pakistan's historical and fraternal relations with the parties concerned by the dispute, particularly the Kingdom of Morocco, emphasizing the importance of resolving this issue at the earliest opportunity in a spirit of mutual trust and respect, in a manner that preserves bilateral relations and reflects Islamabad's diplomatic tradition of refraining from actions that could undermine its partners<sup>8</sup>.

Beyond its substantive content, the linguistic formulation of the statement reveals a carefully calibrated use of diplomatic restraint within a UN environment that requires a delicate balance between clarity and ambiguity. The Pakistani Ambassador employed a legal-political language rich in connotations, allowing for the expression of a reserved position without sliding into explicit rejection or direct confrontation. This was achieved through a gradual progression in discourse, from reaffirming the established reference framework of previous Security Council resolutions, to drawing attention to what were considered substantive changes in the wording of the resolution, and finally to emphasizing the centrality of the right to self-determination as a governing principle of the political process. This diplomatic phrasing reflects an indirect objection to what Pakistan

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<sup>7</sup> *Ibid.*

<sup>8</sup> United Nations Security Council, "10030th Meeting: Western Sahara", Statement by Asim Iftikhar Ahmad (Pakistan), Verbatim Record S/PV.10030, October 31, 2025, <https://webtv.un.org/en/asset/k1n/k1nmlpq6eb>.

perceives as an implicit privileging of the autonomy proposal within the resolution, while avoiding escalation and preserving diplomatic balance within the Security Council.

### **Determinants of Pakistan's Consistent Position amid Changing Contexts**

Despite the transformations witnessed in the international environment, and the notable expansion of bilateral relations between Pakistan and the Kingdom of Morocco across political, economic, and military spheres of cooperation, Pakistan's position on the Western Sahara conflict has remained marked by a high degree of consistency and continuity. This persistence warrants an examination of the structural determinants shaping Pakistan's foreign policy, which extend beyond the influence of short-term bilateral dynamics. In this regard, understanding Pakistan's position requires an analysis of a set of interrelated factors that shape Islamabad's policy choices within international forums, particularly the Security Council.

On this basis, the present study focuses on three main determinants that explain the stability and continuity of Pakistan's position. These include: the normative determinant linked to its commitment to the right of self-determination as a governing reference for its external behavior; the historical determinant connected to the specific nature of Moroccan–Pakistani relations, which are based on solidarity and political support without leading to automatic alignment; and the geopolitical determinant related to domestic secessionist movements and the Kashmir issue, which together constitute a central framework shaping Pakistan's perceptions of international legitimacy and the limits of its engagement in territorial disputes.

### **The Normative Determinant of Pakistan's Position: Anti-Colonialism and the Right of Peoples to Self-Determination**

The right of peoples to self-determination constitutes one of the most firmly entrenched normative pillars of Pakistan’s foreign policy. Since the 1970s, Pakistan has maintained a legal–political discourse that links the peaceful settlement of regional disputes through negotiation to respect for the obligations enshrined in the United Nations Charter and the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples. This approach has been reflected in its regular participation in the deliberations of the Fourth Committee (Special Political and Decolonization).

Within this normative framework, Pakistan has approached the Western Sahara conflict as a decolonization case to be addressed through a UN-led process under Security Council resolutions, without recognizing the “Polisario Front” or the “Sahrawi Republic,” and without aligning with Algeria’s position. This stance manifests itself at two principal levels:

### **Annual Sponsorship of the Resolution “Universal Realization of the Right of Peoples to Self-Determination” within the Third Committee**

The institutional nature of Pakistan’s commitment to the right of peoples to self-determination is manifested in its assumption of the role of the principal and recurrent sponsor of the draft resolution entitled “*Universal Realization of the Right of Peoples to Self-Determination*”<sup>9</sup>, which is discussed annually within the Third Committee of the United Nations General Assembly<sup>10</sup> prior to its adoption in plenary session. This resolution is considered one of the firmly established

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<sup>9</sup> Ministry of Foreign Affairs of Pakistan, “Pakistan’s Resolution on the Universal Realization of the Right of Peoples to Self-Determination Adopted by Consensus at the United Nations General Assembly”, Press Release No. 378/2025, Islamabad, December 19, 2025, accessed January 7, 2026.

<sup>10</sup> United Nations General Assembly, “Third Committee: Social, Humanitarian and Cultural Committee (SOCHUM)”, United Nations General Assembly, accessed December 9, 2025, <https://www.un.org/en/ga/third/>.

normative resolutions that enjoys broad consensus, given its direct linkage to the foundational principles of contemporary international law and the decolonization process<sup>11</sup>.

Official documents and statements issued by Pakistan's Ministry of Foreign Affairs indicate that, since the mid-1980s, Islamabad has consistently submitted this draft resolution or participated in its sponsorship, based on a deeply rooted conviction that the right to self-determination constitutes a central normative pillar of the international system and a collective responsibility of the international community toward territories subject to occupation or foreign domination. This role has continued with little interruption over subsequent decades, as the General Assembly has adopted the resolution annually, either by consensus or by unanimity, including during the 2023<sup>12</sup>, 2024<sup>13</sup>, and 2025<sup>14</sup> sessions.

From this leadership position, which has strengthened Islamabad's image as a supporter of self-determination as a universal legal principle not subject to selectivity, Pakistan's abstention on the Security Council resolution concerning Western Sahara appears consistent with this role rather than a deviation from it. In this context, abstention should not be interpreted as an ambiguous position or a retreat from the UN process, but rather as an expression of normative caution intended to avoid granting implicit legitimacy to formulations that could be understood as limiting the essence of self-determination.

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<sup>11</sup>United Nations General Assembly, "Importance of the Universal Realization of the Right of Peoples to Self-Determination and of the Speedy Granting of Independence to Colonial Countries and Peoples for the Effective Guarantee and Observance of Human Rights", Resolution 40/25, UN Doc. A/RES/40/25, November 29, 1985, accessed January 7, 2026, <https://www.refworld.org/legal/resolution/unga/1985/en/19174>.

<sup>12</sup>Ministry of Foreign Affairs of Pakistan, "Pakistan Leads Adoption of UN Resolution on Universal Realization of the Right of Peoples to Self-Determination", Press Release, November 21, 2023.

<sup>13</sup>Arab News, "UN Adopts Pakistan-Sponsored Resolution on Self-Determination", December 2024, <https://www.arabnews.com/node/2583586/pakistan>.

<sup>14</sup>Radio Pakistan, "UNGA Adopts Pakistan's Resolution Reaffirming People's Right to Self-Determination", November 19, 2025, <https://www.radio.gov.pk/19-11-2025/unga-adopts-pakistans-resolution-reaffirming-peoples-right-to-self-determination>.

Accordingly, the combination of Pakistan's annual sponsorship of this normative resolution and its calibrated abstention in the Security Council reveals internal consistency in its diplomatic behavior, grounded in defending the United Nations normative framework while preserving room for political maneuverability across its institutions. This supports the argument that abstention was not a situational response, but a logical extension of a long-standing institutional role in safeguarding one of the foundational principles of the contemporary international system.

### **Defending the Right of Peoples to Self-Determination within the Fourth Committee**

At the level of the Fourth Committee of the General Assembly, which is dedicated to political issues and decolonization, Pakistan's interventions show consistent support for the right of peoples to self-determination as the cornerstone of the UN approach to issues remaining on the decolonization agenda. During the seventy-ninth session in 2024, Ambassador Munir Akram stated that decolonization "remains an unfinished task," and called for the treatment of non-self-governing territories in accordance with relevant United Nations resolutions<sup>15</sup>. In 2025, Ambassador Asim Iftikhar Ahmad reiterated the same position, emphasizing that the implementation of the right to self-determination remains a prerequisite for resolving protracted conflicts such as Palestine and Kashmir/Jammu, and stressing the need to adhere to the legal framework established by Resolution 1514 (XV) of 1960<sup>16</sup>. This sustained presence in the Fourth Committee demonstrates Pakistan's use of the UN forum most directly concerned with issues of

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<sup>15</sup> Permanent Mission of Pakistan to the United Nations, "Statement by Ambassador Munir Akram at the Fourth Committee (Special Political and Decolonization) of the UN General Assembly, 79th Session", October 14, 2024, New York, <https://pakun.org/official-statements/10142024-01>.

<sup>16</sup> Permanent Mission of Pakistan to the United Nations, "Statement by Ambassador Asim Iftikhar Ahmad at the Fourth Committee on Decolonization, 80th Session of the UN General Assembly", New York, October 6, 2025, <https://pakun.org/official-statements/10062025-02>.

colonialism and occupation to reaffirm its commitment to the normative and legal principles that place self-determination at the heart of regional conflict resolution.

Notably, however, Pakistan's interventions and official statements do not explicitly refer to the Western Sahara among territories requiring decolonization, despite its formal inclusion on the UN list of non-self-governing territories. From a political and diplomatic perspective, this omission may suggest that Pakistan does not treat Morocco as an "occupying power" in the conventional legal sense, but rather as a party to a political and legal dispute. At the same time, it reflects Pakistan's attention to its bilateral relations with Morocco and its awareness of the specific political and legal dimensions of the Western Sahara conflict, distinguishing it from other territories under direct colonial rule.

It is important to stress that Pakistan's defense of the right to self-determination within the Fourth Committee should not be understood as adopting positions directed against the Kingdom of Morocco. Rather, it falls within the legal and procedural framework through which the United Nations addresses this conflict. In this institutional context, Pakistan's interventions in the Fourth Committee, centered on respect for UN resolutions and the application of the right to self-determination, reflect a general commitment to the normative principles governing the Committee's work and do not entail a judgment portraying Morocco as a "colonial" or "occupying" power. Consequently, Pakistan's adherence to this reference framework stems from the nature of the Fourth Committee's mandate and the historical linkage of the Western Sahara conflict to it, rather than from a fixed or explicit position hostile to the Kingdom of Morocco.

**The Political Determinant of Pakistan's Position: Between Internal Separatist Threats and the Kashmir Issue**

Pakistan's position on the Western Sahara conflict is grounded in a central political–normative determinant that transcends situational considerations and diplomatic courtesies. This determinant reflects Islamabad's priority of preserving the unity of the Islamic Republic of Pakistan and confronting separatist movements. Its roots can be traced to the threat posed by internal separatist movements within Pakistan, most notably the Balochistan nationalist movement, whose activities constitute a genuine challenge to national security and state cohesion. This concern is reinforced by historical experience with the Kashmir issue, which occupies a pivotal place in its conception of the right to self-determination and its political, legal, and humanitarian dimensions.

### **Internal Separatist Concerns and Their Impact on Pakistan's Position**

Pakistan's political system is based on a federal structure regulated by the Constitution of the Islamic Republic of Pakistan, which recognizes the division of powers between the federal government and the provinces within the framework of a unified and sovereign state<sup>17</sup>. This arrangement seeks to accommodate ethnic, linguistic, and geographic diversity while preserving state unity and avoiding demands for internal self-determination. This constitutional choice cannot be understood in isolation from the structural challenges posed by separatist movements, which have represented, since the founding of the state in 1947, a major source of political and security pressure, particularly in peripheral regions.

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<sup>17</sup> National Assembly of Pakistan, *Constitution of the Islamic Republic of Pakistan (1973)*, accessed January 12, 2026, [https://na.gov.pk/uploads/documents/1333523681\\_951.pdf](https://na.gov.pk/uploads/documents/1333523681_951.pdf).

In this context, the province of Balochistan stands out as the most volatile area, given its vast territory, natural resources, and historically weak integration into the central state structure, as well as the complexity of its security environment<sup>18</sup>. In Balochistan, separatist insurgency intersects with sectarian tensions, armed organizations, and transboundary regional dynamics. External factors have further complicated this landscape, notably the involvement of international and regional powers such as the United States, China, India, and Iran, whose economic interests and geopolitical considerations are linked to the region, giving the conflict dimensions that transcend the purely domestic framework. For this reason, the Baloch National Movement (BNM) is classified in Pakistani and international security literature as an armed separatist movement seeking to undermine national sovereignty from within<sup>19</sup>.

In light of the threat posed by armed separatist movements to the unity of the Pakistani state, Islamabad has developed a preventive approach toward secessionist issues, based on rejecting any formulas that could create political or legal precedents open to internationalization. Pakistan's handling of separatist organizations therefore goes beyond purely internal security concerns and reflects a broader conception of safeguarding national sovereignty and preventing the reproduction of separatist models that might later acquire international legitimacy<sup>20</sup>.

Accordingly, Pakistan does not adopt autonomy as an acceptable political solution for addressing separatist movements within its peripheral regions. Instead, it relies on an approach centered on administrative decentralization within the framework of a unified state, combined with

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<sup>18</sup> European Asylum Support Office (EASO), *Pakistan: Security Situation, Country of Origin Information Report* (Valletta: European Asylum Support Office, October 2021), 92, <https://www.euaa.europa.eu/publications/coi-report-pakistan-security-situation>.

<sup>19</sup> Faisal Ali Raja, "Elements of Violence in Jeay Sindh Tehreek (JST) and Balochistan National Movement (BNM): A Comparative Analysis", *Pakistan Journal of Terrorism Research* 1, no. 1 (2017): 69–72.

<sup>20</sup> Vishnu Prakash Mang, "Fragmented Identities: Understanding Separatist Movements in Pakistan", *International Journal of Humanities Social Science and Management (IJHSSM)* 5, no. 3 (May–June 2025): 102–109, <https://www.ijhssm.org>.

security and development tools. This is clearly reflected in the Eighteenth Constitutional Amendment<sup>21</sup>, which expanded provincial powers in administrative and financial domains without affecting the sovereign structure of the state or recognizing a right to internal self-determination. This reflects a deeply rooted awareness among political decision-makers in Islamabad that any recognition of autonomy arrangements could encourage similar demands in a state characterized by ethnic, linguistic, and geographic diversity.

Based on these objective factors, Pakistan has not expressed an explicit rejection of the Moroccan autonomy proposal in its specific formulation. However, it has expressed reservations toward any UN resolution that might present it as the most likely option or the sole reference framework for a political solution. This position is consistent with Pakistan's emphasis on the "priority of previous Security Council resolutions", the "right to self-determination", and a "mutually acceptable solution", as well as its concern to avoid establishing a legal precedent that could later be invoked by Pakistani separatist movements. Consequently, Pakistan's abstention from voting does not reflect a situational stance toward the Moroccan case, but rather embodies an extension of a broader vision that remains cautious about transforming autonomy into a general international reference for resolving territorial disputes. This caution seeks to avoid elevating autonomy into a recognized settlement model or granting it broader normative weight in international law and practice.

### **The Kashmir Issue as a Geo-Strategic Determinant in Shaping Pakistan's Position**

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<sup>21</sup> Government of Pakistan, *The Constitution (Eighteenth Amendment) Act*, 2010, Act No. X of 2010, Gazette of Pakistan, Extraordinary, Part I (Islamabad: Senate Secretariat, April 20, 2010), [https://www.na.gov.pk/uploads/documents/1302138356\\_934.pdf](https://www.na.gov.pk/uploads/documents/1302138356_934.pdf).

The Kashmir issue is one of the oldest and most complex regional disputes in the world, with roots dating back to 1947 following Britain's withdrawal from the Indian subcontinent and the emergence of a dispute over the fate of the Muslim-majority state of Jammu and Kashmir. The signing of the Instrument of Accession to India led to the outbreak of the first war between India and Pakistan, followed by Security Council resolutions (1948–1949) calling for a ceasefire and the organization of a plebiscite to determine the region's future. That plebiscite was never implemented because of disagreements between the parties over its conditions. This resulted in the consolidation of the Line of Control and the de facto division of the region between India and Pakistan, giving rise to a multidimensional issue encompassing political, sovereign, humanitarian, and strategic dimensions. The dispute became even more sensitive after both states became nuclear powers in 1998, strengthening its connection to regional security in South Asia.

Pakistan views Kashmir as a self-determination issue concerning a population of approximately 13 million people and as an integral part of the "Muslim homeland" project upon which the state was founded. India, by contrast, considers it an inseparable part of its federal unity and a guarantor of federal cohesion and religious pluralism. With India's revocation of Article 370 in 2019, the dispute acquired a new dimension in terms of restructuring autonomy arrangements and intensifying the security presence. This brought Kashmir back to the international forefront as a conflict that remains unresolved both legally and politically, and whose settlement continues to depend on regional political will and complex international balances<sup>22</sup>.

### **Centrality of Kashmir Issue in Pakistan's Diplomatic Doctrine**

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<sup>22</sup> Sumantra Bose, *Kashmir: Roots of Conflict, Paths to Peace* (Cambridge, MA: Harvard University Press, 2003), <https://doi.org/10.2307/j.ctv1p6hp3k>.

For Pakistan, the Kashmir issue constitutes an existential cause embedded at the core of its national, religious, and strategic identity, and occupies a non-negotiable position in its diplomatic discourse. Successive Pakistani governments have reinforced this principle at the level of international and regional organizations and within bilateral relations, considering any retreat from defending the rights of Kashmiris as something that would be interpreted domestically and internationally as undermining the state's legitimacy and diplomatic credibility. From this perspective, Kashmir has become a normative compass guiding Pakistan's positions on similar issues, particularly those involving territorial disputes or secessionist claims<sup>23</sup>. In this light, Pakistan's position on the Western Sahara conflict cannot be understood as being based solely on adherence to the normative framework of the right to self-determination; rather, it is also grounded in an implicit analogy with the Kashmir case.

Pakistan tends to support initiatives that are consistent with its discourse on self-determination in order to avoid any contradiction that India could exploit against it in international forums, or that could provoke domestic public opinion. Consequently, any clear alignment with Morocco in the Western Sahara conflict could be perceived as a disruption of Pakistan's diplomatic consistency. This explains Islamabad's careful use of cautious diplomatic language in its statements, emphasizing respect for UN resolutions and support for peaceful solutions, without adopting an explicit position against Morocco or against other parties concerned by the conflict, particularly Algeria and the Polisario.

Despite the centrality of Kashmir in Islamabad's foreign policy, Pakistani diplomacy tends to adopt a pragmatic approach in managing its political and diplomatic positions. Pakistan recognizes

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<sup>23</sup> Hamid Nasir Chattha, *The Kashmir Issue at a Glance* (Islamabad: Special Committee of the Parliament on Kashmir, National Assembly of Pakistan, [year]), accessed December 10, 2025, <https://na.gov.pk/en/content.php?id=89>.

Morocco's importance in the Islamic world, particularly in terms of its standing within the Organization of Islamic Cooperation and the strength of its relations with the Gulf states<sup>24</sup>.

### **Morocco's Position on the Kashmir question: Neutrality and Balance as a Diplomatic Choice**

Morocco's position on the Kashmir dispute is based on well-established principles in its foreign policy, centered on respect for national sovereignty, non-interference in internal affairs, and support for peaceful solutions to regional disputes through direct dialogue between the concerned parties<sup>25</sup>. It was clearly reflected during the official visit of Moroccan Prime Minister Abderrahmane Youssoufi to Pakistan in 2001, the first visit by a Moroccan head of government, during which he emphasized, in his talks with Pakistani President Pervez Musharraf, the need to "resolve the Kashmir issue peacefully through bilateral dialogue between India and Pakistan", without aligning with any party or adopting a confrontational approach, despite the issue's humanitarian and political significance for Pakistan<sup>26</sup>. This diplomatic approach illustrates Morocco's commitment to maintaining balanced relations with both New Delhi and Islamabad, in line with its vision of regional peace and its principled approach to international conflict resolution. It also demonstrates the consistency of Moroccan foreign policy, as Morocco has not sought to link the Kashmir debate to the Western Sahara conflict. Instead, it has maintained a clear separation

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<sup>24</sup> Tooba Ahmad et al., "Pakistan's Foreign Policy Towards the Islamic World: An Analysis", *Journal of Positive School Psychology* 7, no. 1 (2023): 1755–1763, <https://journalppw.com/index.php/jpsp/article/view/16429>.

<sup>25</sup> Adnan Debbah, "La doctrine de la politique étrangère du Maroc: fondements et pertinence", *Le 360*, August 2, 2024, [https://fr.le360.ma/politique/la-doctrine-de-politique-etrangere-du-maroc-fondements-et-pertinence\\_DTKFJV4S3BHPRNTRWQUZTP2KUQ/](https://fr.le360.ma/politique/la-doctrine-de-politique-etrangere-du-maroc-fondements-et-pertinence_DTKFJV4S3BHPRNTRWQUZTP2KUQ/).

<sup>26</sup> Kuwait News Agency (KUNA), "Moroccan PM, Musharraf Discuss Kashmir", *KUNA*, April 17, 2001, <https://www.kuna.net.kw/ArticleDetails.aspx?id=1157861>.

between bilateral relations and positions on international conflicts, reflecting a professional and principle-based diplomacy rather than transactional or exchange-based diplomacy “quid pro quo.”

Beyond these principled foundations, Morocco’s approach has been further shaped by the expansion of its bilateral relations with India, which have witnessed significant growth over the past decade, particularly in the fields of security, defense, and economic cooperation. In light of this rapprochement, Morocco avoids adopting positions that could be interpreted as direct support for Pakistan, instead favoring a discourse centered on respect for state unity and sovereignty, principles that constitute a core foundation of Moroccan foreign policy.

Moroccan academic literature on relations with India, including studies by the Royal Institute for Strategic Studies (IRES), indicates that Rabat views India as an emerging economic and political partner and seeks to neutralize the Kashmir issue within the trajectory of bilateral cooperation, while reaffirming its support for peaceful, UN-led processes without direct involvement in the dispute.

Consequently, Morocco’s position may be characterized as a balanced, dual-dimensional stance: neutrality within international organizations and diplomatic caution in bilateral relations, consistent with Rabat’s strategic priorities while preserving its traditional relations with both Pakistan and India<sup>27</sup>.

### **Kashmir and Western Sahara conflicts: Pakistan’s Position in Comparative Perspective**

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<sup>27</sup> Abdel Latif Al-Rayssouni, *Morocco’s Position in Asian Interactions: A Reading of Moroccan–Indian Relations* (Casablanca: Moroccan Institute for International Studies, 2019).

Kashmir issue and Western Sahara are among the most prominent regional conflicts inherited from the post-colonial era, sharing certain structural characteristics that have rendered them permanent subjects of UN deliberation. In Kashmir, Britain's withdrawal in 1947 produced a contested situation between India and Pakistan. In the case of the Western Sahara, Spain's withdrawal in 1975 led to the reintegration of the southern provinces into the Moroccan state and the completion of its territorial sovereignty. However, that same withdrawal also led to the proclamation of the "Sahrawi Republic" as a separate "state" outside Moroccan sovereignty, advanced by the Polisario Front and supported by Algeria at multiple levels, thereby contributing to the internationalization of the dispute and to its incorporation into a UN-sponsored settlement process.

From another perspective, an objective comparison between Kashmir issue and Western Sahara conflict provides an effective analytical entry point for understanding the nature of the reciprocal interaction between Moroccan and Pakistani positions within the corridors of the United Nations and regional organizations. On the one hand, this comparison reveals similarities in the historical roots of both disputes within post-colonial contexts, leading each country to view its national cause through a sovereignty-centered lens shaped by the constraints of colonial partition and its long-term political repercussions.

On the other hand, this similarity helps explain the convergence of Moroccan and Pakistani approaches around prioritizing peaceful solutions and respect for the UN framework, without resulting in explicit supportive positions or mutual alignment. Just as Morocco adopts a balanced and cautious approach toward the Kashmir issue, Pakistan maintains a similar stance on Western Sahara, taking into account considerations of international legitimacy and the consistency of its

principled discourse, alongside a mutual understanding of the political and geopolitical constraints shaping each party's policy decisions.

In this respect, the reciprocal interaction between Rabat and Islamabad reflects a shared awareness of the structural constraints governing the behavior of middle powers within the international system, where neutrality and balance are viewed as deliberate diplomatic strategies rather than passive positions. Pragmatism is not limited to Pakistan; Morocco also pursues a balanced policy, maintaining relations with both Pakistan and India while preserving its commitments to international legitimacy and peaceful conflict resolution. Thus, convergence between Moroccan and Pakistani positions is not based on alignment, but on a shared logic of managing regional and international balances in a changing geopolitical context, allowing both countries to preserve flexibility in their foreign policy behavior.

### **Distinctive Historical Relations between Morocco and Pakistan: A Legacy of Continuity**

Moroccan–Pakistani relations in the early 1950s represented one of the most prominent expressions of political solidarity among Asian–African liberation movements. These relations emerged in an international context characterized by the establishment of the United Nations as a new arena for decolonization and the growing role of newly independent Asian states, such as India, Pakistan, and Indonesia, to assume leadership roles in supporting national liberation movements and defending the right of colonized peoples to self-determination.

Within this framework, the Moroccan national movement became increasingly aware of the importance of internationalizing the Moroccan question at the United Nations level, particularly after the French Protectorate authorities intensified restrictions on the mobility of Istiqlal Party leaders and prevented them from traveling abroad.

## **The Granting of a Diplomatic Passport to *Ahmed Balafrej*: A manifestation of political solidarity**

During a critical phase in the political history of the Kingdom of Morocco in the 1950s, the representative of the Moroccan national movement, Ahmed Balafrej, faced a precarious legal situation due to the imminent expiration of his passport and the refusal of the French Protectorate authorities to renew it. In order to overcome these obstacles, Pakistan's Minister of Foreign Affairs at the time, Sir Muhammad Zafarullah Khan<sup>28</sup>, appointed him as an honorary adviser on Moroccan affairs to Pakistan's Permanent Representative to the United Nations.

This decision triggered protests from the French authorities, who considered it a violation of Pakistani nationality law, which stipulated a five-year residency requirement for the acquisition of citizenship. Since Balafrej had never resided in Pakistan, Zafarullah Khan invoked a legal provision allowing exemption from the residency requirement "for special reasons," justifying the exception on the grounds of diplomatic necessity and Balafrej's expertise and in-depth knowledge of Moroccan affairs in the context of defending Morocco's independence at the United Nations<sup>29</sup>.

In the same vein, the official website of Pakistan's Ministry of Foreign Affairs confirms that in 1952, when Morocco was under French rule and struggling for independence, "Sultan

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<sup>28</sup> Muhammad Zafarullah Khan (1893–1985) was a Pakistani diplomat and jurist and an early key figure in shaping Pakistan's foreign policy after independence. He served as Pakistan's first Minister of Foreign Affairs from 1947 to 1954 and represented the country in several international forums, including the United Nations. He later held senior positions within the UN system, including President of the United Nations General Assembly (1962–1963) and President of the International Court of Justice (1970–1973). His work is frequently associated with advocacy for decolonization and support for the principles of the United Nations Charter.

<sup>29</sup> Masood Ahmed Riaz, Gulab Khan, and Qamar-ud-Din, "Muhammad Zafrulla Khan: The Man Who Struggled for Independence of Muslim Arab World", *Journal of Development and Social Sciences* 3, no. 2 (April–June 2022): 606–616, [https://doi.org/10.47205/jdss.2022\(3-II\)55](https://doi.org/10.47205/jdss.2022(3-II)55).

Mohammed V sent Ahmed Balafrej<sup>30</sup> to represent Morocco at a session of the United Nations Security Council in support of his country's independence. However, French delegates prevented him from delivering his speech, claiming that Morocco was a French colony. At that point, and given Pakistan's strong support for the right of peoples to self-determination, the Pakistani delegation, headed by Sir Zafarullah Khan, opened the Pakistani embassy at night and issued a Pakistani passport to Mr. Balafrej (...)"<sup>31</sup>.

For his part, Mehdi Bannouna<sup>32</sup> clarified the circumstances surrounding this exceptional event, noting that in 1952 the French Protectorate authorities annulled the validity of Ahmed Balafrej's passport, placing him at risk of losing his legal residency status in the United States while he was in New York attending Security Council sessions. In response, Bannouna suggested that Balafrej seek assistance from Pakistan's Foreign Minister, Sir Muhammad Zafarullah Khan, who was known for his sympathy toward the Moroccan cause. Although Balafrej initially hesitated, fearing rejection or a sense of indebtedness, Bannouna proceeded directly to Pakistan's

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<sup>30</sup> Ahmed Balafrej (1908–1990) was a prominent Moroccan politician and diplomat from the city of Rabat, he was one of the leaders of the national movement and a contributor to the founding of the Istiqlal Party. He was among the most notable signatories of the 1944 Independence Manifesto. He played an important diplomatic role in promoting the Moroccan cause internationally. After independence, he served as the first Minister of Foreign Affairs in 1956, and later as Prime Minister in 1960. Balafrej is considered one of the central figures in building the modern Moroccan state and laying the foundations of its diplomacy.

For his biography, see: Abu Bakr al-Qadiri, *Al-Hajj Ahmed Balafrej: The Seasoned Diplomat, Features of His Life and Samples of His Work*, in *Men I Have Known*, vol. 5 (Casablanca: Al-Najah Al-Jadida Press, 1996):389.

<sup>31</sup> Ministry of Foreign Affairs, Government of Pakistan, "Rabat — Pakistan-Morocco Relations", accessed December 7, 2025, <https://mofa.gov.pk/rabat-pakistan-morocco-relations>.

<sup>32</sup> Mehdi Ben Abdeljalil Bennouna (1918–2010): One of the most prominent figures of Morocco's national movement, media, and diplomacy, he was from the city of Tetouan in northern Morocco. In 1943, he founded the newspaper *L'Opinion Marocain*. After independence, he contributed to the establishment of the Maghreb Arab Press (MAP) news agency in 1959 and served as its director. He played a pivotal role in promoting the national cause abroad, particularly in the United States and Europe, before holding senior diplomatic positions, including Ambassador of Morocco in Washington and Permanent Representative to the United Nations. He is also considered one of the pioneers who documented the course of the national struggle through his writings and testimonies. For further reading, see: High Commission for Former Resistance Members and Members of the Liberation Army, *The Life and Career of a Distinguished Figure of the National Movement and the Liberation Army: The Late Mehdi Bennouna* (Rabat: High Commission, 2011):115.

UN mission and explained the gravity of the situation. Zafarullah Khan immediately instructed the mission's secretary to draft an urgent letter to Pakistan's head of state requesting a decree granting Balafrej Pakistani citizenship and membership in its UN delegation. Within forty-eight hours, Balafrej received a phone call inviting him to the mission, where he was officially informed of the decision and asked to submit photographs and personal details for the issuance of a Pakistani diplomatic passport, thereby restoring his legal status<sup>33</sup>.

### **Pakistan's Role in Supporting Moroccan Independence at the United Nations**

Pakistan's role in supporting the Moroccan cause at the United Nations from the early 1950<sup>s</sup> must be understood within the broader context of the reconfiguration of Asian–African alliances during the decolonization era. *The Moroccan question* was initially presented to the General Assembly in 1951 as an Arab-led initiative<sup>34</sup> primarily concerned with procedural matters. However, a qualitative shift occurred in 1952 with Pakistan's engagement, alongside several Asian and African states, in promoting the transition of the debate from a procedural to a substantive level. This shift explicitly linked *the Moroccan question* to the principles of the UN Charter, particularly the right of peoples to self-determination. As a result, the international support base for Moroccan demands expanded, granting the issue a global dimension beyond the previously narrow Arab diplomatic framework.

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<sup>33</sup> Mehdi Bennouna, "The speech he delivered at the academic seminar organized by the Rabat Al-Fath Association in honor of Al-Hajj Ahmed Balafrej, 29 January 1994", in Publications of the Rabat Al-Fath Association: *Al-Hajj Ahmed Balafrej...*, pp. 225–235, quoted in: *Al-Hajj Ahmed Balafrej: Pioneer of Cultural, Political, and Diplomatic Struggle for the Independence of Morocco* (published memoirs, no date):179.

<sup>34</sup> United Nations, General Assembly, Sixth Session, *Official Records: General Committee, 75th (Opening) Meeting*, November 8, 1951, 5:45 p.m., A/1894, Palais de Chaillot, Paris (New York: United Nations, 1951). See also: -Samya El Mechat, "L'improbable 'Nation arabe': La Ligue des États arabes et l'indépendance du Maghreb (1945–1956)", *Vingtième Siècle, Revue d'histoire* 82 (2004): 65, <https://shs.cairn.info/revue-vingtieme-siecle-revue-d-histoire-2004-2-page-57?lang=fr>.

In 1952, Pakistan's support for the Moroccan cause assumed a concrete and institutional character, most notably through enabling Ahmed Balafrej to gain official access to the United Nations by granting him a Pakistani diplomatic passport. Although this measure did not confer upon him an independent legal representative status allowing him to address UN organs on behalf of Morocco, it nevertheless provided a legal-procedural mechanism that allowed him to circumvent the restrictions imposed on non-governmental actors in a colonial context, benefit from diplomatic privileges, and participate in political consultations accompanying UN deliberations. In the same context, Pakistan's Foreign Minister, Sir Muhammad Zafarullah Khan, assumed a pivotal role within the General Assembly by publicly defending Moroccan demands during its seventh session in 1952, which resulted in the adoption of Resolution 612 affirming the fundamental freedoms of the Moroccan people<sup>35</sup>, a step widely regarded at the time as a symbolic political gain for the Moroccan national movement<sup>36</sup>.

At the level of the Security Council, Pakistan also assumed a supportive political and legal role in 1953, particularly following its election as a non-permanent member for the 1952–1953 term. Together with Lebanon, Pakistan advocated for the inclusion of the Moroccan question on the Council's agenda, arguing that the deterioration of the situation in Morocco and the accompanying French measures affecting political legitimacy and fundamental rights constituted a potential threat to international peace and security under the UN Charter. In response to the French position that framed the issue as a purely internal matter, Pakistan defended the

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<sup>35</sup> United Nations General Assembly, *Resolution 612 (VII): Question of Morocco*, 19 December 1952, A/RES/612 (VII), accessed via Refworld, January 19, 2026, <https://www.refworld.org/legal/resolution/unga/1952/en/7590>

<sup>36</sup> David Stenner, *Globalizing Morocco: Transnational Activism and the Postcolonial State* (Stanford, CA: Stanford University Press, 2019), [https://www.academia.edu/39309736/Globalizing\\_Morocco\\_Transnational\\_Activism\\_and\\_the\\_Postcolonial\\_State\\_Stanford\\_University\\_Press\\_2019](https://www.academia.edu/39309736/Globalizing_Morocco_Transnational_Activism_and_the_Postcolonial_State_Stanford_University_Press_2019)

international legal status of Morocco, emphasizing its lack of integration into French sovereignty and referencing the international legal framework governing the protectorate system. Although the Security Council ultimately failed to adopt the agenda item due to voting dynamics, Pakistan's initiatives and pleadings helped consolidate the international dimension of the Moroccan cause and underscored Pakistan's early commitment to supporting national liberation movements through a legal and institutional approach consistent with UN procedural norms<sup>37</sup>.

In this regard, Pakistan's membership in the Security Council carries particular significance in the trajectory of its engagement with Moroccan issues, as it coincided on two critical historical occasions with pivotal moments in Morocco's political history. During the 1952–1953 period, Pakistan's non-permanent membership overlapped with the intensification of confrontation between the Moroccan national movement and the French Protectorate authorities, during which Pakistan actively promoted the internationalization of the Moroccan cause within UN bodies. More than seven decades later, a similar temporal convergence occurred with Pakistan's Security Council membership for the 2025–2026 term, coinciding with sensitive international discussions concerning the autonomy proposal as a framework for resolving the Western Sahara conflict.

This temporal convergence should not be interpreted as mere coincidence but rather as reflecting a historical continuity in Pakistan's positioning within the UN system toward issues related to Moroccan sovereignty and political stability. It constitutes a significant indicator of the distinctive nature of Moroccan–Pakistani relations, grounded in shared diplomatic memory and a commitment to legal–institutional approaches to conflict management within the framework of

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<sup>37</sup> United Nations, *Repertoire of the Practice of the Security Council: Supplement 1952–1955* (New York: Department of Political and Security Council Affairs, United Nations, 1957): 46–50, <https://www.un-ilibrary.org/content/books/9789210581653/read>.

international legitimacy. Accordingly, this historical legacy provides an important analytical reference for understanding the enduring features of Pakistan's subsequent stance on Morocco's territorial issues, including its cautious and balanced approach to the Western Sahara conflict, which seeks to reconcile adherence to UN principles with sensitivity to the complexities of the international context.

### **Political Solidarity and Multilateral Coordination in Moroccan–Pakistani Relations**

Beyond these exceptional episodes, numerous historical indicators further attest to the strength and continuity of Moroccan–Pakistani relations over the decades. Pakistan maintained its explicit support for the Moroccan national movement's struggle for independence, as reflected in the boycott by Prime Minister Chaudhry Muhammad Ali of the Constituent Assembly session on 2 September 1955 in solidarity with the Moroccan cause. This stance was consistent with the declared orientations of Pakistani foreign policy as outlined in the 1954 Basic Principles Committee Report, which affirmed Islamabad's alignment with liberation causes in Asia and Africa<sup>38</sup>. Pakistan's early recognition of Morocco's independence and the establishment of diplomatic relations between the two countries in 1958<sup>39</sup> further demonstrated a shared awareness of the importance of South–South cooperation and laid the foundations for a stable and balanced diplomatic relationship characterized by mutual respect, non-interference, and coordination within multilateral frameworks, particularly the Organization of Islamic Cooperation and the Non-Aligned Movement.

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<sup>38</sup> Farooq Hasnat and Zamurrad Awan, "Bridging Continental Divide: Pakistan–Morocco's Enduring Friendship", *The Nation*, July 16, 2023.

<sup>39</sup> Ministry of Foreign Affairs, Government of Pakistan, "Africa", *Ministry of Foreign Affairs Pakistan*, accessed January 8, 2026, <https://mofa.gov.pk/africa>

Similarly, Morocco displayed clear understanding and support for issues related to Pakistan's national security, especially in the aftermath of the 1971 war, when it affirmed its support for Pakistan's territorial integrity and delayed its recognition of Bangladesh until 13 July 1973, at a time when most states had already extended recognition<sup>40</sup>. This decision reflected Rabat's concern to avoid undermining its relations with Islamabad. Consequently, Moroccan–Pakistani relations were not built on transient positions or political “bargains”, but rather on a historical legacy of mutual political solidarity that reinforced continuity and balance in their bilateral relations amid complex and tense regional and international contexts.

In addition to the distinctiveness of bilateral relations, this solidarity was reflected in their cooperation and coordination within multilateral regional organizations. The shared historical experience of Morocco and Pakistan within Asian–African liberation movements, particularly following the Bandung Conference of 1955<sup>41</sup>, helped establish an early foundation for political convergence based on anti-colonialism, the defense of self-determination, and respect for state sovereignty. This convergence was further reinforced through their engagement in multilateral frameworks such as the Non-Aligned Movement<sup>42</sup> and the Organization of Islamic Cooperation<sup>43</sup>, which provided platforms for political coordination and the management of regional balances within the Arab and Islamic worlds. In this context, Pakistani foreign policy has generally adopted

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<sup>40</sup> Sisson, Richard, and Leo E. Rose, *War and Secession: Pakistan, India, and the Creation of Bangladesh*, (Berkeley: University of California Press, 1990), <https://www.ucpress.edu/books/war-and-secession/paper>

<sup>41</sup> Seng Tan and Amitav Acharya, eds., *Bandung Revisited: The Legacy of the 1955 Asian-African Conference for International Order* (Singapore: NUS Press, 2020).

<sup>42</sup> Anwar, Zahid, Sajad Rasool, and Muhammad Ilyas Khan, “The Non-Aligned Movement and Pakistan in Historical Perspective”, *Pakistan Journal of Social Research* 4, no. 3 (September 2022): 335–340. <https://doi.org/10.52567/pjsr.v4i03.720>.

<sup>43</sup> Tajwar Ali and Haseena Sultan, “Emerging Role of the Organization of Islamic Cooperation in the Global Governance since 1969”, *Cogent Arts & Humanities* 10, no. 1 (2023): 5-7 <https://doi.org/10.1080/23311983.2023.2202052>.

a consensus-oriented approach, favoring the avoidance of sharp alignment in intra-Islamic conflicts, which helps explain its balanced posture toward the Western Sahara conflict.

Accordingly, Pakistan's abstention from voting on UN Security Council Resolution 2797 should not be interpreted as a cooling of its relations with Morocco, but rather as part of a cautious diplomatic approach aimed at maintaining amicable relations with all concerned parties, particularly in light of Pakistan's overlapping commitments within the Organization of Islamic Cooperation, where issues such as Kashmir occupy a special normative priority. Thus, Pakistan's position on the Western Sahara conflict reflects a historically grounded logic in the management of foreign relations, one that balances political solidarity with respect for national sovereignty and seeks to avoid the costs of alignment within multilateral arenas characterized by divergent interests and priorities.

### **The Significance of Pakistan's Abstention on UN Security Council Resolution**

An analysis of the determinants underlying Pakistan's abstention from voting on UN Security Council Resolution No. 2797 allows for the identification of a set of broader interpretive meanings that extend beyond causal explanation. These analytical interpretations reflect deeper dynamics related to Pakistan's positioning within the international system and to the behavioral patterns of middle powers in managing multilateral conflict-related issues. Beyond shedding light on Pakistan's specific stance, they also contribute to broader theoretical debates on the instruments of diplomatic action within UN institutions, the limits of neutrality, and the political meaning of abstention in contemporary international contexts.

### **Affirming the Effectiveness of Multidirectional Balancing in Explaining External Behavior**

Pakistan's abstention from voting on UN Security Council Resolution 2797 constitutes a revealing case of multidirectional balancing in the behavior of middle powers within a multipolar international system. Rather than reflecting passive neutrality or an absence of position, abstention emerges as a deliberate diplomatic choice aimed at managing tensions between principled commitments, geostrategic considerations, and the demands of institutional pragmatism, without becoming locked into rigid alignments. The analysis demonstrates that multidirectional balancing is neither a product of ambiguity nor uncalculated hesitation, but rather a strategic distribution of external engagements that enables states to sustain balanced relations with opposing actors while preserving their capacity to adapt to shifting geopolitical configurations.

#### **Abstention as an Instrument of Cautious Reservation within the Security Council**

The Pakistani case demonstrates that the Security Council is not merely an arena for entrenching the will of major powers, but also an institutional space that enables middle powers to pursue flexible strategies through legal tools. In this context, abstention emerges as a mechanism that allows a state to express reservations without obstructing the Council's collective work or entering into direct diplomatic confrontation with the sponsors of a resolution. This highlights the dual function of abstention: on the one hand, it is a low-cost institutional tool compared to a negative vote. On the other hand, it is a political instrument that retains diplomatic flexibility for maneuver within an institutional structure governed by precise procedural constraints.

#### **Rejecting the Interpretation of Hostility toward the Kingdom of Morocco**

An examination of the diplomatic context and the language employed in Pakistan's statement indicates that abstention does not carry hostile connotations toward the Kingdom of Morocco, nor

does it signal a deterioration in bilateral relations between the two states. Rather, it reflects Pakistan's concern to distinguish its positions within the Security Council from its bilateral relationships—a behavioral pattern consistent with the logic of balance management rather than rivalry or maneuvering against a particular actor. In this respect, abstention functions as an option that enables Islamabad to maintain cordial relations with Morocco without undermining its ties with Algeria, while also avoiding the appearance of bias in a dispute marked by high political sensitivity within the Arab and Islamic worlds.

### **Normative Consistency in Pakistan's Foreign Policy Beyond Situational Alignment**

The study demonstrates that Pakistan's emphasis on the right to self-determination, in the context of UN Security Council Resolution 2797, does not amount to explicit political support for secessionist claims. Rather, its conduct within the Security Council must be understood in light of internal structural constraints—most notably the separatist challenges confronting the state—and as part of a broader pattern of normative consistency shaped by the enduring salience of Balochistan and the Kashmir issue in Pakistan's diplomatic discourse. In this sense, abstention reflects a deliberate effort to avoid the creation of legal or political precedents that could later be mobilized against Pakistan's vital interests in comparable disputes. It thus carries a preventive dimension that extends beyond the management of external balances, encompassing the avoidance of normative outcomes that might undermine state unity and territorial integrity.

### **Future Significance: Anticipating Continued Abstention**

The study's overall analysis indicates that Pakistan's position on the Western Sahara conflict is likely to remain within its current configuration unless a systemic shift occurs in one of its core

determinants, whether related to the Kashmir issue, regional alliance configurations, or the balance of power within the Security Council. In this context, Pakistan is expected to continue resorting to abstention when voting on substantive resolutions concerning the dispute. Should the Moroccan autonomy proposal be activated as a framework for settlement within the UN system, this trajectory would likely confront Pakistan with a particularly sensitive normative dilemma in its voting behavior. Any explicit support for resolutions framing autonomy within Moroccan sovereignty could establish political and legal precedents with potential repercussions for separatist dynamics in Balochistan and for Pakistan's long-standing position on Kashmir, which rests on rejecting the incorporation of disputed territory into Indian sovereignty absent a mutually agreed settlement.

From this perspective, abstention does not signal opposition to the Moroccan initiative, but rather functions as a diplomatic instrument for avoiding normative inconsistency that could weaken Pakistan's negotiating posture in international forums. It enables Islamabad to preserve coherence in its discourse on the right to self-determination without casting a vote that might be construed as implicit endorsement of reconfiguring territorial disputes within a settled sovereignty framework. As such, abstention remains the option most consistent with the structural determinants shaping Pakistan's foreign policy in the context of any prospective UN-led settlement based on the Morocco's autonomy proposal.

### **The results of the study**

1. The findings indicate that Pakistan's abstention on United Nations Security Council Resolution 2797 does not reflect any deterioration in its bilateral relations with Morocco, as official diplomatic statements consistently reaffirm continued friendship and cooperation. Rather, the

abstention is best understood as part of a broader pattern of issue-based neutrality, whereby Pakistan tends to avoid taking explicit positions on geographically distant disputes that do not directly intersect with its core security and strategic priorities.

2. The analysis further shows that this voting behavior reflects Pakistan's effort to preserve strategic flexibility during its tenure on the Security Council, allowing it to navigate competing diplomatic expectations without constraining its foreign policy options. In this context, Pakistan's position is consistent with its long-standing preference for multilateral, UN-centered mechanisms and an emphasis on procedural and legal legitimacy in international disputes.

3. Overall, the case supports the explanatory value of middle power balancing theory, particularly in accounting for how states with limited systemic power seek to maximize autonomy, manage reputational costs, and maintain diplomatic room for maneuver within multilateral institutions.

4. The interaction between Rabat and Islamabad reflects a shared understanding of the constraints facing middle powers in the international system, where neutrality and balance are understood as deliberate diplomatic choices rather than passive or neutral stances in the traditional sense. Moreover, pragmatism is not limited to Pakistan, as Morocco also adopts a balanced approach in its external relations, particularly with Pakistan and India, while maintaining its commitment to international legitimacy and the peaceful settlement of disputes.

5. Pakistan's abstention on Western Sahara-related resolutions is likely to remain a stable diplomatic strategy, reflecting structural constraints linked to Kashmir and internal territorial sensitivities. Rather than indicating neutrality or opposition, abstention functions as a deliberate policy tool to preserve legal consistency in Pakistan's foreign policy while avoiding precedent-setting positions on sovereignty disputes within the UN system.

## **Conclusion**

This study demonstrates that Pakistan's abstention on United Nations Security Council Resolution 2797 concerning the Western Sahara conflict does not signal a shift in foreign policy, nor a hostile posture toward Morocco. Instead, it reflects continuity in a cautious diplomatic approach that has consistently characterized Pakistan's management of sensitive international issues.

The findings suggest that Pakistan's position on the resolution is better understood within the framework of a broader balancing strategy rather than as evidence of foreign policy realignment. In this regard, abstention emerges as a meaningful instrument of diplomatic behavior, particularly among middle powers seeking to preserve autonomy in foreign policy decision-making while avoiding the costs of direct alignment in conflicts that do not involve their core national interests.

These findings further highlight the analytical value of abstention as a tool for understanding state behavior within multilateral institutions. They also underscore the relevance of middle power diplomacy in managing complex international environments marked by competing pressures and overlapping alignments.

Finally, the study contributes to broader debates on diplomatic behavior in international organizations and opens avenues for future comparative research on voting strategies and non-alignment practices in an increasingly multipolar international system.



ISSN (E): 2959-0272

ISSN (P): 2710-0502

Volume 7 Issue 1 Year 2026

DOI: <https://doi.org/10.59111/10.59111/JPD.007.001.0236>

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**India's Role In Distorting Pakistan's National Perception During The War  
On Terror: The Psychological Insights From The Rajamandala Theory**

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**Abstract**

Geopolitics is a key concept in international relations used to understand how geography shapes national politics and interstate relations. Coined by Rudolf Kjellén (1917), geopolitics views the state as a living territorial organism influenced not only by legal structures but also by geography, economy, culture, and human power. Building on this idea, Kaplan (2012) argues that geography fundamentally influences foreign policy, national power, and strategic behaviour, as physical features such as mountains and plains shape security and vulnerability. This geographical determinism is also reflected in Kautilya's Rajamandala theory, which conceptualizes international politics as interest-based rather than idealistic. In this framework, the central state (Vijigishu) is surrounded by concentric circles of states, with the immediate neighbour (Ari) viewed as a natural enemy, justifying policies of war, strategic alliances, and dual tactics. Applying this model to India–Pakistan relations, Pakistan, as India's immediate neighbour, fits the role of Ari in India's geopolitical outlook. Historical evidence shows India's consistent use of direct and indirect strategies against Pakistan, including psychological and informational warfare. India's involvement in the 1971 crisis through Mukti Bahini support, its media strategy during the 1999 Kargil conflict, and its narrative manipulation during the post-2000 Global War on Terror demonstrate a sustained foreign policy approach aimed at weakening Pakistan's international standing.

**Keywords:** Global War on Terror, Rajmandala, Pakistan's national image, India's animosity

## Introduction

The term geopolitics is predominantly used in international relations discourse to understand the geographical factors that impact political dynamics on the national level and state-to-state relations on the global level. The term geopolitics was first coined by the political scientist Rudolf Kjellén in 1917, defined as a state being a territorial organism shaped by geography. According to Kjellén(1917), states are the organic entities having a cycle of birth, growth, adaptability, evolution, and even decline. In order to study the state, consideration must go beyond legal and institutional frameworks and include pertinent factors like geography, human power, economy, and culture; all these elements profoundly impact the nature of how states interact with one another<sup>1</sup>. Building upon the element of geography, Kaplan(2012), in his prominent work *Revenge of Geography*, argues that geography is a driving factor behind foreign policy making and implementation. This is because geography is a fundamental factor impacting global politics, national power, and historical dynamics. Moreover, the geography of a nation further defines its strategic dimensions and policy factors to protect the state against enemies. For instance, mountains play a role as a hindrance to enemy attack, and plains breed vulnerability<sup>2</sup>. Keeping in view the vitality of geography, Acarya Cakaya, also known as Kautilya, formulated a concept, Rajamandala, embedded in geopolitics and geostrategy. According to Rajamandala theory, also known as the circle of states, the interactions amongst states aren't idealistic, but rather interest-based. The Vijigishu-the would-be conqueror-is in the centre surrounded by states in a circle of different categories. The state in the first circle, i.e., immediate neighbour, is Ari, ie, an enemy to Vijigishu, with whom the policy of Vighraha, ie, war, is used, and against Ari, the dual policy of Dvaidhibhava, ie, peace with one and war with another, is utilized on the maxim that enemy of your enemy is your

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<sup>1</sup> Rudolf Kjellén, *The State as a Living Form* (1917)

<sup>2</sup> Robert D. Kaplan, *The Revenge of Geography: What the Map Tells Us About Coming Conflicts and the Battle Against Fate* (New York: Random House, 2012).

friend<sup>3</sup>. Analysing the dynamics of India and Pakistan, the two nations sharing the past of partition, India's strategic orientation towards Pakistan reveals the adversarial foreign policy ambitions rooted in geopolitical proximity, considering Pakistan to be its concentric enemy. Being India's immediate neighbour, hence an Ari, Pakistan has been a primary target of India's aggression, direct as well as indirect. Particularly, by stratagem, history has been a witness to the fact that India has been strategically leveraging upon Pakistan's internal challenges to project a psychological influence against Pakistan<sup>4</sup>. The so-called humanitarian intervention by India and training the Mukti Bahini against West Pakistan led to the 1971 succession<sup>5</sup>. Furthermore, in the 1999 Kargil War, India utilized the Rajamandala theory and used tool of media as a tool to distort Pakistan internationally. In post 2000 world, the Global War on Terror is an important case study revealing India's foreign policy agenda to strategically utilize regional crises aimed at damaging Pakistan's sovereignty. During the War on Terror times, India played a pertinent role in distorting Pakistan's national image through means of information warfare, narrative manipulation, and by investing in the development of an EU disinformation lab. India significantly utilized the Kashmir issue and historical grievances against Pakistan.<sup>6</sup>

This paper examines the case study of Pakistan's participation in the Global War on Terror and the consequences the state had to face. The research deductively focuses on India's role in distorting the perception and national image of Pakistan during the era of the Global

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<sup>3</sup> N. K. Surpi, N. N. A. N. Avalokitesvari, and I. M. G. S. Untara, "Mandala Theory of Arthaśāstra and Its Implementation towards Indonesia's Geopolitics and Geostrategy," Jayapangus Press: Jurnal Penelitian Agama Hindu 4, no. 3 (2020), <https://jayapanguspress.penerbit.org/index.php/JPAH>

<sup>4</sup> Talat A. Malik and S. Qayyum, "Indian Political Doctrines: Understanding Internal Security Dynamics of India Impacting Pakistan," *Margalla Papers* 26, no. 1 (2022): 18–33, <https://doi.org/10.54690/margallapapers.26.1.95>

<sup>5</sup> Navine Murshid, "India's Role in Bangladesh's War of Independence: Humanitarianism or Self-Interest?" *Economic and Political Weekly* 46, no. 52 (2011): 53–60, <https://www.jstor.org/stable/41719989>

<sup>6</sup> M. S. Afridi, "India's Strategic Information Warfare: Challenges and Policy Options for Pakistan," *NDU Journal* 38, no. 1 (2024): 77–93, <https://ndujournal.ndu.edu.pk/index.php/site/article/view/184>

War on Terror using a grounded theory approach, interdisciplinary in nature, integrating theories and concepts from fields of political science, psychology, and international relations.

### **Hypothesis and Research Problem**

The conception of geopolitics infers that the political behaviour of a state is inextricably linked to its geographical proximity. The primary IR frameworks, i.e., Realism and Liberalism, rely on institutional frameworks and national interest as primary paradigms. However, the Rajmandala theory of the circle of states provides a much South Asian focused IR perspective to view regional dynamics. The theory is built on geographical realities and identifies neighbours on such a basis, i.e., the immediate neighbour as a natural adversary (*Ari*), necessitating strategies of war (*Vigraha*) and dual tactics (*Dvaidhibhava*) to ensure the survival of the central state (*Vijigishu*). During the period of the Global War on Terror, Pakistan's contribution towards counter-terrorism was significant as a non-NATO ally. Despite this, Pakistan suffered significant challenges concerning its international perception as a state sponsoring terrorism. In this backdrop, the role of strategic manipulation by external actors was pertinent, especially India. The research, therefore, aims to deductively focus on the role of India to explore how it exercised the Kautilyan principles through information warfare, weaponisation of the Kashmir issue, and strategic culture of historical animosity due to the partition past.

### **Research Questions and Objectives**

The paper aims to seek answers to the primary research question, stating "How Rajmandala's theory of the circle of state explains India's role in contributing to distorting Pakistan's national image during the Global War on Terror?" To further examine, secondary research questions are as follows:

- How did strategic culture play a part in foreign policy goals for waging animosity?
- How did India utilize the Kashmir issue and link it to terrorism during the GWOT era?

- How did India utilize media framing and wage an information war against Pakistan?

These questions aim to achieve the following research objectives:

- Analysing the applicability of the Rajmandala theory on contemporary South Asia, particularly India and Pakistan, dynamics.
- Evaluation of the strategic utilization of the Global War on Terrorism by India to reframe the Kashmir issue by linking it to terrorism.
- Evaluating the psychology of emotions in geopolitics of south Asian geopolitics.

### **Research Methodology and Design**

The research is conducted qualitatively through data collection from primary and secondary sources. Using both primary and secondary research techniques aimed at finding foreign policy objectives ingrained in Rajmandala theory. Therefore, the research methodology is designed to explore the role of India during the era of the Global War on Terror to strategically damage Pakistan's national image. The primary data collection was done through conducting semi-structured interviews with notable people from International Agencies, Government of Pakistan, Media, Academia, Think Tanks, etc., mentioned in the Appendix section. The interviews conducted were utilized for thematic analysis, and their transcription was the subject of thematic coding based on Barun and Clark's(2008) six steps of thematic coding, i.e., firstly familiarizing the data collected through primary sources and their transcription. Secondly, devising codes from structured datasets. Thirdly, combining identified codes into a theme. Fourthly, revising the themes for developing analysis aligning with research objectives. Fifthly, naming the theme having relevance to the research problem. Lastly, writing the themes and analysis into structured sections aligning with academic principles of research.

Lastly, the research adheres to the principles of academic honesty and integrity, particularly regarding the usage of AI tools. It is hereby stated that the analysis and writings are the writer's own work, adhering to originality in ideas. The usage of AI is limited as a tool for assistance with improving writing styles, amending grammatical flaws, and seeking help to adhere to academic standards of research. For citation purposes, tools like Zotero and for assuring a sound grammar, tools like Grammarly were utilized.

### **Integrated Framework**

The paper uses an integrated framework derived from theoretical underpinnings of political psychology, Rajamandala theory, and conceptual underpinnings of Strategic culture. The first theory used in this grounded approach is Political psychology. Political psychology examines how cognition, intuition, and motivation influence political behaviour, policies, and the psychological shaping of states, including politicians' attitudes, ideology, leadership, and communication<sup>7</sup>. One of the main areas in political psychology is how perceptions are managed and manipulated, which is a core area applied to this research. To explore this in light of geographical elements further, the Rajamandala theory is applied. The Rajamandala theory, a part of Kautilya's Arthashastra, is a foreign policy approach with proximity of geographical underpinnings. The main crux of this theory states that "Your neighbour is your natural enemy and the neighbour's neighbour is your friend," meaning that in proximity to Vijigishu, i.e., would-be conqueror, its immediate neighbour is its Ari-enemy and the enemy to Ari is friend to Vijigishu, therefore forming a mandala or circle of alternating adversaries and allies<sup>8</sup>. To

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<sup>7</sup> Stanford Political Psychology Research Group, "What Is Political Psychology?" Stanford University, accessed November 15, 2025, <https://pprg.stanford.edu/what-political-psychology>

<sup>8</sup> S. Mishra, "Kautilya's Mandala Theory," *Research Journal of Humanities and Social Sciences* 3, no. 1 (2012): 145–148, <https://rjhsonline.com/HTMLPaper.aspx?Journal=Research+Journal+of+Humanities+and+Social+Sciences%3>

India, Pakistan is an Ari, and hence its foreign policy goals aim at damaging the Ari. To further explore India's ambitions of distorting Pakistan, the conceptual framework of strategic culture is used to explore factors serving grand strategy, ie, geopolitical order, national historical experience, political culture and ideology, and military culture<sup>9</sup>. From Kautilyan lens, authored in Arthashastra, strategic culture, is centred around the sixfold policy of the state: peace (sandhi) through agreements and pledges; war (vighraha) as an offensive operation; observance of neutrality (asana) for indifference; marching (yana) to prepare for action; alliance (samshraya) to seek another's protection; and double policy (dvaidhibhava) of making peace with one while waging war with another. In the case of Pakistan and India, the strategic culture of historical grievances driven by partition trauma defines contemporary interactions between the two. India's strategic culture, centred around Kautilyan thought, derives its policy against Pakistan, making Pakistan's strategic culture Indian centric, aimed at state survival and sovereignty<sup>10</sup>. The framework is further explained in the figure below

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[32#:~:text=His%20evaluation%20of%20which%20kingdoms,KAUTILYA%20ON%20WAR](#)

<sup>9</sup> Muhammad Hudaya and D. A. Putri, "Strategic Culture: The Answer of International Relations Study to Overcome Challenges in the Globalized World," unpublished conference paper, 2018,

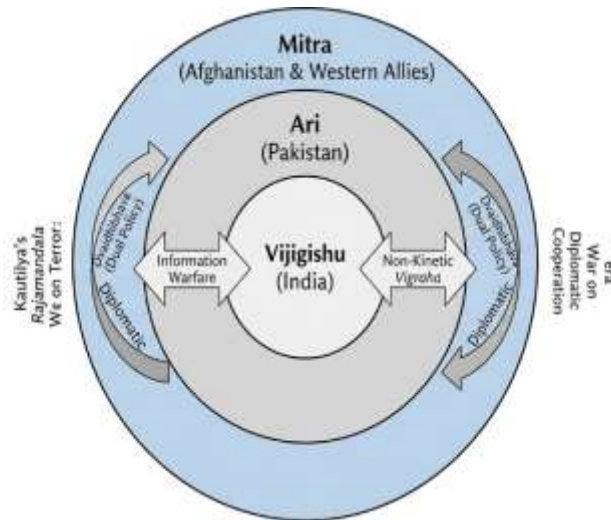
[https://www.researchgate.net/publication/327777482\\_Strategic\\_Culture\\_The\\_Answer\\_of\\_Internasional\\_Relations\\_Study\\_to\\_Overcome\\_Challenges\\_in\\_The\\_Globalized\\_World](https://www.researchgate.net/publication/327777482_Strategic_Culture_The_Answer_of_Internasional_Relations_Study_to_Overcome_Challenges_in_The_Globalized_World)

<sup>10</sup> S. Mishra, "Kautilya's Mandala Theory," *Research Journal of Humanities and Social Sciences* 3, no. 1 (2012): 145–148,

<https://rjhsonline.com/HTMLPaper.aspx?Journal=Research+Journal+of+Humanities+and+Social+Sciences%3>

[BPID%3D2012-3-1-](#)

[32#:~:text=His%20evaluation%20of%20which%20kingdoms,KAUTILYA%20ON%20WAR](#)



**Figure 1:** Illustration of the integrated framework mapping application of Rajmandala theory on the GWOT era<sup>11</sup>

### Pakistan’s Role in War: Consequences and Impact

War on terrorism is a term used to describe the American-led global counterterrorism campaign that was launched in response to 9/11. In terms of scope and expenditure Global War on Terror is comparable to the Cold War, with an intention to represent a new phase in global political relations, having consequences for security, human rights, International Law, corporations, and government<sup>12</sup>. The Global War on Terror became a principal security challenge<sup>13</sup>. The War on Terrorism implied a belief that the correct response to terrorist threats was primarily a military one, to track down and kill a hardcore of extremists<sup>14</sup>. The second half of 2001 was a catalyst that transformed world politics. The attack on the soil of the world's most powerful country posed a significant challenge to the USA’s national security and its

<sup>11</sup> The pictorial representation of the integrated framework is created through AI tools, with instructions given using the original thoughts and analysis of the research.

<sup>12</sup> Richard Jackson and Jennifer Scott, “War on Terrorism | Summary & Facts | Britannica,” *Encyclopedia Britannica*, May 2, 2020, accessed July 14, 2022, <https://www.britannica.com/topic/war-on-terrorism>

<sup>13</sup> P. D. Williams and M. McDonald, eds., *Security Studies: An Introduction* (London: Routledge, 2018).

<sup>14</sup> Julian Borger, “War on Terror? Was a Mistake, Says Miliband,” *Global Policy Forum*, January 15, 2009, accessed July 14, 2022, <https://archive.globalpolicy.org/empire/terrorwar/analysis/2009/0115Miliband.htm>

perceived role as a hegemon<sup>15</sup>. In September 2001, 19 terrorists hijacked four East Coast flights, crashing three of the airplanes into targets in New York and Washington, DC<sup>16</sup>. As the then President of the United States in his address on September 10, 2001, said, an attack on the World Trade Center was “an attack on American Soil”. George W Bush, in reaction to the attacks, gave an ultimatum to the world: “Every nation in every region now has a decision to make. Either you are with us, or you are with terrorists.”<sup>17</sup>.

Militarily, war was waged in the soil of Afghanistan, and parallel covert operations in Yemen. For this, there was a major increase in military spending by the USA for large-scale military assistance to nations that decided to ally with the USA. On intelligence grounds, there were institutional reorganizations along with a budget increase to facilitate the capture of terrorists, interning them at Guantanamo Bay, and to collaborate with foreign intelligence. Diplomatically, efforts were made to maintain a global coalition to eradicate terrorism and to counter anti-Americanism in the Middle East and subsequent areas<sup>18</sup>. On the strategic front, the war was central in international security, having multiple elements. Firstly, the 911 attack on the World Trade Centre, also known as Pearl Harbour, was a shock to the security landscape of the USA because a small group of civilians used aircraft as flying bombs to destroy the leading financial hub of the world, as well as the highly secure Pentagon. Secondly, the attack happened in parallel to the time when Bush envisioned pursuing a foreign policy of the New American Century. Thirdly, due to this ambition, it became pertinent for the USA to sustain control and hence eradicate terrorism<sup>19</sup>.

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<sup>15</sup> Pervez Musharraf, *In the Line of Fire: A Memoir* (New York: Free Press, 2006)

<sup>16</sup> “The War on Terror – Timeline & Facts,” *HISTORY*, February 1, 2019, accessed July 14, 2022, <https://www.history.com/topics/21st-century/war-on-terror-timeline>

<sup>17</sup> “The War on Terror – Timeline & Facts,” *HISTORY*, February 1, 2019, accessed July 14, 2022, <https://www.history.com/topics/21st-century/war-on-terror-timeline>

<sup>18</sup> Richard Jackson and Jennifer Scott, “War on Terrorism | Summary & Facts | Britannica,” *Encyclopedia Britannica*, May 2, 2020, accessed July 14, 2022, <https://www.britannica.com/topic/war-on-terrorism>

<sup>19</sup> P. D. Williams and M. McDonald, eds., *Security Studies: An Introduction* (London: Routledge, 2018).

“Pakistan draws its strategic strength from its unique placement on the world map. It lies at the crossroads between South Asia, the Middle East, central Asian states. Closer proximity to Afghanistan, Iran, China and India further adds to its importance. The CPEC, being the flagship project of China’s One Belt One Road program that passes through Pakistan, is a major impediment for the USA and India. During the GWOT, China started rising as a challenger to US hegemony. Its GDP jumped from 5,760 billion in 2004 to 18,228 billion in 2014. The US crafted a QUAD agreement with India, Japan and Australia in 2004 for the containment of China. This gave rise to the new great games in which Pakistan, China, Iran and Russia joined one camp, and India joined the US in the opposing camp. India entered into a strategic partnership and mutual interdependence with Afghanistan. India gained more influence in Afghanistan through its mutual interdependence, marginalizing Pakistan’s regional interests by provoking anti-Pakistan sentiments amongst the Afghan nation.”<sup>20</sup>. Pakistan, due to its strategic location, threat perception due to India, and economic impediments, had to participate in US led Global War on Terror as a non-NATO ally. In return, Pakistan was provided with military and financial assistance via aid. Pakistan’s airbases were given to NATO to reach and attack Afghanistan. “Pakistan was the beneficiary of the GWOT. If not us, the ruling elite was a great beneficiary. Pakistan received a great amount of funds during the coalition, amounting to billions and trillions. We also became a non-NATO ally, due to which our economic and security assistance was increased. ”<sup>21</sup> Moreover, “The policy of Pakistan, run by the civil and military leadership and the politicians, was excellent. They were able to protect Pakistan's interests. Pakistan also remained relevant in the system, and it is very pertinent to stay relevant in the international system. Positive relevance should be

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<sup>20</sup> Lt. Col. (R) Naeem Dar, interview by Kashaf Imran, phone call, February 22, 2023.

<sup>21</sup> Dr. Riffat Hussain, interview by Kashaf Imran, Conference Room, National University of Sciences and Technology (NUST), Islamabad, Pakistan, March 9, 2023.

there.”<sup>22</sup> Pakistan’s major success while fighting a foreign war was capturing and transferring over 700 Al-Qaeda operatives into the United States<sup>23</sup>. However, the victory came at a human and material cost, due to which Pakistan had long-term impediments to suffer economically, politically, and socially<sup>24</sup>. The most pressing impediment that Pakistan suffered was in the arena of soft power due to distortion of its national image, as acknowledged by late Pervez Musharraf, due to Global War on Terror, Pakistan had to face a serious image problem spanning over decades to come as Pakistan’s post 9/11 foreign policy developed a new identity on the global radar screen as “hotbed of terrorism” (Ahmad, 2013). Public opinion in Pakistan has been a challenging ground ever since the attack happened. Most Pakistanis condemned the attacks, while there were also strong reactionary sentiments against the USA, encouraged by the religious lobby and partly by pre-existing anti-American feelings<sup>25</sup>. On the eve of September 11, 2001, Pakistanis found themselves in a state of confusion, with the public mood being muted. According to a news report at that time, “Unknown terrorists demolished the symbols of American and military power-the World Trade Center and Pentagon in unprecedented airborne attacks involving four hijacked commercial aircraft killing hundreds or maybe thousands of people”. The sense of grief was evident from the news reports about the fate of hundreds of Pakistanis working at the WTC. Moreover, ordinary people heaved a collective sigh of relief for Musharraf’s decision not supporting Taliban<sup>26</sup>. According to the former CIA station Chief of Pakistan, “Before 911 reputation of Pakistan was problematic

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<sup>22</sup> Major General (R) Inam ul Haque, interview by Kashaf Imran, IWS Solutions Pvt Ltd Office, Rawalpindi, Pakistan, December 20, 2022.

<sup>23</sup> S. Fayyaz, *Pakistan's Response Towards Terrorism: A Case Study of Musharraf Regime* (Lahore: Vanguard Books, 2020).

<sup>24</sup> T. Yamin, *Examining Pakistan's Strategic Decision to Support the US War on Terror*, Academia.edu, accessed September 13, 2022, [https://www.academia.edu/20281544/Examining\\_Pakistan\\_s\\_Strategic\\_Decision\\_to\\_Support\\_the\\_US\\_War\\_on\\_Terror](https://www.academia.edu/20281544/Examining_Pakistan_s_Strategic_Decision_to_Support_the_US_War_on_Terror)

<sup>25</sup> Pervez Musharraf, *In the Line of Fire: A Memoir* (New York: Free Press, 2006)

<sup>26</sup> T. Yamin, *Examining Pakistan's Strategic Decision to Support the US War on Terror*, Academia.edu, accessed September 13, 2022, [https://www.academia.edu/20281544/Examining\\_Pakistan\\_s\\_Strategic\\_Decision\\_to\\_Support\\_the\\_US\\_War\\_on\\_Terror](https://www.academia.edu/20281544/Examining_Pakistan_s_Strategic_Decision_to_Support_the_US_War_on_Terror)

because the perception of Pakistan for supporting militancy in Kashmir was much of that was shaped by India and particularly because of supporting the Taliban and recognizing them as legitimized government at a time when they were sanctioned for harbouring OBL. After 911 it became much more complicated as Pakistan was seen as an unambiguous supporter of the Taliban. From 2005 onwards, perception became further complicated. On one hand, Pakistan was supportive of opposing Al-Qaeda, but when the Taliban began to reassert themselves in Afghanistan and were using terrorist means against other Afghans, through using terrorist methods like launching suicide bombings against other Afghans. Pakistan's perception of having an ambiguous policy of opposing Al-Qaeda and maintaining relations with the Taliban added to the complication.”(R. Grener, personal communication, 2023). Factors like ethnicity, inequality, religious intolerance, and political instability have contributed significantly to the rise of terrorism and have impacted Pakistan's perception. Moreover, in the stage of International Affairs and Geopolitics, Pakistan suffered grave consequences of trust issues, because Pakistan's calculus at the outset of war was that if Pakistan provided clear support to the West, it would have to deal with the aftermath after the exit of Americans, as sacrificing terms with Afghanistan would impact the national security interest. This concern should have been communicated to the Americans by Pakistan.”(R. Grenier, personal communication, 2023). Moreover, “Pakistan's foreign policy options always remained very restricted. Due to this Pakistan faced a credibility gap due to lack of trust from other international actors of global politics. There was a huge trust deficit as far as Pakistan's foreign policy was concerned because of the relationship with the Afghan Taliban, because of Kashmir's jihad. So the entire Pakistan suffers even today because of that, what outside is called the duplicity of the foreign policy.” (I. Gul, personal communication, 2023). On the national level, Salik (2020) states that Pakistan, being a highly polarized society, suffered the consequences as the war required a whole nation approach, yet Pakistan as a society remained divided. Religious clergy capitalized on this

faultline, siding with terrorist further distorting Pakistan's image and misinterpretation of Islam. (Salik, 2020). Rising extremism and religious militancy have posed a significant threat to Pakistan (Khan, 2015), causing heights of terrorist attacks in Pakistan. (Noor & Ajmal, n.d.). It is due to factors like political instability, militarization, terrorism, policy failures, extremism, and involvement with the Taliban that have exacerbated the negative perception of Pakistan internationally and in the global community. However, analyzing Pakistan's image and creating perception has challenged analysts, thinkers, and academicians tremendously. This is so because international media portrays Pakistan as a terrorist state, but upon visiting Pakistan, individuals find the state to be friendly and its people to be hospitable. In the preface of his book "Reimagining Pakistan," Hussain Haqqani mentions multiple perceptions of Pakistan by the international community. One of the most prominent perceptions mentioned in the book was by Richard Leiby, a Washington Post reporter. After spending one year in Pakistan, Leiby, in his interview, mentioned that "Pakistanis are pious, warm, and hospitable people." Leiby also mentioned that the bad news about Pakistan was not untrue either. Leiby emphasized that Pakistan's significant sample of population bears the socioeconomic impediments of foreign policy as well as defence policy decisions.<sup>27</sup>

### **India's role of concentric enemy during the War**

Pakistan's strategic culture, being India-centric for survival and sustenance of sovereignty, was yet another major driving factor for Pakistan to join in a coalition with the USA during the era of GWOT. With regards to the security and strategic policies of Pakistan during that time, it was imperative that, "in a community of nations, when 191 countries in the general assembly voted for the US invasion of Afghanistan, Pakistan had no option but to confront the motion. Moreover, Pakistan's economy and military hardware being heavily

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<sup>27</sup> Haqqani, Hussain. *Reimagining Pakistan: Transforming a Dysfunctional Nuclear State*. Noida: HarperCollins Publishers India, 2018

dependent on the West, had to align its strategic interests with the US and Western powers for its survival. Pakistan draws its strategic strength from its unique placement on the world map. It lies at the crossroads between South Asia, the Middle East, central Asian states. Closer proximity to Afghanistan, Iran, China and India further adds to its importance. Pakistan has always been under threat from its eastern border; its strategic policy has always been India-centric for the protection of its geographical and ideological boundaries. Soon after the US invasion of Afghanistan, both India and Pakistan reached the verge of war when opposing forces came face to face along the eastern border.”<sup>28</sup> There were three primary underpinnings taken into account by Musharraf: firstly, India’s ambition to ally with the USA by offering its bases, and if Pakistan didn’t join, then India would have internationalized the Kashmir issue within the counterterrorism framework of the Global War on Terror. Secondly, as per security calculus, Pakistan would have been in jeopardy with regard to its strategic assets in military parity with India. Lastly, the economic infrastructure built over half a century would have been destroyed if Pakistan had not sided with the US. Moreover, it would have allowed India to repeat history and by attacking Pakistan’s faultline, ensuring its destruction<sup>29</sup>. Musharraf’s foresight with regard to India was apt, as Pakistan’s role during the war bred the state immense difficulties and challenges. To which India significantly constructed narratives to reframe Pakistan’s national image adversely to ensure Pakistan is known internationally through negative connotations.

“India effectively played a major role in tarnishing Pakistan’s image. On every UN Platform, India utilized the state’s weakness to tarnish its image. On the policy level, they hired lobbyists

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<sup>28</sup> Lt. Col. (R) Naeem Dar, interview by Kashaf Imran, phone call, February 22, 2023.

<sup>29</sup> Pervez Musharraf, *In the Line of Fire: A Memoir* (New York: Free Press, 2006)

to build a narrative against Pakistan. India claimed that Pakistan is the main source of terrorism, be it in Kashmir. India gained the trust of the global community.”<sup>30</sup>

### **Exploiting faultlines and the strategic culture of historical animosity**

“Fractured past, uncertain future” are the two phrases aptly used by Ambassador Aizaz Ahmed Chaudhry to present the crux of Indo-Pak relations in his newly published work. The root cause has been sowing the seeds of conflicts before independence. “India plays its role in destroying the image and will continue to do so. India is Pakistan’s concentric enemy who takes advantage of its internal weakness, hence it’s India’s role to portray Pakistan as a terrorist nation.”<sup>31</sup> Pakistan being an Ari concentric enemy to India as per Rajamandala theory, India’s strategic thought has always been targeted at reinforcing a narrative of animosity for Pakistan. “When one reflect onto the dynamics of the creation of India and Pakistan, it is revealed that India has been against Pakistan ever since. It's India’s national policy towage strategic adversity against Pakistan in every capacity possible. India’s media is also definitely way stronger than ours. The embassies of India and the people who worked there during GWOT were very pro-India, and they worked solely for the national interest of India. Pakistan did not build its image positively, and this loophole was cashed in by India.”<sup>32</sup>

To exercise its ambitions, India has been utilizing kinetic as well as nonkinetic measures against Pakistan. Even in the realm of psychological warfare, India has a history of

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<sup>30</sup> Raza Shah, interview by Kashaf Imran, SPADO Office, RDF Complex Branch, Islamabad, Pakistan, February 28, 2023.

<sup>31</sup> Tughral Yamin, interview by Kashaf Imran, Associate Dean's Office, National University of Sciences and Technology (NUST), Islamabad, Pakistan, December 21, 2022

<sup>32</sup> Colonel Mansoor Javaid, interview by Kashaf Imran, residence, Islamabad, Pakistan, February 5, 2023.

aptly targeting Pakistan because hybrid war attempts to obtain the greatest psychological impact on the moral and political-strategic resilience of the opponent. Therefore, the danger of waging such warfare is far more dangerous than ever, as it has the potential to create vulnerabilities that cause both physical and psychological injuries. Countries with greater fault lines suffering from a lack of technological advancements and economic challenges are a haven for opponents to manifest their motives. Pakistan is the pertinent example, a country with a lethargic past, unstable present, and uncertain future, that has been a victim of such warfare by its concentric enemy, India. India, in its enmity, has been exploiting Pakistan's fault lines using propaganda and disinformation to break apart Islamabad, be it the 1971 tragedy or the war on terror exploitation. One thing is clear here: for any non-conventional strategy to work and achieve its aim, the fault lines are always identified and prepared by the inherent and internal elements<sup>33</sup>.

The First Indo-Pak War lasted until a ceasefire in January 1949, with Kashmir as the central cause of conflict. During the war, propaganda exploited regional, political, and religious dynamics to shape public perception and fuel insurgency. Government-controlled radio was strategically weaponized, reinforcing statecraft and intensifying the conflict. Moreover, Pakistan faced a major tragedy in 1971 with the separation of East and West Pakistan, a fault line that India identified and exploited as Islamabad's principal adversary. The disintegration–liberation–animosity triangle (Pakistan–Bangladesh–India), as noted by Naseer (2023), exemplifies divisive psychological operations, where actors capitalized on psyops through emotionalism, mobilization, Mukti Bahini recruitment, guerrilla warfare, and competing nationalist narratives. West Pakistan bore the harshest consequences, as Indian propaganda

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<sup>33</sup> Salma Siddiqui, "Hybrid War and Its Psychological Impact," in *Living Under Hybrid War*, ed. Ashfaque Hasan Khan and Farah Naz (Islamabad: National University of Sciences and Technology, 2022).

deepened trust deficits and intensified societal polarization under the guise of humanitarian intervention. Lastly, in 1999 during the Kargil war, TV was a major mass media weapon used for propaganda, making the war known as “the first Indo-Pak televised war,” in which Indian media coverage, blending information and misinformation, marked South Asia’s entry into a new era of warfare<sup>34</sup>. India repeated the patterns witnessed in these historic wars during the era of the war on terror and continued to exploit both internal and external faultiness.

Pakistan’s geostrategic location breeds complexities for the state. However, on retrospect, if utilized strategically, the geographical proximity of Pakistan has the potential to be used in the state’s favour. During the era of GWOT, the major fault line identified at Pakistan’s end is not utilizing its geographical potential. Because “Every foreign policy making foreign policy decision is based on bargaining. International decisions are not one-sided. When you make a decision that you want to do that, or they will demand, and you do have your own options, then you should negotiate those options. Pakistan dragged an outside war into its own country<sup>35</sup>. Moreover, the reason the USA pressured Pakistan was because of Pakistan’s geopolitical and geostrategic importance. The USA wanted Pakistan to help them by giving bases and overflights. Pakistan instantly complied. In this case, all seven demands made by the Bush Administration were accepted without any quid pro quo. Pakistan could have demanded from the US to construct roads in return, to improve the railway system and demand trade concessions. Pakistan only saw the USA's ultimatum from a security angle and did not make any effort to renegotiate the initial terms and conditions. Hence, national interest was

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<sup>34</sup> Imran, Kashaf. “Psychological Warfare in the Indo-Pak Conflict: Evolution from Partition to the Present.” *The DaySpring*, May 26, 2025.

<https://thedaysspring.com.pk/psychological-warfare-in-the-indo-pak-conflict/>

<sup>35</sup> Dr. Amna Mehmood, interview by Kashaf Imran, Head of Department Office, International Islamic University Islamabad, Islamabad, Pakistan, December 22, 2022.

severely ignored”<sup>36</sup>. In essence, “According to the situation in the era of GWOT, the policies were accurate, but long-term consequences of the policies were not assessed properly.”<sup>37</sup> Therefore, the War on Terror was a golden opportunity for India to destroy and attack Pakistan. India is targeting to destroy Pakistan’s image and reputation through propaganda spreading against Pakistan, particularly through the EU's disinformation lab and propaganda mechanism. India's activities were part of a long-standing strategy to weaken Pakistan. The relevance of geopolitical competition is stressed, particularly in light of India's attempts to balance Pakistan's strategic importance by forming alliances with Afghanistan. Moreover, India’s success was witnessed when Pakistan was included on the FATF's "grey list". These aspects reflect a key theme from Moisi's (2008) work, “geopolitics of emotions”. Emotions like fear, humiliation, and hope are predominantly utilized to achieve geopolitical ambitions serving national interest. Repeated political and social failures are drivers of a deep sense of humiliation for a nation, as seen historically in the case of the decline of the Arab-Islamic world. Political actors aim at exploiting this humiliation. This makes humiliation a classical tool of diplomacy and political weaponization<sup>38</sup>. In the case of Pakistan, India has been aptly utilizing the humiliation aspect against Pakistan. During the war on terror, the weaponization of emotion helped India to earn Pakistan, discouraging and humiliating labels like a hotbed of terrorism, a hard country, etc. This, in a chain reaction, caused Pakistan a devastating loss in multiple aspects of its economy, diplomacy, tourism, etc. Pakistan has suffered from visa objections, and those who somehow attained visas were subjected to aggressive surveillance and had to bear ridicule at US airports in the form of slurs and abuses.

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<sup>36</sup> Tughral Yamin, interview by Kashaf Imran, Associate Dean's Office, National University of Sciences and Technology (NUST), Islamabad, Pakistan, December 21, 2022

<sup>37</sup> Dr. Ashfaque Hassan Khan, interview by Kashaf Imran, Principal Office, National University of Sciences and Technology (NUST), Islamabad, Pakistan, April 12, 2023.

<sup>38</sup> Dominique Moisi, *The Geopolitics of Emotion: How Cultures of Fear, Humiliation, and Hope Are Reshaping the World* (New York: Doubleday, 2009)

## Weaponization of the Kashmir Issue and Terrorism

The Kashmir Issue and Terrorism are interlinked causative factors perpetuating deep-rooted animosity between India and Pakistan. India's policy goals to weaponize terrorism and the Kashmir issue authenticate Musharaf's decision to be a US ally, as in his address, Musharaf explained that the rationale for the nation to side with the US because his critical concerns were the country's sovereignty, economy, strategic assets, and the Kashmir cause<sup>39</sup>. Before exploring the dynamics of how the Kashmir issue and terrorism have been weaponized by India against Pakistan, it is pertinent to understand the concept of terrorism in its deep roots and complexities. The word "terrorism" is derived from the Latin verb "terror," meaning to tremble<sup>40</sup>. Terrorism is a highly politicized term defined as "the threatened or actual use of illegal force and violence by a non-state actor to achieve a political, economic, religious, or social goal through fear, coercion, or intimidation" by the Global Terrorism Database (GTD), one of the most comprehensive databases on terrorist incidents<sup>41</sup>. Terrorism is a hybrid between warfare and crime. Terrorism is warfare when terrorist activities are executed for political purposes, leading to significant harm, and terrorists perceive themselves to be at war against enemies. Terrorism is a crime when non-state actors perpetrate it, criminal laws are violated, and violence is directed against civilians<sup>42</sup>. In the case of Pakistan, the state has been suffering from the security impediments linked to transnational militancy and cross-border terrorism since the Cold War era, which for India was an important factor to weaponize against Pakistan,

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<sup>39</sup> T. Yamin, *Examining Pakistan's Strategic Decision to Support the US War on Terror*, Academia.edu, accessed September 13, 2022,

[https://www.academia.edu/20281544/Examining\\_Pakistan\\_s\\_Strategic\\_Decision\\_to\\_Support\\_the\\_US\\_War\\_on\\_Terror](https://www.academia.edu/20281544/Examining_Pakistan_s_Strategic_Decision_to_Support_the_US_War_on_Terror)

<sup>40</sup> Edwin Bakker and Jeanine de Roy van Zuijdewijn, *Terrorism and Counterterrorism: Comparing Theory and Practice*, Coursera, accessed June 2, 2023, <https://www.coursera.org/learn/terrorism>

<sup>41</sup> Valerie Hase, "What Is Terrorism (According to the News)? How the German Press Selectively Labels Political Violence as 'Terrorism'," *Journalism* 24, no. 2 (2023): 398–417, <https://doi.org/10.1177/14648849211017003>

<sup>42</sup> David Schanzer, *Understanding 9/11: Why 9/11 Happened & How Terrorism Affects Our World Today*, Coursera, accessed June 7, 2023, <https://www.coursera.org/learn/911-attack>

along with maligning the Kashmir issue. “India was motivated to highlight the divergence between the USA’s and Pakistan’s interests. They were particularly active in highlighting this divergence after 911. India was very eager to highlight that Pakistan did very little to control the activities of al-Qaeda before 911. They also tried to suggest that there was a clear link between Pakistan’s support for al-Qaeda, refusal to work actively against al-Qaeda and Pakistan’s support for Kashmir militancy. It was a clear propaganda deployed against Pakistan by India”<sup>43</sup>.

Therefore, during the war, India took the opportunity of reframing the Kashmir issue the Kashmiri insurgents as terrorists, which aligned aptly with GWOT’s narrative. India’s strategic manipulation of political issues and reframing the narrative in lines to GWOT’s narrative reflects the apt application of the Rajmandala principles of dealing with Ari through attacks and causing damage. While doing so, India played a duality, on one hand weakening Pakistan’s stature and on the other hand strengthening its own through earning nuclear legitimacy and gaining a favourable position with the Afghan government. India’s strengthening of its strategic position was done at the cost of Pakistan’s international standing. Pakistan suffered international humiliation due to being portrayed as a rogue nation, causing the US Congress to undergo debate on cutting down military and economic aid and deepening cooperation with India<sup>44</sup>.

### **Information Warfare and Media Framing**

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<sup>43</sup> Robert Grenier, interview by Kashaf Imran, Google Meet call, May 24, 2023.

<sup>44</sup> Muhammad Abid Nazir and Gulshan Majeed, “Pakistan’s Decision to Join US War on Terror and Repercussion for Pakistan,” *Journal of Development and Social Sciences* 2, no. 3 (2021): 509–519, [https://doi.org/10.47205/jdss.2021\(2-III\)43](https://doi.org/10.47205/jdss.2021(2-III)43)

Propaganda, misinformation, and narrative engineering are core components and strategies utilized for centuries in warfare with the purpose of destroying the enemy without direct confrontation. Such principles of warfare are codified in the philosophy of non-Western thinkers like Sun Tzu and Kautilya. In modern warfare, the utility of such strategies has redefined warfare as more non-kinetic in approach, having a major dimension called information warfare in which media is the most pertinent tool. According to Frater and Ryan(2001), the Information Age has revolutionized modern warfare by providing commanders with decisive advantages due to the effective use of information, although it has also brought about serious vulnerabilities. Military and civilian systems are becoming heavily reliant on communications and information technologies, thus becoming the most attractive targets and vehicles of attack. Command and situational awareness technologies can equally be used to disrupt, deceive or destroy command structures to create more uncertainty than less. Contemporary command-and-control (C2) cycles have become dependent on the electromagnetic spectrum to a great extent, so this dependence constitutes a major vulnerability that an adversary can take advantage of and, at the same time, requires protection. Any operation to sabotage the C2 cycle of an enemy is collectively known as information warfare (IW), which uses information superiority through attacking the information systems and networks of an adversary and defending against them. The final aim of IW is to acquire a decisive information superiority that can be used to get the adversary under control/power<sup>45</sup>.

The decade-long war against terrorism occurred during a time when the digital revolution was taking place, and due to mass media, there was a 24/7 abundance of information. India strategized the digital age's dynamics to wage information warfare against Pakistan,

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<sup>45</sup> Michael R. Frater and Michael Ryan, *Electronic Warfare for the Digitized Battlefield*, illustrated ed. (Boston: Artech House, 2001).

using media framing ensured dismantling and distortion of Pakistan's image. "India used their information network over double in multiple shifts for spreading fake news."<sup>46</sup> Firstly, the Indian media framed 9/11 incidents by developing its linkage to the Kashmir issue and portrayed Pakistan through fake news as part of a global terrorist network that attacked the USA. Secondly, journalists played their part by claiming that Kashmir militant groups were connected to Al-Qaeda. For instance, the headline "Mumbai to New York, the road passed through Kandahar" symbolically claims that terrorism in India and the US originates from the same source. Thirdly, the Indian media adopted an anti-Islamic tone deliberately aimed at ideologically distorting Pakistan and partly due to domestic reasons of fragile Muslim-Hindu relations<sup>47</sup>. "India tried to tarnish our image by saying that Pakistan is a terrorist state and that Pakistan supports terrorist activities. When OBL was killed, India took the lead to denounce that Pakistan's military was trying to play a double game. India was instrumental in creating and spreading such propaganda against Pakistan."<sup>48</sup> For this, India created a disinformation lab in Europe that disgraced Pakistan worldwide for 10 to 15 years, and we lacked the ability and capacity to counter it. Moreover, India played a significant role in putting Pakistan on the FATF's gray list. India's Foreign Minister, Jai Shanker, acknowledged in a training program that it was India that kept Pakistan in FATF's gray list<sup>49</sup>.

### **Concluding remarks**

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<sup>46</sup> Dr. Salma Malik, interview by Kashaf Imran, Google Meet call, May 13, 2023.

<sup>66</sup> Imtiaz Gul, interview by Kashaf Imran, Zoom call, March 13, 2023.

<sup>47</sup> Sandhya S. Bhattacharya, "The Global Impact of Terror: 9/11 and Media Framing of the India-Pakistan Conflict" (PhD diss., Pennsylvania State University, 2007), Pennsylvania State University Libraries Electronic Theses and Dissertations, <https://etda.libraries.psu.edu/catalog/7900>

<sup>48</sup> Dr. Riffat Hussain, interview by Kashaf Imran, Conference Room, National University of Sciences and Technology (NUST), Islamabad, Pakistan, March 9, 2023.

<sup>49</sup> Dr. Ashfaq Hussain Khan, interview by Kashaf Imran, Principal Office, National University of Sciences and Technology (NUST), Islamabad, Pakistan, April 12, 2023.

India is always up to Pakistan, and their army is Pakistan-specific. And they are not only watchful of Pakistan in terms of strategic and military competition, but they are also much more attentive to Pakistan in social, economic, and national affairs, and they compete with Pakistan all over the world. rather they are much ahead of Pakistan in terms of propaganda and spying activities, in terms of international linkages. And since their economy is rising, they have surpassed the UK in economic ranking. So they are more relevant for the work<sup>50</sup>. This stance of India is deeply rooted in the Rajmandala theory and strategic culture defined by hatred against Pakistan. The research findings infer that during the War on Terror, India, being a concentric enemy to Pakistan, exercised its policy ambitions to cause damage to Pakistan by distorting its international perception and exploiting the faultiness. Even in post GWOT era, India continues to achieve its ambitions by waging animosity against Pakistan and to dismantle its statecraft. The major findings of the research and the scope of research identified are:

1. **Synthesis of research:** During the era of the global war on terror, Pakistan suffered from significant losses politically, militarily, and economically. The major impediment suffered by Pakistan was the distortion of its national image. While Pakistan's internal faultlines significantly contributed to its image issue, the external factors, especially India's efforts to link Pakistan with terrorism by weaponizing Kashmir issue, were a pertinently catalysing the distortion of Pakistan's perception. India's strategic approach was the practical implementation of Kautlyan principles and framed Paksian as an Ari. Using the Kautilyan framing, India utilised the neighbour's enemy is your friend principle and cultivated alliance and Mitra(friendship) with the USA and consequently with Afghanistan and waged a dual policy in which on one hand mistrust was waged

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<sup>50</sup> Dr. Amna Mehmood, interview by Kashaf Imran, Head of Department Office, International Islamic University Islamabad, Islamabad, Pakistan, December 22, 2022.

between Pakistan and the USA. Secondly, through an alliance with Afghanistan, India strategically encircled Pakistan. For this purpose, waging information warfare was a primary tool utilised by India, leveraging counter-terrorism narratives and utilising Pakistan's internal faultlines.

2. **Theoretical contribution:** Using the integrated framework of political psychology with Rajmandala theory, having conceptual underpinnings of strategic culture, the research aimed to contribute a unique perspective in South Asian Studies, exploring psychological underpinnings of regional dynamics. The theoretical contribution is timely as the evolving security architecture of South Asia reflects a shift from traditional to a non traditional warfare especially due to the era of post-truth politics. The psychological underpinnings and evolution of security architecture were further witnessed during the May 2025 confrontation between India and Pakistan, i.e., the limited operation dynamics reflected narrative manipulation, information warfare, and post-truth politics. Through this theoretical contribution, the research concluded with an underpinning stating that in this evolving security architecture, having nonkinetic elements, a Vijigishu (the would-be conqueror) is no longer dependent on traditional battles, but rather to weaken and subdue the enemy, psychological manoeuvring, weaponization of emotions, and media framing are primary weapons.
3. **Academic contribution to South Asian Studies:** The research further contributes to South Asian Studies by presenting Pakistan's perspective through the originality of ideas and further by countering India's academic domination in South Asian studies. Through this research, a contribution to South Asian studies is made by presenting the pioneer Pakistan's perspectives in International Academia.



ISSN (E): 2959-0272

ISSN (P): 2710-0502

Volume 7 Issue 1 Year 2026

DOI: <https://doi.org/10.59111/10.59111/JPD.007.001.0241>

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## **Women's Participation In Peacebuilding: A Contemporary Islamic Jurisprudential Perspective**

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**Abstract**

Despite its importance, women's participation in peacebuilding processes in many Islamic societies, including Afghanistan, still faces social, cultural, and structural obstacles. This research examines whether women's participation in peace processes is justifiable and necessary from the perspective of contemporary Islamic jurisprudence. The study employs a qualitative, analytical approach and draws on Quranic verses, contemporary Islamic jurisprudential perspectives, and academic sources on peacebuilding. The findings show that women's participation can help reduce violence, strengthen social justice, increase social cohesion, and build trust within society. The study also demonstrates that the fundamental objectives of Sharia, such as the preservation of life, the achievement of justice, and the promotion of the public interest, are compatible with women's active role in peacebuilding. This research concludes that women's participation in peace processes is not only legitimate but also necessary, and that their exclusion contradicts the fundamental principles of Islamic law in contemporary contexts worldwide.

**Keywords:** Islamic law, Peacebuilding, Women's participation, Gender and peace, Contemporary Ijtihad, Sharia law.

## Introduction

The experience of protracted conflicts shows that peace requires the active participation of all segments of society, including women, not merely the cessation of violence. In recent years, women's role in peacebuilding has gained attention as an effective factor in building trust, reducing violence, and strengthening social solidarity.<sup>1</sup> However, in many Islamic societies, women's participation in this arena has often been discussed within the framework of jurisprudential interpretations and has sometimes been accompanied by restrictions.<sup>2</sup> Their participation refers to their active role in peace processes, including both informal engagement and social leadership.

Peacebuilding in this study is understood as a gradual social process aimed at achieving justice and preventing conflict. In Islamic sources, concepts such as reforming the nature of nature, justice, and the preservation of human life have been proposed as fundamental goals of Sharia. Contemporary Islamic jurisprudence, as the analytical framework of this research, follows an *ijtihad* approach in which the fixed principles of Sharia are considered alongside the changing realities of today's societies. This approach, by emphasizing the objectives of Sharia and the public interest, provides an opportunity to reexamine the role of women in peacebuilding and to assess the legitimacy of their participation.<sup>3</sup>

Contemporary peacebuilding literature shows that women's participation helps improve negotiations and sustain peace. Research emphasizes that their presence increases attention to social justice and local needs. This presence also helps rebuild relationships. As a result, the peace process goes beyond a focus on security issues. In contemporary Islamic thought, peacebuilding is a gradual process of reforming social relations. This process, which emphasizes the public interest, considers women's participation both legitimate and necessary.

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<sup>1</sup> United Nations Security Council, *Resolution 1325 (2000): Women, Peace and Security* (United Nations, 2000), [https://undocs.org/S/RES/1325\(2000\)](https://undocs.org/S/RES/1325(2000)).

<sup>2</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 3rd edition (Islamic Texts Society, 2003).

<sup>3</sup> Yusuf al-Qaradawi, *Fiqh Al-Maqasid al-Shari'ah* (2006).

Research on peace processes shows that women's participation can bridge the gap between formal negotiations and social realities, bringing the peace process closer to society's real needs. Because of their extensive community connections and active presence at the local level, women can convey the demands of marginalized groups to formal peace processes, thereby strengthening the inclusiveness and accountability of agreements. Also, the presence of women in various stages of peace, from negotiation to implementation, can reduce the likelihood of a return to conflict and help consolidate peace in the long term. From this perspective, women's participation serves as a bridge between formal peace structures and society's real needs and plays an important role in achieving sustainable peace.<sup>4</sup>

From an Islamic perspective, peacebuilding is a social and moral process that aims to preserve life, achieve justice, and prevent corruption. These principles are presented in Islamic texts as the foundations of social order and consider participation in achieving peace to include all members of society. Contemporary Islamic thought, emphasizing the goals of Sharia and the public interest, considers peacebuilding a dynamic process appropriate to the circumstances of the time. Accordingly, women's participation in dialogue, mediation, and social leadership can be legitimized as part of a collective effort for justice and social stability. Therefore, the link between peacebuilding and women's participation is not at odds with Sharia but rather aligns with its overall goals.<sup>5</sup>

In Islamic thought, peacemaking is emphasized as a collective responsibility to maintain social order and prevent violence. The Holy Quran explicitly prioritizes improving human relations over conflict. As stated in verse 9 of Surah Al-Hujurat, "If two groups of believers fight, make peace between them," this verse prioritizes reconciliation and mediation

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<sup>4</sup> Thania Paffenholz, *Making Women Count – Not Just Counting Women: Assessing Women's Inclusion and Influence on Peace Negotiations* (Geneva, 2016). <https://www.inclusivepeace.org/publications/making-women-count-not-just-counting-women/>.

<sup>5</sup> Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought, 2008).

over continued violence.<sup>6</sup> Also, in verse 114 of Surah An-Nisa, the Holy Quran includes reforming people among the desirable deeds and social good, and introduces it as equal to other good deeds.<sup>7</sup>

This Quranic emphasis on social reform and peace provides a framework in which the active participation of social actors, including women, in dialogue, mediation, and the reduction of social tensions is not only permitted but also desirable. From this perspective, the role of women in peacebuilding can be analyzed and evaluated as part of achieving the overall goals of Sharia: justice, the preservation of human life, and the prevention of social corruption.

Considering the developments in Islamic societies and contemporary challenges in the field of peace and conflict, this research aims to examine women's participation in peacebuilding within the framework of contemporary Islamic jurisprudence; a framework that, with an *ijtihad* approach, focuses on the connection between the fixed principles of Sharia and changing social realities. This research aims to show that, based on contemporary jurisprudence's emphasis on the purposes of Sharia, including achieving justice, preserving human life, and ensuring the public interest, women's social and political participation in peace processes can be considered legitimate and even necessary.

This research shows that women's participation in social affairs and conflict resolution is rooted in Islamic tradition. Ultimately, the goal of this research is to provide an analytical framework that, drawing on contemporary Islamic jurisprudence, enables understanding and explanation of women's roles in peacebuilding in today's Islamic societies.<sup>8</sup>

This research, adopting an analytical and conceptual approach, examines women's participation in peacebuilding in the context of the connection between contemporary Islamic jurisprudence and contemporary peace and security literature. The research focuses on

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<sup>6</sup> The Holy Quran, 49:9.

<sup>7</sup> The Holy Quran, 4:114.

<sup>8</sup> Muhammad Akram Nadwi, *Women Around the Messenger of Allah* (Islamic Book Trust, 2007.).

analyzing theoretical and normative frameworks to explain and evaluate the role of women in peace processes, without being limited to any specific geographical context.<sup>9</sup> There remains a significant gap in linking this literature to the normative frameworks of contemporary Islamic jurisprudence. The majority of research either focuses on international and secular approaches or deals with jurisprudential issues without a systematic connection to peacebuilding.

This disconnect has led to a failure to examine the capacities of contemporary Islamic jurisprudence to explain, coherently, the legitimacy and effectiveness of women's participation in peacebuilding. Therefore, there is a need for an analytical framework that can engage the peace and security literature with modern approaches to Islamic jurisprudence in a constructive dialogue and address this research gap.<sup>10</sup>

The importance of this research lies in examining the role of women in peacebuilding from the perspective of contemporary Islamic jurisprudence and showing its relevance to contemporary issues of peace and security. This research can contribute to a better understanding of the place of women's participation in Islamic societies.<sup>11</sup> This article also includes selected case studies to illustrate how women's participation in peacebuilding operates in specific Islamic contexts.

### **1. Research Questions**

- 1- Why is women's participation in peace necessary and legitimate in contemporary Islamic law?
- 2- How have women contributed to peacebuilding in modern Islamic contexts?

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<sup>9</sup> Laura J. Shepherd, "Women, Peace and Security: From Rhetoric to Practice," *International Political Science Review*, 2016.

<sup>10</sup> Reşit Haylamaz, *Aisha: The Wife, The Companion, The Scholar* (Tughra Books, 2013).20-40, accessed December 22, 2025.

<sup>11</sup> Abdullahi Ahmed An-Na'im, *Islamic Law and the Challenges of Modernity* (Edinburgh University Press, 2004.).

## Methodology

This research study employs a qualitative, analytical approach to examine women's participation in peacebuilding from the perspective of contemporary Islamic jurisprudence. This study is based on a doctrinal and interpretive analysis of primary and secondary sources. Primary sources include relevant verses of the Holy Quran on justice, peace, and social responsibility, as well as classical and contemporary jurisprudential works.<sup>12</sup> Secondary sources include scientific research articles, academic books, and reports of international institutions in the field of peacebuilding and gender.

The selection of sources was based on their relevance to the research question, their scholarly credibility, and their role in contemporary discussions of Islamic jurisprudence and peacebuilding. Furthermore, this research uses a qualitative case study approach, focusing on selected cases in Muslim societies, particularly Afghanistan, which faces serious peace challenges and specific socio-political conditions.<sup>13</sup> The analytical method in this research is interpretive and thematic, examining key concepts such as public interest, justice, and social responsibility in relation to women's participation in peace processes.<sup>14</sup> This study acknowledges certain limitations, including reliance on secondary sources, a lack of specific empirical data in some areas, and the difficulty of generalizing the results to all Islamic societies.

## Results and Discussion

The findings of this study indicate that women's participation in peacebuilding is consistent with the fundamental objectives of Sharia, including the preservation of life and justice. The principle of public interest and the concept of collective responsibility (fard

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<sup>12</sup> Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

<sup>13</sup> United Nations Security Council, *Resolution 1325 (2000): Women, Peace and Security*.

<sup>14</sup> Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

kifayah) provide a jurisprudential basis for women's participation in peace processes. Contemporary Islamic jurisprudence, through *ijtihad*, has enabled the reinterpretation of social roles and legitimizes women's participation. Empirical evidence suggests that women play an effective role in reducing violence, mediating, and strengthening social cohesion. However, the main obstacles are more rooted in cultural and political factors, and the Afghan experience shows that excluding women undermines the sustainability of peace.

### **1.1 Jurisprudential and legal foundations for the necessity of Women's participation in peacebuilding in contemporary Islam**

In contemporary Islamic jurisprudence, women's participation in peacebuilding is consistent with the fundamental goals of Sharia, particularly the preservation of life, justice, and social order. Jasser Auda emphasizes that achieving these goals requires the participation of all members of society. Therefore, excluding women from peace processes undermines the realization of these goals.<sup>15</sup> Abdullah Ahmed An-Naim, focusing on the challenges of contemporary Islamic societies, argues that Islamic jurisprudence must respond to social realities and reinterpret social roles in light of justice and the needs of the time. This perspective transforms women's participation in peacebuilding from a social demand to a legal and moral obligation.<sup>16</sup> This jurisprudential view is rooted in the Holy Quran's emphasis on peace and collective responsibility in resolving conflicts.

﴿وَإِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا﴾

And if two factions among the believers fight, then make peace between them.<sup>17</sup>

In addition, the principle of public interest in contemporary Islamic jurisprudence provides a crucial basis for explaining the necessity of women's participation in peacebuilding. Mohammad Hashem Kamali explains that when social participation advances public interests

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<sup>15</sup> Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

<sup>16</sup> An-Na'im, *Islamic Law and the Challenges of Modernity*.

<sup>17</sup> The Holy Quran, Surah al-Hujurat, 49:9.

and prevents harm, restricting it lacks sufficient jurisprudential justification. Accordingly, women's participation in peacebuilding, especially in conflict-affected societies, can be understood as part of realizing the public interest.<sup>18</sup> This understanding of the public interest is also reflected in the Quranic emphasis on cooperation to realize social good.

﴿ لَا خَيْرَ فِي كَثِيرٍ مِنْ نَجْوَاهُمْ إِلَّا مَنْ أَمَرَ بِصَدَقَةٍ أَوْ مَعْرُوفٍ أَوْ إِصْلَاحٍ بَيْنَ النَّاسِ ۗ وَمَنْ يَفْعَلْ ذَلِكَ ابْتِغَاءَ مَرْضَاتِ اللَّهِ فَسَوْفَ نُؤْتِيهِ أَجْرًا عَظِيمًا.﴾

There is no good in much of their secret talks, excepting him who enjoins charity or what is right or reconciliation between people, and whoever does that, seeking Allah's pleasure, soon We shall give him a great reward.<sup>19</sup>

Finally, the concept of Fard Kifayah in Islamic jurisprudence provides a clear framework for understanding the necessity of women's participation in peacebuilding. Wael B. Hallaq argues that collective responsibilities in Islam respond to societal needs and can adapt to changing circumstances. If achieving peace and preventing violence depend on women's participation, it becomes part of fulfilling collective responsibility.<sup>20</sup> Kamali further explains that contemporary Islamic jurisprudence, by recognizing the dynamics of social roles, enables women to actively contribute to maintaining social order and justice, thereby reinforcing the necessity of their participation in peacebuilding.<sup>21</sup>

## **1.2 The sharia Legitimacy of Women's participation in peacebuilding through contemporary Ijtihad**

In contemporary Islamic jurisprudence, the legitimacy of women's participation in peacebuilding can be understood through ijtihad grounded in the objectives of Sharia. Ibn Ashur emphasizes that Islamic law aims to serve public interests and establish social justice.

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<sup>18</sup> Mohammad Hashim Kamali, *Shari'ah Law: An Introduction* (Oxford: Oneworld Publications, 2008).

<sup>19</sup> The Holy Quran, Surah al-Nisa (4):114.

<sup>20</sup> Wael B. Hallaq, *Shari'a, Law and Modernity* (Cambridge University Press, 2009).

<sup>21</sup> Mohammad Hashim Kamali, *Islamic Jurisprudence: An International Perspective* (Islamic Texts Society, 2001).

Therefore, actions that promote these goals are religiously justified. Accordingly, women's participation in peacebuilding is considered legitimate when it contributes to reducing violence and improving social relations.<sup>22</sup> Wahba Zuhayli further emphasizes that Islamic rulings should be interpreted to address society's real needs, thereby supporting women's active role in peacebuilding.<sup>23</sup>

﴿وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَيُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَيُطِيعُونَ اللَّهَ وَرَسُولَهُ أُولَئِكَ سَيَرْحَمُهُمُ اللَّهُ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ﴾

This verse establishes the shared moral and social responsibility of believing men and women promoting societal reform, providing a Qur'anic basis for women's participation in peace-related and conflict-prevention activities through contemporary *ijtihad*.<sup>24</sup> Although the verse does not explicitly address peacebuilding, it affirms shared responsibility in social reform, which can be extended to peacebuilding. While the verse does not explicitly address peacebuilding, it affirms the shared responsibility of women and men in social reform, a responsibility that contemporary *ijtihad* extends to peacebuilding activities.

Furthermore, contemporary *ijtihad*, by emphasizing the principle that rulings change with time and place, provides a basis for legitimizing new social roles. Yusuf al-Qaradawi argues that many historical restrictions on women's social participation arose from custom and the specific circumstances of the time, rather than from definitive texts of the Sharia. From this perspective, contemporary *ijtihad* can legitimize women's participation in peacebuilding by reinterpreting these limitations.<sup>25</sup> Tariq Ramadan, emphasizing Islamic ethics and social responsibility. He considers women's participation in public activities as part of a moral commitment to achieving justice and peace.<sup>26</sup>

<sup>22</sup> Ibn Ashur, Muhammad al-Tahir, *Maqasid Al-Shariah al-Islamiyyah* (Dar al-Salam, 2006).

<sup>23</sup> Wahbah al-Zuhayli, *Usul al-Fiqh al-Islami*, vol. 2 (Dar al-Fikr, 1986).

<sup>24</sup> Holy Quran, Surah al-Tawbah (9): 71.

<sup>25</sup> Yusuf al-Qaradawi, *Fiqh al-Awlawiyyat* (Dar al-Shuruq, 1996).

<sup>26</sup> Tariq Ramadan, *Radical Reform: Islamic Ethics and Liberation* (Oxford University Press, 2009).

Finally, contemporary Islamic jurisprudence, relying on the principle of “permissibility in social affairs,” provides a clear framework for the legitimacy of women’s participation in peacebuilding. Zuhayli explains that in the realm of social interactions, the principle is permissibility unless there is an apparent reason for prohibition. Given the lack of a definitive text prohibiting women's participation in peacebuilding, contemporary ijihad may consider it legitimate.<sup>27</sup> Furthermore, Ibn Ashur emphasizes that any jurisprudential interpretation that weakens justice or increases social harms is incompatible with the spirit of the Sharia; an analysis that establishes the legitimacy of women's participation in peacebuilding within the framework of contemporary ijihad.<sup>28</sup>

### **1.3 Patterns and Experience of Women’s Contribution to Peacebuilding in Modern Islamic Contexts**

In contemporary Islamic societies, patterns of women's participation in peacebuilding have been shaped mainly at the social and local levels. Social Islamic research shows that women in many Islamic contexts have played an important role in reducing tensions and preventing the escalation of conflict. They contribute through mediation, social activities, and strengthening family solidarity. Analyzing these experiences, Fatima Mernissi shows that women's participation in the public sphere, especially in times of crisis, has often been informal yet effective, helping create spaces for dialogue and reconciliation.<sup>29</sup> Complementing this perspective, research on women and peace in Muslim societies shows that these informal roles have gradually become recognized as patterns of participation.<sup>30</sup>

At the local level, contemporary experiences show that women in some Islamic societies have also participated in peacebuilding at institutional and official levels. Studies on Muslim women's participation in post-conflict reconstruction show that women are active in

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<sup>27</sup> Wahbah al-Zuhayli, *Athar Al-Harb Fi al-Fiqh al-Islami* (Dar al-Fikr, 1998).

<sup>28</sup> Ibn Ashur, Muhammad al-Tahir, *Al-Tahrir wa al-Tanwir* (Dar al-Tunisiyya, 1984).

<sup>29</sup> Fatima Mernissi, *Islam and Democracy: Fear of the Modern World* (Perseus Books, 2002).

<sup>30</sup> Zahra Ali, “Women, Islam and Peacebuilding,” *Journal of Peacebuilding & Development* 8, no. 2 (2013).

social councils, civil society organizations, and peace initiatives. Their presence has helped place social and humanitarian issues on the peace agenda. By examining the experiences of women in contemporary Islamic societies, Asma Lamrabet emphasizes that women's participation in these arenas is often based on a moral understanding of peace, justice, and social responsibility.<sup>31</sup> In this regard, reports show that women's participation strengthens the link between religious values and practical peacebuilding needs.<sup>32</sup>

Finally, historical contemporary experiences in Islamic societies indicate that patterns of women's participation in peacebuilding have been diverse and tailored to cultural and social contexts. Research on Muslim women in conflict contexts shows that, in addition to their social roles, women have contributed to knowledge transmission, peace education, and the preservation of collective memory. Emphasizing the moral activism of Muslim women, Amina Wadud considers their participation in peacebuilding as part of their religious and social responsibility.<sup>33</sup> Complementing this analysis, comparative studies on women and peace in Islamic societies show that these experiences are diverse. However, they indicate women's strong capacity to play an effective role in peacebuilding.<sup>34</sup>

#### **1.4 Structural Barriers and Enabling Capacities for Women's Participation in Peacebuilding**

One of the structural obstacles to women's participation in peacebuilding is traditional and restrictive perceptions of gender roles. These are often rooted in social custom rather than in the definitive texts of Sharia. Wahbah Zuhayli clarifies that many restrictions on women's social participation are the product of cultural and historical interpretations. They should not be considered fixed religious rulings. In practice, these perceptions can limit women's access

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<sup>31</sup> Asma Lamrabet, *Women and Islam: The Quest for Equality* (Islamic Book Trust, 2015).

<sup>32</sup> United Nations Development Programme (UNDP), *Women's Roles in Peacebuilding in Muslim Contexts* (2011).

<sup>33</sup> Amina Wadud, *Qur'an and Woman* (Oxford University Press, 1999).

<sup>34</sup> Chad Haines Yasmin Saikia, *Women and Peace in the Islamic World: Gender, Agency and Influence* (I.B. Tauris, 2014).

to areas of dialogue, mediation, and decision-making.<sup>35</sup> In completing this analysis, Muhammad Tahir bin Ashour emphasizes that whenever social structures act in ways that hinder the realization of justice and the public interest, it will be necessary to review them from the perspective of Sharia, thereby showing that these structural obstacles lack binding Sharia support.<sup>36</sup>

Alongside these barriers, there are also critical enabling capacities within the Islamic framework that can strengthen women's participation in peacebuilding. Tariq Ramadan emphasizes that women and men share social responsibility in achieving peace and justice. He stresses the necessity of women's active participation in addressing social challenges. From this perspective, values such as human dignity, justice, and moral responsibility are capacities that can serve as a basis for women's participation in peacebuilding.<sup>37</sup> In this regard, research shows that religious, educational, and civil institutions can support women's participation in peacebuilding by reinterpreting Islamic teachings.<sup>38</sup>

Finally, contemporary experience shows that the interaction between reforming legal structures and strengthening social capacities can decisively increase women's participation in peacebuilding. By emphasizing the distinction between religion and religious understanding, Abdolkarim Soroush proposes rethinking restrictive social structures and underscores the role of collective reason in reforming them. This approach can help reduce structural barriers to women's participation.<sup>39</sup> Complementing this perspective, comparative studies on women and peace in Muslim societies show that strengthening institutional, educational, and legal capacities increases women's participation in peacebuilding.<sup>40</sup>

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<sup>35</sup> Wahbah al-Zuhayli, *Athar al-Harb fi al-Fiqh al-Islami* (Dar al-Fikr, 1998).

<sup>36</sup> Ibn Ashur, Muhammad al-Tahir, *Maqasid Al-Shariah al-Islamiyyah*.

<sup>37</sup> Tariq Ramadan, *Radical Reform: Islamic Ethics and Liberation* (Oxford University Press, 2009).

<sup>38</sup> United Nations Development Programme (UNDP), *Women's Roles in Peacebuilding in Muslim Contexts*.

<sup>39</sup> Abdolkarim Soroush, *Reason, Freedom, and Democracy in Islam* (Oxford University Press, 2000).

<sup>40</sup> Azza Karam, *Women, Islam and Peacebuilding: Structural Challenges and Opportunities* (Oxford University Press, 2015.). <https://doi.org/10.1093/oxfordhb/9780199731640.013.0012>.

## **Case Study 1: Aisha (RA) as a Normative Islamic Model of Women's Participation in Peacebuilding**

Aisha (may God be pleased with her) is known as one of the most prominent women scholars and religious authorities in Islamic history. Her role went beyond that of a family figure to that of the Prophet of Islam. According to Akram Nadwi, Aisha (may Allah be pleased with her) was one of the most important hadith narrators and a scholarly authority in Medina. Many Companions and followers turned to her for guidance on religious and social issues. This position shows that women's participation in the public sphere and leadership was accepted in early Islamic tradition. It was not considered incompatible with the principles of Sharia. Such a role, based on knowledge and social trust, contributed to the intellectual stability and cohesion of Islamic society.<sup>41</sup>

From a peacebuilding perspective, Aisha's scientific and educational activities can be seen as indirect peacebuilding. Historical sources show that she played a role in reducing intellectual tensions and preventing social divisions. Ibn Abdul Bar highlights Aisha's role in transmitting knowledge and reforming religious understanding. This helped strengthen social trust and prevent intellectual conflicts. This shows that peacebuilding in the Islamic tradition was not limited to political negotiations. It also included intellectual and moral guidance.<sup>42</sup>

In contemporary Islamic jurisprudence, Aisha's experience can serve as a model for women's participation in peacebuilding. Contemporary research on women in early Islam shows that women's participation in education, counseling, and social guidance was part of the historical reality of Islamic societies. This is consistent with the purposes of Sharia, particularly the realization of justice, the maintenance of social order, and the prevention of harm.

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<sup>41</sup> Akram Nadwi, *Al-Muhaddithat: The Women Scholars in Islam* (Interface Publications, 2007), <https://archive.org/details/Al-Muhaddithat-TheWomenScholarsInIslam>. <https://archive.org/details/Al-Muhaddithat-TheWomenScholarsInIslam>.

<sup>42</sup> Yusuf Ibn 'Abd al-Barr, *Al-Isti'ab fi Ma'rifat al-Ashab*, vol. 4 (Dar al-Jil, 1992), <https://archive.org/search.php?query=Al-Istiab+Ibn+Abd+al-Barr>.

Therefore, contemporary *ijtihād*, grounded in this Islamic model, can regard women's participation in dialogue, social mediation, and peacebuilding not only as legitimate but also as essential to achieving lasting peace in Islamic societies today.<sup>43</sup>

### **Case study 2: Women's participation in Afghan peace processes**

Peace processes in Afghanistan show that despite legal and political emphasis on women's participation, their presence in formal peace negotiations remains limited and unstable. Studies show that Afghan women, especially after 2001, have played an active role in civil and social spheres. They support war victims and help reduce local violence. But these roles have rarely been transferred to formal decision-making levels. This gap between social participation and exclusion from formal structures has been a prominent feature of peace processes in Afghanistan.<sup>44</sup>

From a structural perspective, the studies presented show that the main obstacles to women's participation in the Afghan peace process stem more from political, security, and cultural factors than from religious requirements. Widespread insecurity, patriarchal power structures, and the instrumental use of religion have limited women's participation. These factors often justify their exclusion. However, cross-sectional evidence shows that when legal and institutional frameworks for women's participation are in place, they can play a more effective role in social dialogue, civil society institutions, and local peace initiatives.<sup>45</sup>

At an analytical level, the case of Afghanistan shows that peace processes that have been shaped without the real participation of women have enjoyed less social legitimacy and have been more vulnerable to a return to violence. The sources show that women's participation

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<sup>43</sup> Muḥammad ibn Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī* (Dār Ṭawq al-Najāh, 2001), <https://archive.org/search.php?query=Sahih+al+Bukhari+Arabic>

<sup>44</sup> Gulab Mir Rahmany, "The Role and Participation of Women in the Afghan Peace Process," *International Journal of Multidisciplinary Educational Research* 11, no. 10(6) (2022), <http://ijmer.in/doi/2022/11.10.101>.

<sup>45</sup> Parmila Nazary, Nassir Ul Haq Wani, Ahmad Khalid, Hatam, "Women in Peace Process in Afghanistan: Meaningful Participation and Its Impact," *Kardan Journal of Social Sciences and Humanities* 3, no. 2 (2020), 17-34, accessed December 25, 2025, <https://kardan.edu.af/Research/CurrentIssue.aspx?j=KJSSH>

is not only a human rights demand but also essential for lasting peace. Therefore, the experience of Afghanistan shows that ignoring the role of women has been one of the factors contributing to the continued instability and failure of peace processes in this country.<sup>46</sup>

### **Conditional Limitations on Women's Participation and Leadership in Peacebuilding from the Perspective of Contemporary Islamic Jurisprudence:**

From the perspective of contemporary Islamic jurisprudence, women's participation and leadership in peacebuilding is generally legitimate. However, in certain circumstances, restrictions may be imposed. First, when participation seriously endangers women's lives and safety, Islamic jurisprudence prioritizes the preservation of life. In such cases, participation may be limited based on expediency. Second, roles directly related to armed conflict and military operations have traditionally been considered outside women's participation. However, this does not include civilian roles such as negotiation, mediation, counseling, and community leadership in peace processes.<sup>47</sup>

If participation in peacebuilding violates moral principles or human dignity, or creates social instability, Islamic jurisprudence permits review or restriction based on the public interest (Maslahah). However, contemporary jurists emphasize that there is no definitive text in Islamic law that generally prohibits women from participating in or leading peacebuilding. Many existing restrictions are rooted more in cultural and political structures than in jurisprudential principles. These principles emphasize justice, the preservation of life, and social stability.<sup>48</sup>

### **Conclusion**

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<sup>46</sup> Fahim Yousufi, "The Prospect of Women's Rights in the Post-Taliban-Government Peace Agreement," *Journal of International Women's Studies* 22, no. 9 (2021): 1–18. <https://vc.bridgew.edu/jiws/vol22/iss9/1>.

<sup>47</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 3rd ed. (Cambridge: Islamic Texts Society, 2003), 351–355.

<sup>48</sup> Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (Washington, DC: International Institute of Islamic Thought, 2008), 89–94.

This research shows that women's participation in peacebuilding is not only legitimate but also necessary from the perspective of contemporary Islamic jurisprudence. Based on the objectives of Sharia, including the preservation of life, justice, human dignity, and the public good, peace is recognized as a collective responsibility (*fard kifayah*). It therefore requires the participation of all members of society, including women. Contemporary jurisprudence, through dynamic *ijtihad* and attention to evolving social realities, offers the possibility of redefining women's social and political roles within the framework of Sharia. The research findings show that excluding women from peace processes not only lacks a solid jurisprudential basis but also conflicts with the overarching goals of Sharia, which emphasize social justice, stability, and the prevention of corruption.

The finding also indicates that women in contemporary Islamic societies have made a significant contribution to peacebuilding. Women have played an effective role at both community and institutional levels. They contribute by reducing tensions, preventing the return of violence, and strengthening social solidarity through mediation and peace education. An examination of examples such as the scholarly and social roles of Hazrat Aisha (RA) and the experiences of Afghan women shows that, although women's presence in formal negotiations has often been limited, their participation has been vital to the social legitimacy and sustainability of peace processes. Accordingly, the research concludes that sustainable peace in Islamic societies is not possible without meaningful participation by women, and that recognizing their role is not only a legal demand but also a religious and social necessity.

### **Competing Interest**

The author asserts that there is no conflict of interest in the publication of this article and the research contained in this paper.



ISSN (E): 2959-0272

ISSN (P): 2710-0502

Volume 7 Issue 1 Year 2026

DOI: <https://doi.org/10.59111/10.59111/JPD.007.001.0248>

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## **Quiet Diplomacy And Backchannel Negotiations By Small States: A Comparative Study In Global Conflict Mediation**

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**Abstract**

This paper explains the growing importance of the role of small states in international and internal conflicts as a mediator. The crux of the argument in this study is that even a state with minimal material power may be a good mediator, contrary to traditional views of the great power diplomacy. It is based on a comparative case study of Norway, Switzerland and Qatar, the conditions of small state mediation capacity are defined in this paper such as perceived neutrality, diplomatic flexibility and strategic niche diplomacy. Small states might succeed in facilitation and trust-building particularly in cases where major powers are not engaged, one-sided or unable to make any progress. However, their success is not a certainty but rather needs to be supported by good conflict structures and circumstances that are deemed ripe in addition to indirect assistance by great powers during the implementation stage. The major question that will be addressed in the paper is in which situations, and by which means, will the small states be successful at mediation of global conflicts? It also attempts to analyze the following sub-questions: What are the benefits of small states to great powers as mediators and what are their constraints and dangers? What is their mediation capacity and how do they attain and maintain it? It is that small states cannot be a panacea of conflicts on the global scale; its role in making peace is pragmatic and more significant to secure an effective channel of communication.

**Keywords:** Small-State Mediation, Niche Diplomacy, Structural Weakness, Trust Building, Facilitation vs. Leverage, Mediation Gap, Honest Broker, Back-Channel Negotiations, Soft Power Leverage, Ripeness & Invitation

## **Introduction**

Great powers have always been prevailing in the international conflict resolution processes. As an illustration, the United States, Russia, and China are virtually presumed to be the dominant players in the process of keeping peace between conflicting sides due to the mere presence of huge military and economic capabilities. This appears to be based on realist international relations theory where power is related to material power and the capacity to coerce agreements. Notwithstanding, the continued occurrence of both internal and international conflicts today coupled with the self-interest of major powers indicate that there can be no constraints to this strategy. It is intriguing to check what small states can be as good conflict mediators.

Based on the example of the facilitation of the Norwegian back-channel Oslo Accords between the Israelis and the PLO, the hosting by Switzerland of important dialogues between the parties engaging in the conflicts, and Qatar hosting the talks between the United States and the Taliban, the examples are wide enough to ask a fundamental question as to what good mediation really is. The next question would be how weak states with minimum levels of coercion manage to succeed when super powers fail on a regular basis.

The major question that will be addressed in the paper is in which situations, and by which means, will the small states be successful at mediation of global conflicts? It also attempts to analyze the following sub-questions: What are the benefits of small states to great powers as mediators and what are their constraints and dangers? What is their mediation capacity and how do they attain and maintain it?

The point here is crucial as perceived impartiality, diplomatic skillfulness, and expert knowledge may become the keys to dramatic success in intermediations of conflicts by small states. Small states may be surprisingly effective when great powers are unable or unwilling to

execute these special functions of facilitator, trusted host or influential intermediary. On the whole, this effectiveness actually is context-dependent: it is typically the highest in the initial phases of the negotiation process and in the middle of the process, whereas the success of the long-term type tends to be supported by the efforts of the larger international actors.

It is on this backdrop that this paper shall review the literature on mediation and small states in international relations first. It will formulate a theoretical framework based on the ideas of niche diplomacy and structural weakness and apply comparative case studies of Norway, Switzerland, and Qatar that will exemplify some of the models of a small-state mediation, identify the conditions that must be present to make these models effective, examine the inherent factors limiting them, and draw conclusions about the policy and further research.

### **Literature Review**

Conflict mediation stands at the intersection of international relations, peace studies and diplomacy. The traditional mediation theory has paid attention to the leverage of the mediator, which typically relates to the usage of coercive power or the ability to provide significant incentives and guarantees. <sup>(1)</sup>This perception clearly applies when great powers force the opposing sides into an agreement by exercising their economic and military powers. Usually, it is the example of the US-mediated Camp David Accords between Israel and Egypt, where American aid and security was vital.

According to the relational turn, the study of small states has no longer been focused on the purely material conception of international influence. The initial literature characterized a small state chiefly in quantifiable variables including population, GDP and the army. <sup>(2)</sup> The notion of

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<sup>1</sup> Bercovitch, J., & Houston, A. (2000). *Why Do They Do It Like This? An Analysis of the Factors Influencing Mediation Behavior in International Conflicts*.

<sup>2</sup> Vital, D. (1967). *The Inequality of States: A Study of the Small Power in International Relations*. Oxford University Press.

small states is currently determined in a relative and functional way: a small state is not able to pursue its core interests with the help of its means only and is therefore highly exposed to the alterations in the international setting. This receptiveness has an average interpretation into multilateralism, norm-setting, and avoiding conflict as foreign policy.

This foundation formed the background of the idea of the concept of niche diplomacy as a crucial model of the evaluation of the behavior of the small states. According to Cooper and Shaw, niche diplomacy involves a focus of limited resources on particular problems in which a small state is able to develop known competencies. (<sup>3</sup>) Consequently, small states can punch above their weight on matters touching on human security, the environment and in particular, peace mediation. Specialization, in these chosen niches, might allow the small states to build up the soft power, to offset the drawbacks of small size.

The literature on small-state mediation has expanded inspired by such high profile cases like the Norwegian Model. It is acknowledged that the lack of colonial historical baggage, geographical isolation, and adherence to an active civil society towards peacebuilding have earned Norway the reputation of an honest broker. It is in a way contradictory to the image of the great powers whose mediation efforts are viewed with suspicion since it is believed that great powers seek their own interests in geopolitical and economic aspects. Small states are therefore not neutral but they are positive, and they are actively attempting to cash in on that.

Nevertheless, there is a dint in the systematic comparison of the various models of small-state mediation and under which circumstances they perform or fail to perform. Although the Norwegian facilitation scheme is not that poorly documented, other models, like the leverage-based mediation in Qatar, are not so thoroughly structured within a single analytical framework.

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<sup>3</sup> Cooper, A. F., & Shaw, T. M. (Eds.). (2009). *The Diplomacies of Small States*

In an attempt to fill that gap, this paper develops such a framework, and subsequently applies the framework to cases, in a bid to determine both the universal principles and the strategy unique to the context of the case.

### **Theoretical Framework: Explaining Small-State Mediation Capacity**

The phenomenon of mediation by small states is one that needs to integrate different theoretical ideas on how structural weaknesses can be converted into strengths. There are three pillars in the framework which are interconnected:

The original pillar is the idea that structural powerlessness may be a resource. When a state is not a military threat or predominant in the politics of the political environment after the agreement, it is an advantage in mediation. Maoz (2003) also argues that the lack of a hidden agenda will reduce the perceived risk of conflicting parties to engage in dialogue. <sup>(4)</sup>The parties which may not believe in the existence of a great power due to its strategic interests may be more ready to put their trust in a small state as an intermediary. This gives the latter an opportunity to be a secret conduit and evoke confidence in assisting in the establishment of an appreciation of the fundamental interests of both parties without the fear that their information will be leaked to an opponent giant. It is a weakness of them that bases their strength on trust.

The second foundation of this trust is long-term niche diplomacy. Mediation is not a one time affair, it must be institutionalized as a component of their foreign policy to be successful in the small states. It invests in the long-term in the following:

- Human Resource: Diplomats have to be trained on mediation, negotiations and cultural sensitivity.

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<sup>4</sup> Maoz, Z. (2003). The Paradox of Small-State Mediation: The Norwegian Case. *International Negotiation*, 8(1), 101-127.

- Intellectual Capital: funds research institutions and NGOs in a way that analyzes in-depth and discusses informal avenues.
- Reputational Capital: It has been able, over its years of intervention in different conflict situations, to create a brand, based on reliability, discretion and neutrality.

This comparative advantage cannot be easily imitated by more bureaucratic and larger states; thus, small states are able to possess their niche of mediation.

The third pillar highlights that small states prosper by a functionalist style to overcome a fundamental set of gaps in the international system that are known as critical mediations. Such gaps can be manifested under a variety of conditions: either when great powers lack interest in conflicts that do not serve their primary interests; when they are biased actors and cannot be considered a neutral mediator; or when they are frozen inert, which is the case with the UN Security Council and cannot act in a concerted international manner. In that case, small states can preserve the processes of peace, mediate in personal contacts, or chair conferences, and thus play an important role to the parties involved in the conflict and to the international community, which major powers disregard.

These are multiplied in a powerful modality whereby a small state grows a niche of personalized and trusted functionality that it is supposed to carry out through the functionalist approach in an international system that requires this assistance. These case studies will be used in the subsequent few case studies and enacted to a set of real-world scenarios.

## Case Studies in Comparative Analysis

### Norway

Norway mediation of the Israeli-Palestinian conflict is a classic example of this type of mediation as the facilitator. Norway attempted to be quiet, tolerant and most importantly process oriented and not content oriented during the initial phases. It was organized in terms of a process that would take advantage of the respective Norwegian strengths, that is, the perceived neutrality and close association with the academic and civil society organizations. The Norwegian Institute of Applied Social Science was the first to offer the discreet contact channel, and maintained that as secret on behalf of the state. <sup>(5)</sup> Norwegian negotiators (mainly the Deputy Foreign Minister, Jan Egeland and social scientist, Terje Rod-Larsen) held negotiations with no arbitration in a setting of security and secrecy in which the parties could bargain directly and write their treaties. Norway did not make any substantive proposals but directed the process keeping secrets and assisting in the creation of trust by a high degree of personal involvement. What came was a scathing yet, in most aspects, a tragic experiment on the strength and weakness of the facilitator model. The tact of Norway was most strikingly successful in obtaining what had seemed impossible two of the greatest foes to sign a Declaration of Principles. This triumph was a direct by-product of its miniaturist, its discretion was plausible, and its non-geopolitical interests were credible. Nevertheless, the collapse which ultimately overcame the Oslo process highlights one key constraint, namely, as a small state, Norway had minimal leverage to impose agreements and security assurances and limited capacity to punish a party when it broke the deal. This was later to be passed to the United States which was ineffective due to the political bias that the United States had. The Oslo case shows quite clearly that small states can unequivocally have a difference at the

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<sup>5</sup> Waage, H. H. (2004). Peacemaking is a Risky Business: Norway's Role in the Peace Process in the Middle

initial stage of negotiation and breakthrough, but it is only at the implementation stages that a change in mediator can be necessary or a group of actors.

### **Switzerland**

Switzerland is a kind of an example of a mediation model institutionalized and legally based. It lacks a policy of under wraps discoveries, but it establishes a sound platform of international discussion. The neutrality policy followed by Switzerland during several years is not only a means of the diplomacy but a principle which is based on the international law and the national constitution. The Swiss model has two dimensions worth bearing on today: the historical aspect of it being a Protecting Power: it has served in the past to serve the diplomatic interests of those states that have lost contact with one another. As an example, Switzerland has been acting on behalf of the US interests in Iran and the Iranian interests in Egypt since 1980. <sup>(6)</sup> This role involves trust on all sides, and indicates its possibility of discretion and trustworthiness those are all crucial in effective mediations. The second dimension defines Switzerland as a business host of discussions. The Swiss Federal Department of Foreign Affairs has a Peace Policy Section which provides a systematic assistance to the peace processes in the world. It is enriched with material and mental resources: the United Nations in Geneva, the Geneva Centre of Security Policy, and the Centre of Humanitarian Dialogue are just but a few examples. Switzerland does not only provide a platform on which to converse but also a full-fledged ecology of conflict resolution, including judicial know-how and technical support as well as neutral territory. A typical example is its role in facilitating the Geneva peace negotiations on Syria. These negotiations have not produced any tangible outcomes and kept a political process led by the UN alive over years and maintained contact among various stakeholders. The Swiss have the added value of being able to

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<sup>6</sup> Swiss Federal Department of Foreign Affairs (FDFA). (2021). Swiss Peace Mediation Guidelines. Bern: FDFA.

keep the process going even in cases where the conflicts cannot be resolved. What Switzerland does demonstrate is that mediation may be a long term investment in the reputation of its country, and its successes may be dramatic, but they are unmeasurable, only appreciated by the critical role that it plays in ensuring that open international diplomatic lines remain open. It has become so neutral that it became an international public service rendering a kind of support that no other country is as believable to render.

### **Qatar**

However, another type and a more disputable kind of small-state mediation is Qatar. Qatar mediated as the recent Pakistan and Afghanistan war was witnessed between the two nations. In contrast to both Norway and Switzerland, Qatar is a prolific consumer of material resources and strategic relations as the instrument of leverage, and the distinction between the honest broker and strategic actor is even less obvious. The small-state mediators have several advantages in Qatar: it possesses vast reserves of natural gas, hence substantial funding to encourage compromise or supply post-conflict reconstruction assistance; it owns the global news outlet Al Jazeera, which gives it an edge in controlling the narratives and giving or withholding international legitimacy to the conflict sides. In addition to this, the foreign policy of Qatar is open to a broad spectrum of actors such as Hamas and the Taliban groups among the other actors which the western states shun<sup>(7)</sup>. This was best seen in its mediation with the United States and the Taliban which has seen the signing of the 2020 Doha Agreement. Although Qatar was only a host offering a neutral ground, it was not restricted to facilitation. It relied on the political contacts it had with the Taliban, whereby it had over several years housed their political office and maintained communication

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<sup>7</sup> Ulrichsen, K. C. (2020). *Qatar and the Gulf Crisis: A Study of Mediation and Regional Power Dynamics*. Oxford University Press.

lines. It used its reputation with the U.S. as one of its non-NATO allies to assure both parties of its stance. It was not an Inactive hostage diplomacy, but leverage-based active diplomacy. Nevertheless, the Qatari paradigm is fraught with reputational risks: its relations with non-state actors have led to its being accused of spreading a dangerous Islamist agenda, which destabilizes the region by the regional competitors, Saudi Arabia and the UAE- a charge that questions its impartiality. The leverage-based model operates, in its turn, according to its potential to sustain this delicate balance. Qatar derives its power by the networks and resources they dispose of, but when it seems that the latter is being utilized in a partisan fashion, it will lose its credibility as an intermediary quickly. The success of Qatar highlights the fact that, small-state mediation is not something that is confined to the benign and neutral actors but can also serve as an instrument used by the resource endowed and ambitious states to expand their influence

### **Estonia**

Estonia is the contemporary development of small-state mediation that will create a new niche in the digital environment. Being one of the most digitalized societies and having suffered a severe state-sponsored cyberattack in 2007,<sup>(8)</sup> Estonia had turned its experience into becoming a significant actor in mediating cyber wars and regulating the cyber environment. It takes the form of a norm entrepreneur, being more concerned with establishing the rules and confidence-building strategies in this new and uncertain field. Estonia has been leading with regards to the initiation of the United Nations Group of Governmental Experts and Open-Ended Working Group processes related to cybersecurity; it brokered between rival camps of states the so-called U.S./EU, Russia, and China in their effort to discover the commonalities in the application of the international law

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<sup>8</sup> Tikk, E., & Kerttunen, M. (2020). Estonia and Cyber Diplomacy: The Practice of Norm Entrepreneurship. In Routledge Handbook of International Cybersecurity. Routledge.

to the cyberspace. In addition, it also hosts the Geneva Dialogue on Responsible Behaviour in Cyberspace an initiative that gathers states, technology companies together with the civil society. The mediation ability of Estonia is based on the established reputation of being a victim country, technical capabilities, and viewing cybersecurity as a global public good. It is a good example of how a small state recognizes and attempts to resolve an emerging, complicated mediating gap by utilizing specialized knowledge to facilitate dialogue and norm-making that safeguards its interests, but also that of the larger international society.

### **Singapore**

The Singapore case of mediation which is not grounded in the conventional neutrality, but rather in its reputation of efficiency, legal professionalism and strategic value is interesting. Having no natural resources like Qatar, having no historical neutrality like Switzerland, Singapore has found itself a functioning manager and trustworthy convenor, most of all in the complex multilateral and great-power negotiations. Its approach is a by-product of its achievements as a multiethnic state and its consistent then unwavering commitment to a rules-based international order<sup>(9)</sup>. The greatest illustrative example of this role is that of the ASEAN-China dialogue on the Code of Conduct in the South China Sea organizer. The careful, process-based strategy may be slow and cumbersome but it provides a stable bargaining platform on which tensions do not run out of control among its more powerful neighbors. It has also found its way to becoming one of the top venues of high-profile diplomatic discussions like the Trump-Kim summit held in 2018. In the latter scenario, the utility of Singapore was pegged on the capacity to deliver quality security, logistical accuracy, and a measure of political neutrality- though it is very close to the United

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<sup>9</sup> Chong, A. (2018). The Politics of Mediation in a Mediating State: Singapore's Balance between Internationalism and National Self-interest. *The Pacific Review*, 31(6), 799-815.

States. It is useful because it is a stable body that is accredited to be rational and orderly, particularly when dealing with uncertain diplomatic scenarios.

### **Oman**

This rare status of Oman enables it to become the end-game mediator of the Gulf, as with non-aligned approach having promised a stern approach of non-alignment Oman is still free to keep free lines of communication between all the stakeholders, including Iran, Saudi Arabia, and others. By so doing, Oman has been able to bargain the release of detainees and to initiate initial talks that have resulted in the U.S.-Iran nuclear negotiations. It relies on its power on an unconditional discretion and non-partisanship. ( <sup>10</sup> )

### **Algeria**

Algeria is a historic case of the Liberation Ally mediator who has engaged in a war of independence herself and is already trusted by other liberation movements. This is evident in the Iran-Iraq ceasefire of 1975 which was extremely active in Algeria and more recently in the 2015 Mali Peace Agreement where it clearly understands the politics of the Sahel region. ( <sup>11</sup> )

### **Finland**

Finland, along with its Nordic neighbors, is the exemplary one of the so-called Expertise-Based Mediation. This is institutionalized by its Crisis Management Initiative, a special Helsinki based NGO, which is chaired by ex-President and Nobel Peace Prize winner, Martti Ahtisaari. The

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<sup>10</sup> Worrall, J. (2014). Oman: The “Forgotten” Corner of the Arabian Peninsula. In *The Gulf States and the Arab Uprisings*. Routledge.

<sup>11</sup> Zoubir, Y. H. (2020). Algeria and the Sahel: A Key Regional Player. *Mediterranean Politics*, 25(5), 669-676

CMI gives technical guidance in complicated post-conflict scenarios like Kosovo to the minute detail that can provide peace in Myanmar. ( <sup>12</sup>)

## **Kenya**

Kenya had become a mediator in East Africa. It is a bigger state in the region, but it fits the functional definition of a mediator because it resolves local conflicts in areas where external forces are not involved. It has been taking the forefront in the quest of establishing peace in Somalia and South Sudan by holding negotiations and sending its forces to AMISOM. It has its advantage due to its economic power and stability in direct investment in regional security. ( <sup>13</sup>)

## **Prerequisites for Success**

Small-state mediation requires several conditions in order to be successful. First, it must be a conflict that is ready to conclude (<sup>14</sup>). Parties need to arrive at a hurting stalemate as Zartman (2001) puts it and at this point; parties consider negotiation as a better deal as compared to further violence. No mediator no matter how skillful cannot force reluctant parties in negotiations. It must have an invitation and some degree of trust. Small states are not usually allowed to forcefully mediate; they must be invited or at least welcomed by the principals. Trust is therefore a part of this process. Lastly, there is implicit or explicit international backing which is a prerequisite most of the times. The actions, even when not in the international limelight, of a small state have a greater chance of bearing fruits when the major powers are not actively taking action against it. In

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<sup>12</sup> Kivimäki, T. (2014). The CMI and the Finnish Model of Mediation. In Northern Security and Global Politics. Routledge

<sup>13</sup> Anderson, D. M. (2014). Kenya and Regional Peacekeeping: A Complex Engagement. African Studies Review, 57(1), 83-105.

<sup>14</sup> Zartman, I. W. (2001). The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments. The Global Review of Ethnopolitics, 1(1), 8-18.

addition, this means that like in the Oslo case, any agreement that is the result will tend to require security and economic assurances by bigger powers or global institutions.

7. There are a number of different approaches to mediation for small states; often they combine several approaches:

- **Facilitation:** It is a process facilitated by a third party mediator or facilitator as in the case of Norway; this facilitator organizes, sustains the process, ensures communication, and inspires confidence without giving solutions at any given time.
- **Formulation:** The mediator is the person who actively tries to come up with proposals and give practical suggestions, like the case of Switzerland with its enormous legal experience.
- **Manipulation:** The leverage of changing the interests of the parties. These are the financial aid and media influence of Qatar. More risky, but at times useful in getting out of impasses. Nonetheless, there are a number of intrinsic constraints, which indicate the adversities that small states must endure:
  - **The Enforcement Gap:** This is their primary weakness because there can be no guarantee or enforcement of an agreement. They are capable of facilitating a peace agreement but not its policeman.
  - **Geopolitical Vulnerability:** Their operation is a sensitive one to the international dynamics. A small state mediator will be easily marginalized when a great power suddenly develops an interest in a conflict.
  - **Reputational Risk:** A notorious failure will seriously tarnish the reputation of a small state that has been heavily cultivated. Any fault of the breakdown of a peace process is usually placed directly on the shoulders of the mediator and there can also be suspicion on whether it was impartial or not as has been the case with Qatar.

- The Free-Rider Problem: Great powers might well like to leave small states to do first and frequently risky mediation efforts. In case of failure, the great power has nothing to lose in the process; in case it appears promising, the great power may then come in to take credit and influence the process.

## **Conclusion**

This paper has contributed by bringing to light the huge role that small states play in the mediation of conflicts in the world. They are not only an additional component of great power diplomacy, but a separate, significant one of international peace and security. The perceived neutrality and malleable diplomacy that countries like Norway, Switzerland, and Qatar have put to use have been used to engage in dialogues, generate trust, and make breakthroughs to some of the most difficult conflicts in the world. The theoretical basis of these concepts is the structural powerlessness, niche diplomacy, and functionalism that describe how the feeling of perceived weakness could be transformed into a strategic asset. The case studies indicate that no one model of a small state exists. Instead, we can find a number of strategies: Norway is specialized in discreet facilitation, Switzerland in institutional hosting, and Qatar in leveraging in its diplomacy. They both have their relative advantages and dangers, and their success will largely be dependent on time of the conflict and the political climate in international relations. The one common thing that they all have is the fact that they lack the power to enforce. This goes some way to explain the fact that most of the best contributions made by small states are made during the initial and middle steps of a peace process. The implications of the policy are evident. To enable small states to have influence, they must make the commitment of a long-term investment on mediation capacity building: training diplomats, nourishing civil society, and building a reputation of fairness. To the international community, which is mostly the great powers and organizations, there is a necessity

of identifying, financially funding, and politically empowering such competent small-state mediators. Their partners in a more heterogeneous and stronger system of international conflict settlement should not be regarded by the great powers as their competitors, but as partners. Research channels that are opened may, as an example, concern how regional clusters of small states, such as ASEAN, approach conflict mediation in their region. It would also be informative to examine how digital diplomacy and the new communication technologies are impacting the approaches of the small-state mediators. Third, a qualitative study (which could be large in magnitude) could follow the relationships between tangible small-state features and mediation success rates, in-depth qualitative case studies to larger generalizations. With the ongoing and evolving conflicts around the globe, the small but persistent attempts of small-state mediators are a more and more welcome respite as compared to power politics. They demonstrate that, at any rate, in some cases, trust is a more potent tool of peacemaking than force.



ISSN (E): 2959-0272

ISSN (P): 2710-0502

Volume 7 Issue 1 Year 2026

DOI: <https://doi.org/10.59111/10.59111/JPD.007.001.0199>

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## **Emotional Influences And Mediation Strategies In Religious Conflict**

### **Resolution: Insights From Pakistan - India Relations**

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### **Abstract**

Peaceful resolution approaches are vital for disputing parties aiming to mitigate the impacts of conflict, particularly in identity-based and religious disputes where emotions of mistrust, fear, and historic grievances are deeply embedded. This makes the study of emotional dynamics in religious conflict resolution both significant and necessary, as mediation becomes essential in negotiating mutually agreeable solutions while navigating elevated emotional tensions. This research aims to explore how emotions are relevant and pertinent in religious conflict resolution, determine whether the emotions of mediators and disputants influence the process, and identify the specific training and skills required for mediators to effectively manage and leverage emotions, while taking the case study of Pakistan-India relations. Since religious conflicts frequently have strong emotional undertones that necessitate expert mediation, it is imperative to comprehend the significance and influence of emotions in religious conflict resolution. This qualitative study, based on secondary review of literature and primary semi-structured interviews of 11 expert mediators, diplomats, and ambassadors, finds that largely due to the prevalence of majoritarianism based on the radical Hindutva ideology, which feeds animosity towards Islam, there seem to be fewer opportunities for reconciliation in the context of Pakistan-India relations. The findings highlight that emotions significantly shape the mediation process, influencing both barriers and opportunities for reconciliation, while emphasizing the importance of mediator competencies such as emotional intelligence, empathy, and cultural sensitivity. The study concludes that understanding and effectively managing emotional dynamics is crucial for achieving sustainable religious conflict resolution at the international level.

**Keywords:** Emotions, mediation, religion, conflict resolution, inter-faith dialogue, diplomacy.

## **Introduction**

Peaceful resolution of religious conflicts requires expert mediation due to high-intensity emotions, particularly in international disputes. Mediation is widely regarded as an effective conflict resolution strategy for achieving mutually acceptable outcomes, provided mediators maintain neutrality while managing emotional dynamics. This study aims to examine the prevalence of emotions in religious conflicts and explore mediation strategies for addressing them, in the context of Pakistan-India relations. A qualitative design was employed, involving semi-structured interviews with 11 expert mediators, whose responses were recorded, transcribed, and thematically analyzed, supported by an extensive literature review and historical context of Pakistan-India relations. Findings highlight emotions as central to mediation processes, influencing trust, communication, and negotiation outcomes, while emphasizing skills such as emotional intelligence and empathy. The study also identifies challenges including entrenched identities, political mistrust, and ideological factors such as Hindutva. It is therefore important to understand the relevance and impact of emotions in the field of religious conflict resolution at the international level.

## **Conflict**

A conflict is a struggle or a clash of interests between social groups, which is usually protracted in nature. Sociologists define conflict as “opposition among social entities directed against one another.”<sup>1</sup> The nature of conflict or disagreement between two parties can be because of various reasons. For example, people from different religions have strong emotions about their

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<sup>1</sup> Wright, Quincy. “International Conflict and the United Nations.” *World Politics* 10, no. 1: 24-48. 1957. <https://scihub.se/https://www.jstor.org/stable/2009223>.

beliefs and they are often found unwilling to compromise in an effort to find a middle ground for their sacred sentiments. Similarly, ideologies and theories can also become the source of conflict between two parties, often leading to emotional tensions. The intensity of emotions in a conflict says a lot about the significance of the conflict for the disputing parties.

Conflict Resolution in Peace and Conflict Studies addresses international and national disputes through diplomatic strategies, dialogue, and mediation. Emphasizing peaceful negotiation, it seeks to prevent escalation into violence. International efforts involve treaties, alliances, and organizations, while national conflicts often require inclusive dialogue, policy reforms, and grassroots engagement. The goal is to foster understanding, cooperation, and sustainable peace amid diverse geopolitical challenges. Mediation is a diplomatic process where a neutral party helps the conflicting parties resolve disputes peacefully through facilitated negotiations. A mediator, therefore, is expected to possess the skill set required to handle the emotions of highly charged disputing parties in order to reach to a peaceful settlement in case of religious conflict resolution.

### **Emotions in Mediation**

“Wars,” says the UNESCO (United Nations Educational, Scientific and Cultural Organization) Constitution, “begin in the minds of men.”<sup>2</sup> Conflict is created when we feel that there is a threat, whether real or perceived, to our needs, values or beliefs. Individuals and disputing parties experience a wide range of high intensity emotions because of their vulnerable positions in the conflict. Emotion is central in conflict and is clearly central in conflict management practices

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<sup>2</sup> Wright, Quincy. “International Conflict and the United Nations.” *World Politics* 10, no. 1: 24-48. 1957. <https://scihub.se/https://www.jstor.org/stable/2009223>.

including mediation. The American Psychological Association defines emotions as, “Emotions are conscious mental reactions subjectively experienced as strong feelings usually directed towards a specific object and typically accompanied by physiological and behavioral changes in the body.”<sup>3</sup>

Parties come to the table with fear, anxiety, anger, and a sense of urgency as a result of lack of trust for each other and they turn to the process for solace and solution as they show confidence and belief in the mediator to help salvage a desperate situation.<sup>4</sup> Disputing parties often come forth with emotional masks and only an expert mediator can understand what is behind those masks; for instance, anger may exhibit the hidden vulnerability, defensiveness may be strategically used to hide fear, and parties may resort to denial in order to avoid insult. A mediator requires the proficiency to assess the emotional state of the participants and to fulfil the needs of safety, trust and predictability in the mediation process.<sup>5</sup>

### **Religious Conflict Resolution**

The anthropologists insist, “The individual's concepts of morality and justice develop from the culture, nationality, or religion in which he has been brought up, and thus the moral standards of individuals differ from state to state.”<sup>6</sup> This difference often becomes the bone of contention between the disputing parties. Religion may not always be the cause of violent conflicts, but it can be an exacerbating factor in it. Religion is sometimes seen as more of an integral component of

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<sup>3</sup> Merriam-Webster, Incorporated, s.v. “Emotions (n.),” accessed August 22, 2023. <https://www.merriam-webster.com/dictionary/emotion>.

<sup>4</sup> Evans, Dylan. “Emotion: The Science of Sentiment.” New York: Oxford University Press. 2001.

<sup>5</sup> De Dreu, C. K.W. “Coercive Power and Concession Making in Bilateral Negotiations.” *The Journal of Conflict Resolution* 39, no. 4: 646-670. 1995.

<sup>6</sup> Wright, Quincy. “International Conflict and the United Nations.” *World Politics* 10, no. 1: 24-48. 1957. <https://sci-hub.se/https://www.jstor.org/stable/2009223>.

the individual identity as compared to nationality.<sup>7</sup> Religion also possesses a spiritual and temporal power that adds to the sacredness of the motivation to fight and makes it a holy cause to let God's will prevail.

The involvement of emotions in the mediation process increases when the conflict revolves around religious identity. Religious identity has the tendency to exacerbate the complexity of the conflict, which further complicates the situation for the mediator. According to Abraham Maslow's Hierarchy of Needs, the need of "belongingness" is one of the major needs crucial to human existence. The need of belongingness is often a non-negotiable need over which parties are not willing to compromise. Finding a middle ground in such a situation can be extremely challenging for the mediator. The sense of vulnerability felt regarding one's own identity confronting some existential threat can lead to conflicts. Religious identity is often seen as the primary fault line between the groups involved in conflict. Therefore, religion has a tendency to become the bone of contention in a conflict as much as it has the tendency to resolve conflicts.<sup>8</sup> A mediator is required to be highly sensitive towards the religious sentiments of the disputing parties and strive to find a common ground for peaceful settlement.

In the highly charged religious conflicts, the mediation process is most of the time negotiated between religious scholars. The eminent religious leaders and influential institutions can play a significant role in mediating religious conflicts and serving as a communication link between the opposing sides. The inter-faith dialogue is another form of religious peace-making that seeks to resolve religious conflicts by diffusing tensions through negotiations which are

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<sup>7</sup> Appleby, R. Scott. "Religion, Fundamentalism, and Conflict." In *Gods and Arms: On Religion and Armed Conflict*, 1st ed., edited by Kjell-Åke Nordquist, 1-15. Cambridge: The Lutterworth Press. 2013. <https://doi.org/10.2307/j.ctt1cgdzhw.5>.

<sup>8</sup> Henne, Peter S. "The Two Swords: Religion-State Connections and Interstate Disputes." *Journal of Peace Research* 49, no. 6: 753-68. 2012. <http://www.jstor.org/stable/41721660>.

facilitated by trained mediators.<sup>9</sup> This type of religious conflict resolution mechanism also requires understanding and navigating the parties' high intensity emotions.

### **The Process of Mediation**

Mediation is a conflict resolution strategy or a diplomatic action to prevent, manage or resolve disputes which involves a neutral third party that impartially mediates or facilitates the negotiation process between the disputing parties in order to reach a mutually agreeable and satisfactory resolution. The role of a mediator is that of a facilitator only, which means that the decision-making powers rest with the disputing parties. The ultimate aim of this process is to come to a win-win solution for all the parties involved in the process so that no one feels at loss.<sup>10</sup>

### **Case Study of the Pakistan - India Conflict**

Pakistan and India have a long history of contention since independence. Apart from political and economic discordance, religious differences created a disharmony that resulted in many atrocities at the time of partition. The troubled relations between the two states are deeply embedded in a bitter history and are primarily a story of mistrust, rivalry and a failure to address disputes in an institutionalized manner. Yet, the two states have shown the capacity to manage the escalation of conflicts. The Kartarpur Corridor is one such example where visa-free border crossing is allowed for religious purposes. The crossing allows devotees from India to visit the gurdwara in Kartarpur, Pakistan. This initiative catered for the religious sentiments of people and hence proved successful in mitigating tensions between the two countries.

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<sup>9</sup> Smock, David. "Religion in World Affairs: Its Role in Conflict and Peace." US Institute of Peace. 2008. <http://www.jstor.org/stable/resrep12449>.

<sup>10</sup> Wheeler, Michael. "The Art of Negotiation: How to Improvise Agreement in a Chaotic World." New York: Simon & Schuster. WorldCat e-book. 2013.

While expanding the nuclear capability, the two neighbors cannot afford to risk an all-out mutually destructive war. The bilateral relationship often ends in an ideological deadlock which requires institutionalized political and diplomatic contacts to prevent conflicts.<sup>11</sup> Since independence, Pakistan and India have fought three major wars and have engaged in various minor skirmishes. The Rann of Kutch War, Sir Creek, Siachen conflict, Operation Brasstacks, Kargil conflict, Twin Peaks crisis, Mumbai attacks, Pathankot, Uri and Pulwama incidents are some of the significant events from the annals of history that speak volumes on the tensions between the two states.<sup>12</sup> Moreover, the Kashmir dispute lies at the heart of the Pakistan – India tensions and conflict. The solution to this dispute also lies in religious conflict resolution that aims to reduce the emotional tensions between the two nations, without which, no sustainable political settlement can be reached.

One of the 562 princely states, that had the choice of either joining India or Pakistan at the time of partition, was the State of Jammu and Kashmir, which became a disputed territory after the partition of 1947. This landlocked area in the northwestern part of the Indian subcontinent is the home to a diverse array of ethnicities. The Kashmir Valley's inhabitants were predominantly Muslims, with a small community of Sikhs. Jammu had a Dogra Hindu majority with a significant Muslim component. Despite the 77 per cent Muslim majority in the State of Jammu and Kashmir, the Hindu Maharaja Hari Singh refused to opt for Pakistan against the wishes of the people. The armed revolt by Muslims faced fierce retaliation from the Maharaja. The liberation movement

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<sup>11</sup> Jacob, Happymon. "Towards a Kashmir Endgame? How India and Pakistan could Negotiate a Lasting Solution." US Institute of Peace. 2020. <http://www.jstor.org/stable/resrep25406>.

<sup>12</sup> Ashraf, Fahmida. "Models of Conflict Resolution and the Kashmir Issue: Pakistan's Options." Pakistan Horizon 56, no. 2: 119-33. 2003. <http://www.jstor.org/stable/41394026>.

concluded in the formation of Azad Jammu and Kashmir.<sup>13</sup> On the pretext of the fake letter of accession from Maharaja Hari Singh, India illegally deployed its military in Srinagar in the October of 1947. India later aired the dispute before the United Nations, calling for an international intervention into the matter.

In the April of 1948, the United Nations passed the Resolution 47 to ensure a ceasefire, demilitarization and eventually a plebiscite, which remains unimplemented to date. Military representatives of India and Pakistan signed the Karachi Agreement in 1949 to establish a ceasefire line in the State of Jammu and Kashmir, which later became the Line of Control (LoC) in the Shimla Agreement of 1972. Sir Owen Dixon, the UN Representative who came to the subcontinent pursuant to the Security Council's 1950 Resolution on the Kashmir dispute, got much closer to a solution than any mediator, and proposed the transfer of Muslim-majority regions to Pakistan and Hindu-majority areas to India.<sup>14</sup> Moreover, various international organizations have been taking diplomatic initiatives to resolve this issue, but a comprehensive resolution to the Kashmir issue remains elusive. Sustained progress towards a lasting resolution has been hindered by continued hostilities and divergent stances. Therefore, it is crucial for the mediation efforts in this region to focus on the religious sentiments of the two nations and resolve the emotional tensions in order to improve the bilateral relations. Managing emotions that are present in the core of the religious tensions between the two parties can guarantee the success of mediation efforts.

Mediation efforts can prove helpful in avoiding communication breakdowns if the two nations have an intention to resolve their disputes. The more unwilling the parties are for

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<sup>13</sup> Ashraf, Fahmida. "Models of Conflict Resolution and the Kashmir Issue: Pakistan's Options." *Pakistan Horizon* 56, no. 2: 119-33. 2003. <http://www.jstor.org/stable/41394026>.

<sup>14</sup> Ashraf, Fahmida. "Models of Conflict Resolution and the Kashmir Issue: Pakistan's Options." *Pakistan Horizon* 56, no. 2: 119-33. 2003. <http://www.jstor.org/stable/41394026>.

negotiation, the greater the chances are that some neutral foreign intervention takes place to prevent the humanitarian crisis that arises due to the escalation of conflict. The United States and the United Arab Emirates have played a significant role in the resolution of Kashmir conflict, but even today the world continues to see the plight of the situation. There have been numerous attempts to improve the relationship, notably the Tashkent Declaration, the Shimla Summit and the Agra Summit, as well as various peace initiatives. Despite those efforts, relations between the countries have remained frigid, following repeated acts of cross-border terrorism. The Tashkent Declaration was signed between India and Pakistan on the 10<sup>th</sup> of January in 1966 to resolve the Indo – Pakistan War of 1965. Peace was achieved on the 23<sup>rd</sup> of September through interventions by the Soviet Union and the United States.<sup>15</sup> A declaration was released that was hoped to be a framework for lasting peace by stating that the Indian military and the Pakistani military would pull back to their pre-conflict positions, neither nation would interfere in each other's internal affairs, economic and diplomatic relations would be restored, there would be an orderly transfer of prisoners of war, and both leaders would work towards improving bilateral relations.

After the 1971 War, Pakistan and India made slow progress towards the normalization of relations. In July 1972, Indian Prime Minister Indira Gandhi and Pakistani President Zulfikar Ali Bhutto met in the Indian hill station of Shimla. They signed the Shimla Agreement, by which India would return all Pakistani personnel and captured territory in the west, and the two countries would settle their differences by peaceful means through bilateral negotiations. In 2001, a summit was called in Agra, Pakistani President Pervez Musharraf turned up to meet Indian Prime Minister Atal

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<sup>15</sup> Jha, D. C. "Indo-Pakistan Relations since the Tashkent Declaration." *The Indian Journal of Political Science* 32, no. 4: 502-21. 1971. <http://www.jstor.org/stable/41854470>.

Behari Vajpayee.<sup>16</sup> The foreign secretaries aimed at preventing misunderstandings that might lead to a nuclear war but the situation remained intensified in the following years due to frequent change of governments on both sides of the border. The negotiations broke down and the process was collapsed; therefore, the Agra Treaty was never signed.<sup>17</sup> In 2006, President Musharraf proposed a Four-Point Formula as a potential framework for resolving the Kashmir issue. The proposal suggested self-governance, demilitarization, joint management, and a phased withdrawal of forces from specific areas in Kashmir. Despite its intentions to provide a structured approach to the resolution of the Kashmir dispute, the Four-Point Formula faced inherent complexities and obstacles that impeded its successful implementation.<sup>18</sup> In August 2019, the Indian government revoked the special status of Jammu and Kashmir, abrogating Article 370 and 35-A, which has further intensified the tensions between the two nations.

Emotions of people on both sides always played an important role in determining the relations between both countries. However Anti-Muslim and Anti-Pakistan sentiment had always been an important dividend in deciding India's national policies and had become a prominent tool for mobilization in India, especially around major electoral periods. According to a BBC World Service Poll in 2017, only 5 per cent of Indians view Pakistan's influence positively, with 85 per cent expressing a negative view, while 11 per cent of Pakistanis view India's influence positively, with 62 per cent expressing a negative view. It is crucial to reach a resolution of ongoing disputes like the Kashmir issue, while catering the high intensity emotions, in order to bring peace in South

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<sup>16</sup> Sinha, Dilip. "International Dispute Settlement Mechanisms and India-Pakistan Disputes." *Indian Foreign Affairs Journal* 12, no. 3: 202-14. 2017. <http://www.jstor.org/stable/45341993>.

<sup>17</sup> Yousaf, Zahid, Elahi, Haroon. "War and Peace Framing: The Contextual Analysis of Indo-Pak Relations." *Strategic Studies* 38, no. 1: 128-44. 2018. <https://www.jstor.org/stable/48539127>.

<sup>18</sup> Ali, Nadir, and Abdul Ghani Bhat. "General Musharraf's Four Point Formula Can Provide an Effective Roadmap in Kashmir: An Interview with Prof Abdul Ghani Bhat." *Institute of Peace and Conflict Studies*. 2011. <http://www.jstor.org/stable/resrep09271>.

Asia. To ensure lasting peace in the region, religious conflict resolution can prove beneficial if emotions are managed proficiently by the mediators. Many political solutions to the complex dynamics of this region resulted in no improvement in the situation because religion remained a secondary issue and had not been given the due importance in the past.

### **Research Methodology**

The research anchors on the conceptual framework derived from the works of Douglas Noll and Mohammed Abu-Nimer. Since, the conflicts revolving around religion often involve high intensity emotions, Douglas Noll's theory incorporates techniques that can be useful in case of religious conflict resolution. Transformative and narrative mediation processes are highly effective for resolving irrational situations when the emotions of the disputing parties are of a higher intensity. This is precisely where rational thinking of the brain is compromised owing to the emotionally vulnerable state of mind of the disputants. Particularly, *narrative mediation* operates on the premise that conflict represents a reality constructed by the disputants, which can be dismantled and replaced with a new, less conflict-ridden reality. It is likely that the negotiation process becomes challenging when religion is involved in a conflict because no party is often willing to compromise on religious beliefs. The re-construction of a reality can help the parties to understand the situation from a different perspective. *Transformative mediation* aims to re-order the internal perceptions (empowerment) and external perceptions (acknowledgement and recognition of the other). This type of mediation proves to be successful in case of religious conflict resolution when the parties are able to see the conflict from a different perspective while recognizing the core interests of others.<sup>19</sup>

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<sup>19</sup> Noll, Douglas. "A Theory of Mediation." *Dispute Resolution Journal* 56, no. 2: 1-11. 2001.

Religion can influence conflict resolution processes through a religiously motivated intervener or through the religious nature of the conflict. Abu-Nimer's Model has a great applicability in case of religious conflict resolution. The skills and strategies can be adjusted to fit the participants' intervention context, although the basic assumption of the training process is that religion plays an active role in escalating and de-escalating a conflict because it influences the issues, parties, strategies, outcomes, and interveners.<sup>20</sup> Of the two typical training methods, elicitive and prescriptive, the elicitive approach is more effective in training for inter-religious peace-building, because of the nature of participants and their objectives.<sup>21</sup> The *elicitive mode* relies on the participants' experiences and knowledge of the conflict to conduct the training or intervention, while in the *prescriptive mode* trainers use their expertise and specialized knowledge to teach specific skills and methods to deal with the conflicts.<sup>22</sup> The elicitive approach empowers the participants and allows the trainer to draw upon the participants' experiences to construct and facilitate group awareness. Consequently, it becomes less challenging for the mediator to bring the parties to a peaceful settlement.

Given the complexity of religiously grounded disputes, which are often shaped by deep-seated emotions and contextual sensitivities, a flexible and experience-informed framework is particularly suitable for capturing the nuanced realities of mediation practice. Accordingly, the research methodology is aligned with this framework, employing 11 qualitative semi-structured interviews to access both structured insights and experiential narratives. Expert, certified and

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<sup>20</sup> Abu-Nimer, Mohammed. "Conflict Resolution, Culture, and Religion: Toward a Training Model of Interreligious Peace-building." *Journal of Peace Research* 38, no. 6: 685-704. 2001. <http://www.jstor.org/stable/425559>.

<sup>21</sup> Abu-Nimer, Mohammed. "Conflict Resolution, Culture, and Religion: Toward a Training Model of Interreligious Peace-building." *Journal of Peace Research* 38, no. 6: 685-704. 2001. <http://www.jstor.org/stable/425559>.

<sup>22</sup> Abu-Nimer, Mohammed. "Conflict Resolution, Culture, and Religion: Toward a Training Model of Interreligious Peace-building." *Journal of Peace Research* 38, no. 6: 685-704. 2001. <http://www.jstor.org/stable/425559>.

accredited individuals who satisfy the inclusion criteria, of having participated in some mediation efforts, were made a part of this research. Seasoned diplomats and ambassadors who had been part of negotiations between Pakistan and India were also reached out for the interviews. An informed consent was taken from each participant before the interview. A deliberate effort was made to conduct the interviews in-person, but some interviews were also conducted via Zoom and Google Meet. Interview inventories were carefully designed keeping in mind the thematic underpinnings of the literature review. Interviews were recorded to facilitate data analysis. Finally, the transcription of the interviews was thematically analyzed to add more to the existing literature and highlight the significance of understanding the role of emotions in the mediation process.

### **Research Findings**

The findings of this study show that religious conflict mediation is strongly shaped by emotional dynamics, which influence both disputants and mediators and play a decisive role in negotiation outcomes. Emotional awareness, regulation, and neutrality were identified as essential mediator competencies, alongside the ability to build rapport and establish trust. The data further indicates that inter-faith tensions are intensified by broader ideological and perceptual dynamics, including narratives in India portraying Islam as an antagonistic religion, discriminatory Judeo-Christian biases, and the influence of Hindutva ideology. Diplomatic negotiations between Pakistan and India are often constrained by deep-seated mistrust and identity-based divisions. However, the findings suggest that emotionally informed mediation strategies, supported by visionary leadership, can enhance inter-faith dialogue and contribute to reducing religious polarization and promoting long-term peace.

### **Understanding Mediation: Structural Processes, Emotional Influences, and Trust Dynamics**

Mediation is conceptualized as a process by which a neutral third party intervenes with the aim of facilitating the negotiations between the disputing parties. It is to deal with helping people who are in any kind conflict or disagreement. One of participants defined mediation as a “process” because change happens during a process. Holding individual meetings before joint sessions was identified as one of the key techniques of the mediation process at the international level.

For mediation to be successful, it is important that the change is constructive in nature and there are no communication gaps in the process. This precisely goes in line with what Wheeler (2013) says about mediation that the ultimate aim of this process is to come to a win-win solution for all the parties involved in the process so that no one feels at loss.<sup>23</sup>

“Emotions are conscious mental reactions subjectively experienced as strong feelings usually directed towards a specific object and typically accompanied by physiological and behavioral changes in the body.”<sup>24</sup> For mediation to be successful, it was deemed essential that the emotions of the disputing parties were given due consideration. An advocate shared an interesting statistic that “Family mediation cases and religious mediation cases are 90 per cent based on emotions.” “Conflicts on identity also bring up a lot of emotions” that require the expertise of a mediator who can efficiently handle emotions while maintaining a neutral stance. While elaborating the pertinence of emotions in mediation, an expert practitioner stated that “Their story is always full of emotions. They feel sad, ashamed, stressed, and angry.”

It often happens that the conflicts are resolved at the superficial level and they relapse because of the high intensity emotions that remain unaddressed during the resolution process.

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<sup>23</sup> Wheeler, Michael. “The Art of Negotiation: How to Improvise Agreement in a Chaotic World.” New York: Simon & Schuster. WorldCat e-book. 2013.

<sup>24</sup> Merriam-Webster, Incorporated, s.v. “Emotions (n.),” accessed August 22, 2023. <https://www.merriam-webster.com/dictionary/emotion>.

Emotions also played a very significant role during the decision-making process happening in the minds of the disputing parties. Positive emotions were reported to lead to constructive decisions, whereas negative emotions often became the cause of termination of the mediation process.

The emotions of the mediator had a great tendency to influence the conflict resolution process in many ways. Positive emotions were said to facilitate the negotiations, whereas negative emotions created a challenging situation. A mediator cannot possibly think without being influenced by his or her own emotions, but it is important for a mediator to practice emotional regulation so that an overt reaction can be prevented. This is because the process of mediation is all about the disputing parties, and not the mediator. Taking scheduled breaks from work was also reported to have positive effects on the mediator's emotional well-being.

The first and foremost step towards the beginning of an engaging mediation process is building rapport and gaining the trust of the parties. "Building trust and rapport with both the parties is very important." This can be achieved through active listening and empathy. "To establish rapport and trust with disputants who have deeply entrenched emotional positions, mediators should demonstrate empathy, impartiality, and genuine interest in understanding their perspectives."

Once the disputants are ready to trust the mediator with their vulnerable positions, the process begins and successful outcomes are expected. According to the experience of the practitioners dealing with inter-state mediation, the more the mediator is able to build trust with the parties, the better are the chances of success.

### **Religious Identity and Political Ideologies: Interfaith Tensions and Discourses of Power**

The dynamics of Pakistan - India relations are highly intricate, owing to the multiple factors at play. Upon being asked to define the relations between Pakistan and India, an ambassador said, “The situation of New Delhi is different, it has been a hate-hate relationship, I must say.” The stories of deep-rooted grievances are as old as the times of partition. This is mainly because of the need of identity that a certain religion promises to its believers. A threat to this need has been a cause of the engagement of high intensity emotions between Pakistan and India. An Ex High Commissioner to New Delhi, identified religion as a force behind this conflict. During the interview, he said, “Why is India against Pakistan? Everything is connected with religion... To an average Hindu, Islam is an antagonistic faith.” The idea of “Bharat” basically comes from the desire of reclaiming the entire continent which was once a home to the Hindu Civilization. The failure to achieve such ambitious desires has bred a lot of emotional upheaval in the conflict, and this has always created hindrance in the reconciliation efforts based on religious grounds.

The Judeo-Christian mindset refers to the set of beliefs or theological doctrines that are common to Judaism and Christianity. This mindset has played a significant role in creating deterrents in the process of religious conflict resolution between Pakistan and India. Upon being asked about the reasons of failed negotiations, an ambassador said, “The point is that the Western Civilization has a venom against Islam in their hearts – and a very deep-rooted one!” The Judeo-Christian people have a soft corner for Buddhism and Hinduism, and that soft corner is missing with regards to Islam. Some Muslims countries, like Bangladesh, refuse to openly declare themselves as Muslim countries for the sole reason or fear of being cornered in the international political arena. This reflects how the emotional needs of the masses are neglected in the pursuit of appeasing the West.

Emotions play a very critical role here. Before coming for any negotiations, the parties already carry a lot of emotional baggage. After coming to the table, if they experience discrimination or if the other party refuses to cooperate, it inevitably generates more mistrust, hatred, and resentment. Subsequently, the entire process of mediation terminates.

The Hindutva ideology promotes Hindu nationalism within India and Hindu hegemony within South Asia. This ideology lies at the very core of India's political and military thinking. "You cannot see any aspect of the Hindu life that operates independent of religion." It also forms the bases of Rashtriya Swayamsevak Sangh (RSS) and Bajrang Dal, which are organizations that oppose Muslim demographic growth and western influence in the Hindu culture. The "venom and hatred" has reached to the extent that minority Muslim populations in India are always at a threat of violation of the basic human rights. This is primarily because India is a country of "majoritarianism", and no matter how much it raised the slogans of secularism, the world has seen that it has no place for political or religious freedom. "And the majority has a Hindu mindset, which is very much polluted with mistrust and hatred towards Muslims." This has played a significant role to hinder any efforts for peaceful conflict resolution between Pakistan and India.

The Liaquat-Nehru Pact or the Delhi Pact of 1950 is the only significant effort of negotiations done on religious grounds. The pact was the outcome of six days of talks that aimed to guarantee the rights of minorities in both countries after the partition of the sub-continent. The refugees were allowed to return to dispose of their property, abducted women and looted property were to be returned, forced conversions were recognized, and minority rights were confirmed.<sup>25</sup> That was the only effort done with regards to religious negotiations between Pakistan and India.

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<sup>25</sup> Ghosh, Subhasri. "The Working of the Nehru-Liaquat Pact: A Case Study of Nadia District (1950)." Proceedings of the Indian History Congress 68: 853-62. 2007. <http://www.jstor.org/stable/44147893>.

Even minority commissions were set up in both countries to protect the rights of religious minorities. Despite all of these efforts, the minorities in India suffer every day at the hands of Hindu extremists.

The future is that of religious fascism. In such a scenario, it is very challenges to see the possibility of reconciliation between Pakistan and India on religious grounds. “The world is heading in the direction of religious fascism. The world is not heading in the direction of passivism or reconciliation.” The ambassador further added, “It is too early even to think of inter-faith dialogue with the Hindu religion. You might like to do it, but they would not. And this is because of the inbuilt hatred or negativity in them against Islam.” The avoidance approach of India towards the Muslim minority population had been a significant cause of hindrance in the way of reconciliation. Furthermore, the extremist Hindutva ideology had been adding to the intricacy of the cross-border dynamics.

## **Discussion**

The Pakistan - India relations are highly complex due to the multifaceted dynamics that are at play. Negotiations on the basis of religion have not been possible after the Liaquat-Nehru Pact of 1950. This pact was the first and the last effort to promote peaceful coexistence between religious communities in the aftermath of partition. Till date, the minority Muslim populations of India are suffering at the hands of followers of the extremist Hindutva ideology. The core grievance in their hearts is the loss of glory of “Bharat”, which was a result of the conversions that took place in the sub-continent with the advent of Islam. “Indians basically aim to restore or replicate their glorious past that they had in the times of United India.” Various political and strategic concerns have further added to the intricacy of this conflict.

Another aspect that contributed to the failure of negotiations is that of the hatred that India has towards Pakistan, which has its roots buried deep in history. “The anti-Indian sentiment in our people is way less than the anti-Pakistani sentiment in their people. How can negotiations work when we come with such great hatred on the table towards each other?” The discriminatory approach towards conflict resolution process had been a major factor behind the failure of negotiations. This party-driven process cannot move ahead if one party looks down upon the other party. Whereas, mediation is a process that promises equal space and opportunity to every party. Subsequently, Pakistan refuses to make any decisions of compromise because one party alone cannot suffer all the loss in the process. This is where a deadlock situation arises and all efforts to normalize bilateral ties terminates.

The Hindutva ideology is the leading cause of hatred that breeds in the minds of India. Moreover, the West supports this ideology and Muslims are cornered in the process. “Hindu nationalist ideology has full support of the Judeo-Christian mindset of the West. Muslims are always cornered in the global political arena.” This means that these ideologies will gain more momentum in the future, making the road to peace far less approachable. He also said that “It is too early even to think of inter-faith dialogue with the Hindu religion. You might like to do it, but they would not. And this is because of the inbuilt hatred or negativity in them against Islam.” Whenever Pakistan expressed a willingness to sit for a table-talk, the invitation was turned down from India because they were not ready to negotiate over religion. “The vengeance that breeds in the minds of the Indian leadership can make things more difficult for us.” The idea of revenge that breeds in the minds of their leadership has disseminated the message of hate in the masses, because of which the emotional sentiments run very high on the other side of the border. Undoubtedly,

both nations were wronged in their own perspectives, but the only way forward is through negotiations.

The only way forward to promote peace through the process of reconciliation was explored to be found in visionary leadership, which is ready to invest the best of its intellectual resources in the betterment of Pakistan. “The historical emotional baggage that has contributed to the deep mutual mistrust between Pakistan and India has made the possibility of inter-faith dialogue very difficult.” It is almost impossible to re-do the past, but the future is still in our hands. “Only some visionary leadership can build mutual trust and navigate the process of normalization of the Pakistan-India bilateral relations.” Another aspect which was emphasized upon in the interview was to increase the economic dependency of India on Pakistan. This can be done without compromising on any of our core values and interests.

## **Conclusion**

Conclusively, this research demonstrates that emotions are not peripheral but fundamentally shape the mediation process, influencing both barriers and opportunities for reconciliation, and are affected by the emotional states of both mediators and disputants. Conflicts revolving around religion involved high intensity emotions because the need of identity was either threatened or challenged. The emotions of the disputing parties effected their level of willingness to reach a mutually agreeable settlement. An expert mediator was expected to possess the skills required for handling such an intensity of emotions in order to ensure successful outcomes. The dynamics of Pakistan-India relations portrayed a less hopeful image because the world of today is moving towards religious fascism and the possibility of reconciliation with India on religious grounds was found to be very rare. This was mainly because of the majoritarianism that breeds on the extremist Hindutva ideology in India and the hatred that they have for Islam. In conclusion,

while ideological factors such as Hindutva in India complicate prospects for reconciliation, the study affirms that effective training and an understanding of emotional dynamics remain essential for achieving sustainable religious conflict resolution at the international level.



ISSN (E): 2959-0272

ISSN (P): 2710-0502

Volume 7 Issue 1 Year 2026

DOI: <https://doi.org/10.59111/10.59111/JPD.007.001.0281>

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**Rethinking International Refugee Law: A Meta-Juridical Approach To Migration  
Governance In A Fragmented World**

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### **Abstract**

This paper is intended as a presentation of a topic for reflection within the legal field, designed to stimulate readers' critical thinking and discernment. The study, whose thoroughness is grounded in the bibliography consulted, explores the issue of the potential application of a meta-juridical approach in the field of international law, with a particular focus on migration law.

The underlying theme reflects a certain concern regarding international legal frameworks - particularly those governing asylum and refugee protection - which are proving increasingly inadequate in managing complex and hybrid migration flows. Through a critical analysis of existing norms and practices - including, notably, the 1951 Refugee Convention – this article examines the growing tension between the normative foundations of international refugee and contemporary state practices in migration governance. In particular, it argues that the current international refugee regime struggles to respond effectively to mixed migration flows, border externalization policies, and increasingly restrictive interpretations of state responsibility. To address these limitations, the article develops the concept of meta-jurisprudence as an interpretive and analytical framework capable of complementing traditional legal reasoning.

The article situates meta-jurisprudence within existing socio-legal and critical legal traditions, particularly legal pluralism, critical legal studies and interpretative legal theory. Rather than replacing positive law, meta-jurisprudence seeks to strengthen the adaptability and legitimacy of legal interpretation through three core dimensions: innovation, interculturality and flexibility.

Methodologically, the study adopts a qualitative doctrinal and socio-legal approach combining legal analysis, critical interpretation and a focused case study concerning migration governance in the Central Mediterranean.

The article demonstrates how a meta-judicial approach may help bridge the gap between formal legal obligations and practical migration governance by encouraging context-sensitive interpretations of international protection norms.

The article concludes that meta-jurisprudence provides a useful complementary framework for interpreting international refugee law in a fragmented global order. By promoting adaptive and context-oriented legal reasoning, the framework contributes to a more coherent, legitimate, and human-centered system of migration governance.

**Keywords:** meta-jurisprudence, refugee, migrant, migration governance, innovative jurisprudence, international refugee law.

## Introduction

In the contemporary landscape of global migration, international refugee law faces an existential crisis caused by the complexity of global migration patterns. It is evident that there is a growing chasm between rigid legal frameworks and the fluid reality of mixed migration flows. Although the advocacy community invokes formal protection principles, it is commonly known that governments are unlikely to heed the minimum standards<sup>1</sup>, dishonoring international obligations and duties as enunciated in the UDHR along with the vast pool of human rights instruments.<sup>2</sup>

Despite the existence of well-established legal instruments, including the 1951 Refugee Convention, a significant gap persists between regulatory obligations and state practices. While the 1951 Refugee Convention remains the normative cornerstone of protection, its application is increasingly undermined by state practices of border externalization and restrictive interpretations of sovereignty. This article argues that these limitations are not solely political or institutional. They are also linked to structural constraints within legal reasoning itself. Traditional legal interpretation often privileges doctrinal rigidity, formal categorization, and static understandings of jurisdiction, thereby limiting the law's capacity to respond rapidly to evolving migration dynamics.

To address these challenges, the article proposes the concept of meta-jurisprudence as a complementary interpretive framework for international refugee law. Meta-jurisprudence is defined here as a context-sensitive and interdisciplinary approach to legal interpretation that incorporates social, political, cultural, and institutional realities into legal reasoning. The framework is grounded in three interconnected dimensions: innovation, interculturality, and flexibility.

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<sup>1</sup> J. C. Hathaway, *Reconceiving International Refugee Law* (Martinus Nijhoff Publishers, 1997).

<sup>2</sup> A. Nafees, *Contemporary Challenges for International Refugee Law*, (SSRN, 2016). Available at SSRN: <https://ssrn.com/abstract=2875594>

The article seeks to answer three main research questions:

1. Why does contemporary international refugee law struggle to address current migration governance practices effectively?
2. How can the concept of meta-jurisprudence be theoretically situated within existing legal scholarship?
3. In what ways can a meta-judicial framework improve the interpretation of state responsibility and refugee protection in contemporary migration governance?

The article proceeds in five sections. First, it examines the structural limitations of international refugee law. Second, it analyzes the gap between legal norms and state practice. Third, it conceptualizes meta-jurisprudence and situates it within broader socio-legal traditions. Fourth, it applies the framework to migration governance through the case of externalization in the Central Mediterranean. Finally, the article reflects on the implications, limitations, and future applicability of the proposed framework.

## **Methodology**

Before addressing the key issues of this study, it is important to briefly touch upon the methodological considerations, which are essential for ensuring greater reliability.

The research employs a qualitative<sup>3</sup> and interdisciplinary methodology<sup>4</sup>, combining doctrinal legal analysis with socio-legal and interpretative approaches. The study does not aim to produce quantitative findings; rather, it seeks to develop a conceptual framework capable of explaining contemporary tensions within international refugee law.

The methodological design consists of three interconnected stages. First, the article undertakes a doctrinal analysis of international refugee law, focusing primarily on the 1951 Refugee

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<sup>3</sup> J. Gerring, *Social Science Methodology: A Unified Framework* (Boston University, 2011).

<sup>4</sup> H. Tobi, J. K. Kampen, *Research Design: The Methodology for Interdisciplinary Research Framework* (Qual Quant, 2018, Vol. 52, pages 1209-1225).

Convention, and related human rights obligations. This stage examines the legal foundations of the refugee protection regime and identifies the principal limitations highlighted in contemporary scholarship.

Second, the research applies a socio-legal and critical analytical approach to assess the divergence between legal norms and state practices. Particular attention is devoted to migration externalization, differentiated access to protection, and evolving interpretations of jurisdiction and sovereignty. The analysis draws upon academic literature, policy documents, and judicial developments.

Third, the article develops and applies the concept of meta-jurisprudence as an interpretive framework. In order to operationalize the framework, the study uses a focused case study concerning migration governance in the Central Mediterranean, particularly cooperation between European states and Libya following the 2015 migration crisis.

The case study method was selected for two reasons. First, the Central Mediterranean represents one of the clearest examples of the tension between international legal obligations and contemporary migration governance practices. Second, the case illustrates how traditional territorial understandings of responsibility become increasingly inadequate in contexts characterized by indirect control and transnational cooperation.

The analysis is informed by theoretical perspectives drawn from legal pluralism, critical legal studies, and socio-legal scholarship. These approaches provide the conceptual basis for understanding law not merely as a formal system of rules, but as a dynamic process shaped by political, institutional, and cultural realities.

While the study remains primarily theoretical, the use of the case study enables the framework to be applied in a practical context. The article, therefore, aims to combine conceptual development with applied legal analysis.

## **The Structural Limits of International Refugee Law**

The contemporary international refugee regime is primarily grounded in the 1951 Geneva Convention of Refugee, which is regarded as a cornerstone of international legal norms and continues to represent the only binding international legal instrument specifically designed to ensure protection for refugees.<sup>5</sup>

However, despite their enduring normative significance, these legal frameworks reveal the historical foundation of significant limitations when confronted with the complexity of contemporary migration dynamics.<sup>6</sup> One major limitation concerns the definition of “refugee” itself. The Convention definition was developed within a specific historical context and primarily addresses individual persecution linked to race, religion, nationality, political opinion, or membership in a particular social group. While this framework remains essential, it does not fully encompass many contemporary forms of displacement, including environmental migration, generalized violence, state collapse, and severe socio-economic destabilization. As a result, large numbers of displaced individuals remain outside formal protection categories despite facing serious vulnerabilities. Contemporary migration flows are frequently characterized by overlapping motivations, making strict distinctions between “migrants” and “refugees” increasingly difficult in practice.

In addition to definitional limitations, the refugee regime has evolved through various soft law instruments, including guidelines issued by international organizations and regional frameworks such as the Global Compact on Migration and the Global Compact on Refugees, which aimed to outline a framework for a more comprehensive international cooperation on the subject of migration.<sup>7</sup> While these instruments aim to enhance cooperation and

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<sup>5</sup> M. Barnett, *Global governance and the evolution of the international refugee regime* (International Journal of Refugee Law, 2002, Vol. 14, No. 2, pages 238-262).

<sup>6</sup> P. Ballinger, *Historical Foundations and Limitations of International Refugee Law* (Annual Review Law and Social Science, 2025, Vol. 21, pages 285-305).

<sup>7</sup> E. Guild, S. Grant, *Migration Governance in the UN: What Is the Global Compact and What Does It Mean?* (Legal Studies Research Paper, 2017, Vol. 252, Queen Mary University of London, School of Law).

adaptability, there remains a need for more sustainable and long-term solutions rather than suggesting rapid actions to manage migratory crisis.<sup>8</sup>

State obligations, although clearly articulated at the normative level, are increasingly subject to restrictive interpretations. Jurisprudence at both regional and international levels has attempted to clarify the scope of protection, particularly in relation to non-refoulement and extraterritorial responsibility.<sup>9</sup> However, judicial developments remain uneven and often constrained by political considerations. The clear interplay between social and political factors and legislation is encapsulated in what is known as “politics of immigration”, where the law is considered as a dependent variable. At this point, it may be necessary to shift policy and law to wider orientations, practicing alternative models<sup>10</sup> that are anchored in a meta-judicial approach.

Interpretative trends further reflect a tension between formal adherence to legal norms and their practical application. States frequently adopt narrow readings of their obligations, emphasizing national sovereignty and migration control over global protection responsibilities.<sup>11</sup> This trend is evident in the increasing reliance on procedural barriers, accelerated asylum processes, and the designation of “safe third countries” all of which limit effective access to protection, on the contrary this raises important human rights concerns, especially about the vulnerability of migrants who are forced into overcrowded refugee camps.<sup>12</sup>

Taken together, these elements highlight structural rigidity within international refugee law. Although the legal framework remains formally intact, its ability to respond to changes in

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<sup>8</sup> A. Parshotam, *The UN Global Compacts on Migration and Refugees: A New Solution to Migration Management, or More of the Same?* (South African Institute of International Affairs, Occasional Paper No. 273, 2017).

<sup>9</sup> G. S. Goodwin-Gill, *International Law and the Detention of Refugees and Asylum Seekers* (The International Migration Review, 1986, Vol. 20, No. 2, pages 193-219).

<sup>10</sup> I. Bloemraad, *The Politics of Migration Law: Interests, Ideas, and Institutions* (Research Handbook on the Law and Politics of Migration, 2021, Edward Elgar Publishing, pages 8-20).

<sup>11</sup> H. Fields, *Closing Immigration Throughout the World* (American Journal of International Law, 1932, Vol. 26, No. 4, pages 671-699).

<sup>12</sup> J. Hwang, *Sovereignty and the Global Migration Crisis: Legal and Humanitarian Challenges* (International Journal of Science and Research Archive, 2024, Vol. 12, No. 2, pages 3003-3013).

migration patterns and to find effective solutions - especially in practical terms - is clearly constrained. This limitation sets the stage for a growing gap between legal normativity and state practice, which has become particularly visible in contemporary migration governance, susceptible to social and political differentiations of migrants that contradict the equality principles<sup>13</sup> asserted by international law.

### **The Gap Between Legal Norms and State Practice**

The divergence between formal legal obligations and state practices represents one of the central challenges facing the international refugee regime today. While the formal framework of protection remains grounded in well-defined obligations, its implementation is increasingly shaped by policies that prioritize migration control over humanitarian commitments. Specifically, sovereign states should reconcile their national interests with their humanitarian responsibilities towards the increasing irregular migration.<sup>14</sup>

A central example of this gap is the practice of border externalization. States have progressively shifted migration control measures beyond their territorial boundaries through bilateral agreements, cooperation with third countries, and the outsourcing of border management functions.<sup>15</sup> These practices allow states to limit access to asylum procedures while formally maintaining compliance with their international obligations. However, such strategies often result in situations where individuals are prevented from seeking protection

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<sup>13</sup> M. Baumgärtel, *Legal Status, Civic Stratification, and the Structural Limit of the Human Rights of Migrants* (International Journal of Constitutional Law, 2026, Vol. 00, No. 00, pages 1-31).

<sup>14</sup> A. C. Helton, *Forced Migration, Humanitarian Intervention, and Sovereignty* (SAIS Review, 2000, Vol. 20, No. 1, pages 61-86).

<sup>15</sup> L. Laube, *Diplomatic Side-Effects of the EU's Externalization of Border Control and the Emerging Role of "Transit States" in Migration Diplomacy*, (Historical Social Research, 2021, Vol. 46, No. 3, pages 78-105).

altogether, effectively undermining the principle of non-refoulement, generating violations of the state's legal obligations.<sup>16</sup>

Closely related to externalization is the emergence of differentiated access to international protection. Not all individuals seeking asylum are treated equally: instead, access is increasingly conditioned by nationality, route of entry, or geopolitical considerations. This selective approach is reflected in practices such as expedited procedures for certain groups, restrictions on admissibility, and the uneven recognition rates across jurisdictions. This system of inequality, which claims the right to dictate the realization of migrants' human rights, has its roots in government policies, political and social movements, and public political discourse.<sup>17</sup>

Judicial bodies have occasionally addressed these issues, highlighting the tensions between legal obligations and state conduct. Nevertheless, enforcement remains limited, and the adaptability of state practices often outpaces the development of legal accountability mechanisms. As a result, a *de facto* hierarchy of protection, often linked to racial hierarchies rooted in migration control<sup>18</sup>, has emerged, in which legal guarantees are applied inconsistently and, at times, circumvented altogether.

This wide divergence between regulations and state practices and behaviors clearly highlights the limitations of a purely legal approach. The gap reveals the urgent need to find a new interpretive framework capable of taking into account not only legal and judicial requirements, but also of functioning effectively within institutional, political, and social contexts that are extremely complex and diverse. In this sense, the gap represents the starting

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<sup>16</sup> A. Desmond, *From Migration Crisis to Migrants' Rights Crisis: The Centrality of Sovereignty in the EU Approach to the Protection of Migrants' Rights* (Leiden Journal of International Law, Vol. 36, No. 2, pages 313-334).

<sup>17</sup> L. Morris, *Citizen Rights, Migrant Rights and Civic Stratification* (Routledge, New York, 2025).

<sup>18</sup> E. T. Achiume, *Racial Borders* (The Georgetown Law Journal, Vol. 110, pages 445-508).

point - a critical juncture - for applying a meta-juridical perspective that can build an effective bridge between international norms and state practices, based on legal reasoning that is more sensitive to the context under analysis.

### **Conceptualize Meta-Jurisprudence: Heading to a New Culture**

This article proposes meta-jurisprudence as a complementary interpretative framework capable of addressing some of the limitations identified above. Importantly, meta-jurisprudence is not presented as a replacement for positive law or doctrinal analysis. Rather, it seeks to complement existing legal interpretation by recognizing that legal meaning is shaped not only through formal rules, but also through the contexts in which those rules are applied. The framework draws conceptually from several established theoretical traditions. First, meta-jurisprudence shares important affinities with socio-legal scholarship, which emphasizes the interaction between law and society.<sup>19</sup> Socio-legal approaches recognize that legal systems cannot be understood independently from the social and institutional environments in which they operate.

Second, the framework reflects elements of legal pluralism. Legal pluralist scholarship challenges the assumption that law derives exclusively from state-centered systems and instead recognizes the coexistence of multiple normative orders and actors.<sup>20</sup> Third, meta-jurisprudence incorporates insights from critical legal studies by acknowledging that legal interpretation is never entirely neutral and may reproduce political and structural inequalities.<sup>21</sup> Building upon these traditions, the framework is organized around three operational dimensions: innovation, interculturality, and flexibility.

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<sup>19</sup> S. S. Silbey, *A Sociological Interpretation of the Relationship between Law and Society*, (Law and the Ordering of Our Life Together, 1989, Grand Rapids, Michigan, Erdmanns Press, pages 1-27).

<sup>20</sup> G. Swenson, *Legal Pluralism in Theory and Practice* (International Studies Review, 2018, Vol.20, No. 3, pages 438-462).

<sup>21</sup> S. Sciaraffa, *Critical Legal Studies: A Marxist Rejoinder* (Cambridge University Press, 1999).

### ***Innovation***

Starting with the first point, innovation refers to the capacity of legal interpretation to adapt to evolving social and institutional realities. In the context of international law, this implies moving from static interpretations of legal texts toward more adaptive approaches. Today's jurisprudence can achieve greater precision and open-mindedness by complementing traditional methods with empirical ones.<sup>22</sup>

Innovative legal reasoning does not imply abandoning legal certainty. Rather, it involves interpreting legal principles in ways that remain consistent with the protective objectives underlying international refugee law.

### ***Interculturality***

Turning to the second element, interculturality<sup>23</sup> - with its rich array of definitions - aims to highlight the diversity of perspectives that shape legal meanings at the international level. Indeed, given the multicultural nature of the global landscape, international laws cannot be produced or interpreted according to a single cultural or political approach. International law itself is the result of various interactions between different legal traditions, values and social realities. The meta-juridical approach, therefore, welcomes this diversity and promotes interpretive openness, particularly in the context under analysis - that of migration policies - where cultural assumptions can often influence the recognition of rights and vulnerabilities.

### ***Flexibility***

Third and final element: flexibility, assuming that the legal system has a duty to maintain a reasonable balance between certainty and flexibility.<sup>24</sup> It is important to emphasize that concepts such as “refugee” or “migrant” cannot be treated as fixed or neutral, but as

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<sup>22</sup> T. Kevin, *Methodology and Innovation in Jurisprudence* (Columbia Law Review, 2023, Vol. 123, pages 2483-2516).

<sup>23</sup> C. A. Grant, A. Portera, *Intercultural and Multicultural Education: Enhancing Global Interconnectedness* (Routledge, New York, 2011).

<sup>24</sup> P. Sales, *Certainty and Flexibility in the Law* (Judicial Review, 2025, Vol. 30, pages 7-18).

constructs that reflect, in the appropriate sociological sense, specific historical and political contexts. For the purposes of this article, Flexibility is that often unspoken yet essential element that allows legal actors, stakeholders and experts to revisit and, to some extent, redefine certain categories in the field of migration, so that a more appropriate interpretation - and, consequently, application - can be found to address contemporary challenges.

It is important to clarify that the three dimensions outlined above - innovation, interculturality and flexibility - are not intended as vague or aspirational principles. The three founding principles of the meta-juridical approach were conceived as structural components aimed at bringing about a sweeping transformation of legal reasoning. For these reasons, meta-jurisprudence cannot be superficially understood as a mere methodological tool, but rather as an emerging legal culture that serves as a key to unlocking a revolution in legal theory, interpretation, and application. In this view, legal culture is defined as a certain process that has to be constantly invented and defended.<sup>25</sup>

Such a cultural shift implies a reorientation in the way law is conceived, interpreted and applied. Traditional legal frameworks, while essential for ensuring stability and predictability, often operate within strict boundaries that limit their capacity to address complex and evolving global phenomena. Meta-jurisprudence can be intended as a new cultural paradigm, which seeks to transcend these limitations not by discarding legal rigor, however by reconfiguring it through adaptability and critical engagement. Legal change<sup>26</sup>, in its interaction between legislation and judicial decisions, is essential for a change of course, especially if originates from the professional legal community who may act as gatekeepers, influencing the interpretation of the laws.

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<sup>25</sup> J. Clammer, *Culture, Development and Social Theory. Towards an Integrated Social Development* (Zed Book, New York, 2012).

<sup>26</sup> A. Watson, *Legal Change: Sources of Law and Legal Culture* (University of Pennsylvania Law Review, 1983, Vol. 131, No. 5, pages 1121-1157).

In this perspective, innovation becomes a continuous process rather than an exceptional response; interculturality evolves into a constitutive element of legal interpretation rather than a negligible consideration, and flexibility functions as an embedded practice within legal reasoning rather than an external critique. The integration of these dimensions and the applicability of a new cultural paradigm into a more coherent legal system enables the law to move beyond formal constraints and to engage more effectively with the realities it seeks to regulate.

Therefore, the added value of meta-jurisprudence lies not only in its analytical contribution, but in its potential to reshape the epistemological foundations of legal thought, especially in fields such as international refugee law, where it is evident the tension between normativity and reality.

### **A Meta-juridical Reading of Migration Governance**

As previously noted, the meta-juridical approach applied to migration governance enables a shift from a purely formal understanding of the international refugee law to an interpretation that is more dynamic and practice oriented. By integrating the dimensions of innovation, interculturality, and flexibility into legal frameworks, a more accurate interpretation of legal norms can be achieved, especially when they are put into practice in order to develop more effective responses to contemporary challenges.

In this section, the three elements will be analyzed as they apply to migration governance, in order to assess their applicability in more concrete contexts.

From the standpoint of innovation, the framework challenges rigid distinctions between “refugees” and “migrants”. Contemporary migration flows frequently involve overlapping forms of vulnerability that cannot always be captured through traditional legal categories. A meta-juridical approach therefore encourages more context-sensitive interpretations of

protection needs. This does not require abandoning legal categories altogether but rather interpreting them in light of contemporary migration realities.<sup>27</sup> UNHCR is aware of modern migration patterns that make it difficult to classify individuals into a specific legal category, given the heterogeneity of migration flows.<sup>28</sup> Individuals often move for multiple, overlapping reasons that do not fit neatly within established legal definitions.

Innovation is also evident in the reinterpretation of government procedures and obligations, particularly with regard to the externalization of border control, which challenge the traditional territorial scope of international law by displacing control measures beyond state borders.<sup>29</sup> In this case, the meta-judicial approach suggests that legal liability does not need to be necessarily linked to the presence of a particular state on the territory, but that such liability must also be considered in terms of the exercise of effective control or influence. This perspective aligns with emerging jurisprudential trends that recognize the applicability of human rights obligations in extraterritorial contexts<sup>30</sup>, thereby offering a basis for holding states accountable for actions carried out through third-country arrangements or indirect mechanisms. The dimension of interculturality further enriches this analysis by highlighting the plurality of actors and normative perspectives involved in migration governance.<sup>31</sup> In this case, the meta-judicial approach aims to analyze this imbalance by recognizing and highlighting the role of the various actors from diverse cultural, regional, and institutional backgrounds who constantly shape legal meaning. This plurality of actors includes not only states, but also international organizations, non-governmental actors, and local communities. It could be considered as a

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<sup>27</sup> For an overview about context-driven interpretation: A. Presbitero, *Phenomenon-driven Contextual Research and Context-driven Phenomenon Research: Advancing Impactful HRM Scholarship* (Personnel Review, 2025, pages 1-12).

<sup>28</sup> E. Feller, *Refugees are not Migrants* (Refugee Survey Quarterly, 2005, Vol. 24, No. 4, pages 27-35).

<sup>29</sup> P. Janig, *Extraterritorial Application of Human Rights* (Elgar Encyclopedia of Human Rights, 2022, Vol. 2, pages 180-191).

<sup>30</sup> Ibid.

<sup>31</sup> T. Caponio, M. Schiller, C. Talleraas, *The Politics of Governance of Migration* (Governance, 2025, Vol. 38, No.4).

pluralist approach, where public and non-public actors with diverse interests and values cooperate in policymaking processes, bringing ideas and tangibles solutions.<sup>32</sup>

In practical terms, interculturality serves as the element that brings greater inclusivity and contextual sensitivity to legal and judicial frameworks. For example, regional practices in Africa have developed broader refugee definitions that incorporate generalized violence and other forms of harm not explicitly covered by the 1951 Convention.<sup>33</sup> Engaging with these alternative legal traditions can contribute to a more pluralistic and adaptive understanding of protection, reducing the gap between formal norms and lived realities. Moreover, interculturality encourages participatory approaches to governance<sup>34</sup>, where affected populations are not merely passive recipients of protection, but can actively contribute to shaping the legal responses to their emergency situations.

Flexibility, as the third core dimension, plays a crucial role in uncovering the underlying assumptions embedded within legal systems. While acknowledging that the international legal framework proposes a highly detailed classification of migrants<sup>35</sup>, it is important for legal professionals and actors to continue examining the wide range of categories, procedures, and institutional practices that might, in some way, conceal instances of exclusion or inequality. Above all, in the context of migration governance, flexibility exposes the ways in which ostensibly neutral mechanisms - such as admissibility criteria, safe third country designations, or accelerated procedures - can function as tools of restriction rather than protection.

Furthermore, a more flexible approach allows for a continuous reinterpretation of the relationship between law and power. Indeed, state practices regarding the control of migration

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<sup>32</sup> E. Sørensen, J. Torfing, *The Democratic Anchorage of Governance Networks* (Scandinavian Political Studies, Vol. 28, No. 3, pages 195-218).

<sup>33</sup> For more details: P. Kourula, *Regional Refugee Definitions* (in *Broadening the Edges*, 1997, Brill, Nijhoff).

<sup>34</sup> For an overview: S. R. Osmani, *Participatory Governance for Efficiency and Equity. An Overview of Issues and Evidence* (Participatory Governance and the Millennium Development Goals, New York, 2007, pages 1-45).

<sup>35</sup> O. Bakewell, *Some Reflection on Structure and Agency in Migration Theory* (Journal of Ethnic and Migration Studies, 2010, Vol. 36, No. 10).

flows are often justified by legal language that may, however, differ significantly from the spirit in which international migration laws were originally enacted. In this regard, meta-jurisprudence offers a new perspective - a shift in direction - according to which the introduction of migration management laws that protect human rights can enhance state sovereignty, thereby safeguarding national security and public order.<sup>36</sup>

At the same time, meta-jurisprudence allows for a more transparent assessment of legal compliance that goes beyond formal adherence and aims to achieve substantive accountability. It is important to emphasize that flexibility paves the way for institutional learning and adaptation: in this way, courts, administrative bodies, and international organizations can adopt flexible practices by systematically reviewing the impact of their decisions and policies, while ensuring that legal frameworks remain appropriate to evolving conditions. Since, in the migration domain, it is difficult to guarantee predictability and coherence, flexibility could be the practical solution to decrease institutional uncertainty.<sup>37</sup>

Although analyzed individually, these three dimensions - when considered as a whole - demonstrate that a meta-juridical approach is not merely theoretical but has concrete implications for migration governance. Meta-jurisprudence allows for a reconfiguration of legal reasoning that is better equipped to address the complexity of contemporary migration, while preserving the normative core of laws and the international regime.

By synthesizing and moving beyond rigid legal formalism, meta-jurisprudence provides a framework through which the gap between legal norms and state practice can be addressed more effectively. The aim is certainly not to weaken the law, but to strengthen its capacity to engage with reality in a more inclusive and forward-looking manner. In practice, although the Refugee Convention remains a fundamental instrument in the field of international migration,

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<sup>36</sup> L. Thompson, *Protection of Migrants' Rights and State Sovereignty* (UN Chronicle, 2013, Vol. L, No. 3).

<sup>37</sup> P. Pannia, "*Institutional Uncertainty*" as a technique of migration governance. *A comparative legal perspective* (DPCE Online, 2020, Vol. 45, No. 4)

some commentators acknowledge that it has limitations or gaps that must be addressed. The UNHCR itself believes that the Convention should be interpreted dynamically, considering current changing conditions.<sup>38</sup> Therefore, with a particular focus on the Refugee Convention, a meta-juridical analysis could allow for a new interpretation of the Convention itself.

### **Case Insight: Externalization and Responsibility in the Central Mediterranean**

Over the past decade, European migration policies have increasingly relied on externalization mechanisms designed to prevent migrants and asylum seekers from reaching European territory. Externalization is considered as a lever for solving the European's migration issues, yet poses several legal and ethical problems that, in the long term, may risk weakening Europe's reputation as a leading regulatory power.<sup>39</sup>

A particularly telling example of the gap between legal norms and state practice, as well as of the potential of a meta-juridical approach, is migration governance in the Central Mediterranean, particularly in the context of cooperation between European states and Libya following the 2015 migration crisis.

Cooperation with Libyan authorities, including support for and training of the Libyan Coast Guard, has played a central role in this strategy. While formally framed as efforts to combat smuggling and enhance border management<sup>40</sup>, these practices have raised significant concerns regarding access to protection and compliance with international legal obligations.<sup>41</sup>

One of the key legal issues concerns the attribution of responsibility. By enabling interceptions at sea and the subsequent return of individuals to Libya - where conditions in

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<sup>38</sup> A. Radjenovic, *Is it Time to Reform the International Refugee Regime* (European Parliamentary Research Service, 2026).

<sup>39</sup> J. Kohlenberger, *Migration Policy: European Union Increasingly Outsources Responsibility for Asylum* (Heinrich Böll Stiftung, 2024).

<sup>40</sup> T. Latici, *European Union Naval Force – Mediterranean Operation Sophia* (Toward A New Policy on Migration, Legislative Train Schedule, European Parliament, 2019).

<sup>41</sup> Y. Maccanico, *Italy's Redefinition of Sea Rescue as a Crime Draws on EU Policy for Inspiration* (Statewatch, 2019).

detention centers have been widely documented as inadequate - European states effectively limit access to asylum procedures while maintaining a degree of formal distance from direct violations.<sup>42</sup>

Judicial developments have begun to address these challenges, in part to provide practical and tangible evidence to the international community. Although it predates the 2015 migration crisis, the following judgment remains an important legal precedent in the cooperative relationship between Italy and Libya. In the case of “Hirsi Jamaa and Others v. Italy”, the European Court of Human Rights (ECHR) ruled that Italy had violated the European Convention on Human Rights (ECHR) by intercepting migrants at sea and returning them to Libya. Responsibility was clear, as the Italian state had acted directly.<sup>43</sup> After 2015, Italy changed its operational model, seeking ways to circumvent the rules: the Italian government funded and trained the Libyan Coast Guard, which intercepted migrants at sea and returned them to Libyan detention centers. At that point, the difficult legal and procedural challenge lay in determining the state’s responsibility: under the ECHR, it must be demonstrated which state exercises jurisdiction. In fact, in the case “S.S. and Others v. Italy,” the applicants argued that Italy was acting from a distance, but the European Court of Human Rights held that sufficient control had not been demonstrated to hold Italy responsible. Since 2015, the outsourcing of border controls to Libya has shifted the state’s responsibility from direct to indirect, creating a “gray area” in which Italy’s operational influence does not easily translate into jurisdiction under the ECHR.<sup>44</sup>

Having analyzed the dynamics of the case under consideration, it is necessary, for the purposes of this research, to propose a meta-judicial approach for a reinterpretation of the case

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<sup>42</sup> J. Sunderland, H. Salah, *No Escape from Hell. EU Policies Contribute to Abuse of Migrants in Libya* (Human Rights Watch, 2019).

<sup>43</sup> I. Papanicolopulu, *Hirsi Jamaa v. Italy* (The American Journal of International Law, 2013, Vol. 107, No. 2, pages 417-423).

<sup>44</sup> H. Jha, *S.S. and Others V. Italy: When the ECtHR Chose Borders Over Rights* (Refugee Law Initiative, Blog on Refugee Law and Forced Migration, 2025).

itself. From a meta-juridical perspective, the context of the Central Mediterranean not only highlights the shortcomings of existing legal frameworks but also offers a concrete context in which alternative interpretive pathways can be outlined. Traditional legal reading tends to confine state responsibility within territorial boundaries, thereby allowing externalization practices to operate in a space of reduced accountability.<sup>45</sup> On the contrary, a meta-juridical approach redefines this assessment through its three fundamental dimensions.

This innovation allows for a shift from a strictly territorial conception of jurisdiction to a functional one, in which responsibility is linked to the exercise of control, coordination, or decisive influence over migration management practices. This enables a more consistent attribution of responsibility in cases involving indirect forms of refoulement.

Secondly, interculturality broadens the analytical framework by fully integrating the perspectives and roles of non-European actors, including third countries and local institutions. Rather than treating them as external to the legal system, a meta-juridical approach places them within a pluralistic and multilevel governance structure<sup>46</sup>, thereby acknowledging shared and overlapping responsibilities in the protection process and in the guarantee of human rights.

Finally, flexibility provides the critical perspective needed to highlight the discrepancy between the formal legality of cooperation mechanisms and their substantive effects. The element of flexibility challenges the assumption that compliance can be assessed solely on the basis of formal adherence to agreements, emphasizing instead the necessity and urgency - given today's migration flows - of evaluating the real impact of such practices on access to protection and fundamental rights.

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<sup>45</sup> V. Moreno-Lax, M. Meberg-Pedersen, *Border-induced displacement: The Ethical and Legal Implications of Distance-Creation Through Externalization* (Questions of International Law, Zoom-in No. 56, 2019, pages 5-33).

<sup>46</sup> P. Scholten, R. Penninx, *The Multilevel Governance of Migration and Integration* (in B. Garcés-Masareñas, R. Penninx, *Integration Processes and Policies in Europe*, 2016, IMISCOE Research Series, Springer, Cham).

Taken together, the elements underpinning meta-jurisprudence do not merely reinterpret the case; rather, they suggest a more coherent and responsible legal response. Thus, the aim is to move and look beyond rigid doctrinal constraints, and in this sense, a meta-juridical approach allows for a reconceptualization of responsibility that is better aligned with both the normative foundations and the practical realities of the international refugee regime.

## **Conclusion**

This article has sought to illustrate the limitations and gaps in contemporary international refugee law, which are not merely the result of political resistance or inadequate implementation. As the discussion has shown, these limitations are also rooted in the structural rigidity of legal reasoning itself. There is a persistent gap between normative commitments and state practices - particularly evident in migration governance - which reveals the inadequacy of approaches based exclusively on formal legal interpretation.

In response to these challenges and to foster a more mature approach, the article introduced the concept of meta-jurisprudence, understood as an analytical and practical framework capable of rethinking the role of law in evolving contexts. By grounding this approach in the three dimensions of innovation, interculturality, and flexibility, the paper demonstrated how legal reasoning can be expanded, in a meta-juridical sense, without undermining its normative foundations.

Through an analysis of the international refugee regime and an in-depth examination of the situation in the Central Mediterranean, it has been demonstrated that a meta-juridical perspective allows for a more coherent understanding of responsibility, particularly in situations where traditional territorial frameworks prove insufficient. Given these premises, which are also practical, it is argued that meta-jurisprudence is by no means intended to replace

existing legal structures but rather aims to function as a complementary paradigm that strengthens their ability to address contemporary realities.

The contribution of this article lies not only in the conceptualization of meta-jurisprudence, but also in its application as a tool to bridge the gap between law and practice. By enabling more adaptive, inclusive, and critically informed interpretations, this approach opens the possibility of a more effective and legitimate international protection system, based on a shared sense of humanity, which is precisely what is needed today.

From a broader perspective, it is reasonable to hope that the adoption of a meta-juridical perspective might give rise to a renewed legal culture, capable of integrating complexity and embracing diversity on a global scale - a context characterized by growing fragmentation and uncertainty. Such a change, however challenging it may be to embed in the global legal consciousness, is not only desirable but necessary.

Despite the literature reviewed and although this article proposes meta-jurisprudence as a conceptual and practical framework, this research nonetheless serves as a starting point for further exploration and subsequent investigations, given the ongoing developments in the field of migration. The analysis has certainly developed primarily a theoretical model supported by insights based on selected cases, rather than a broad empirical investigation. Therefore, the practical applicability of meta-jurisprudence within concrete legal and institutional contexts remains only partially explored. In addition, a further limitation must be acknowledged regarding the scope of the study, which pertains exclusively to the field of international refugee law, and thus does not exhaust the potential applicability of the framework in other areas of international law.

However, these limitations should not be viewed negatively; rather, they may point to new avenues for reflection and open up promising paths for future research. Further studies could focus on the empirical verification of meta-jurisprudence - including in areas other than

the one examined here -within judicial and administrative practices, exploring how courts and decision-makers might integrate its fundamental dimension into legal reasoning.




Furthermore, applying a meta-judicial perspective to other fields - such as security governance or human rights - could help assess its relevance and adaptability in a broader sense.

In light of what has been written so far and considering the significant challenges of the international legislative system in the field of migration, the purpose of this article is to offer a new perspective, where the value of meta-jurisprudence lies not in offering definitive solutions, but in opening new avenues for the understanding and application of the law. The hope is that this article will encourage a meta-judicial, innovative, intercultural, and flexible approach; and, with an ambitious vision, it aims to invite further exploration of how legal systems can evolve in response to an increasingly complex global landscape, in the hope of sparking a legal and cultural revolution toward a potentially more open and receptive international community.



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