

UN Security Council
Open Debate
Mediation and Settlement of Disputes
Under the Agenda item
Maintenance of International Peace and Security
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Statement by
Ambassador Syed Akbaruddin
Permanent Representative

Mr. President,

Thank you for organizing this debate and for the opportunity to address – Mediation- an important tool of diplomacy.

2. The notion of mediation reflects a hoary principle of international law. However, it was only in the 1907 Hague Convention on the Pacific Settlement of International Disputes that this approach was first formally affirmed.

3. Article 3 of the Convention stipulated:

"Powers strangers to a dispute have the right to offer good offices or mediation even during the course of hostilities. The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act."

4. Following this initiative, both in the Covenant of the League of Nations and under the Charter of the United Nations, members assumed a larger obligation than heretofore to settle their disputes in a peaceful manner. Hence, opportunities for mediation were afforded greater scope.

5. Mediation, on the face of it, is based on the interest, consent and commitment by all parties for a peaceful settlement. In its very essence, mediation is premised on faith in the key principles of independence, sovereignty and freedom of choice, which all actors involved in disputes so zealously desire.

Hence, it seems to offer the best practical method of voluntarily managing, resolving and, perhaps, also preventing conflicts.

Mr. President,

6. The issue, therefore, is not whether mediation is a useful tool for peaceful settlement. Where acceptable to all parties, it is, in a manner of speaking, settled international law. For us, as practitioners of multilateral diplomacy, the questions to be addressed are:

- Whether the apparatus of the United Nations, as currently constituted, can perform many of the basic functions required for effective mediation? Or more acutely, is it more than a structural issue and one of functionality?
- Are the mechanisms at the disposal of the United Nations coherent and flexible to guide dynamic negotiations with an effective strategy? Can improving them help?
- Does there exist a willingness to resource the United Nations to tackle today's major threats to international peace and security beyond the realm of normative declarations?
- Are there inherent characteristics that place limitations on the abilities of the United Nations to fulfil the complex requirements of international mediation efforts?

Mr. President,

7. The United Nations, and in particular the Security Council, does not come to mediation unencumbered. The problems of the United Nations apparatus as a mediator are ingrained in the nature of inter-governmental organizations.

8. Inter-governmental organizations are hindered by complex decision-making procedures. Add to it the specificities of the U.N. Charter, that is premised on cooperation amongst the permanent members. That cooperation is clearly not evident. Where it does manifest, it invariably takes the form of the lowest common denominator. In the practice of day-to-day diplomacy,

mediators need to be backed fully by the Member States. But, inevitably, Member States of inter-governmental bodies tend to speak with different voices.

9. Policymaking within an international organization adds another layer of bargaining and trade-offs. It requires a time-consuming and uncertain process of consultation and coordination among a multiplicity of actors. Such tortuous decision-making process, imbued with political trade-offs, saps the United Nations of necessary dynamism and flexibility in pursuing mediation. Once the UN authorized entities agree on a mediating proposal or framework, it cannot easily be modified in response to changing circumstances. Modification requires renegotiation.

10. Will pursuing Secretariat reforms change these inherent inadequacies?

11. Limitations that are embedded in the very nature of intergovernmental organizations are not resolved by upgrading, expansion, or revamping of Secretariat rules and regulations. Since the problems are functional, it may be more realistic to look at functional solutions rather than structural ones.

12. Rather than try and saddle the United Nations with responsibilities that it is ill-suited to perform, it may be better to look at alternate solutions which use the competencies of the UN more judiciously. Rather than try and throw in the United Nations lap intractable issues, perhaps, a more pragmatic approach is required.

13. As the UN Charter itself recognizes, the pacific settlement of disputes can be through a variety of mechanisms. Today, there are numerous actors and many forms of pacific settlement that may be better suited to address different issues. Instead of putting the United Nations at the center of mediation efforts and exhorting States to support them, perhaps, the international community should lend encouragement to those most motivated and having the capacity to do so to settle these, as appropriate.

14. Of course, there could be many forms of division of tasks of pacific settlement of disputes between the United Nations and other concerned actors that can undoubtedly be devised. It is important, however, not to charge the United Nations with responsibilities that it maybe ill-suited to perform. Mediation, in every circumstance, is one such task, it is not geared to fulfil.

15. It is in line with this approach that I take this opportunity to remind - Pakistan - the one isolated delegation that made unwarranted references to an integral part of India, that pacific settlement requires pacific intent in thinking and pacific content in action.

16. Regurgitating a failed approach, which has long been rejected, is neither reflective of pacific intent nor a display of pacific content. We hope that the new government of Pakistan will, rather than indulge in polemics, work constructively to build a safe, stable, secure and developed South Asian region, free of terror and violence.

Thank you, Mr. President.
