



RESEARCH PAPER

Kashmir Conflict and the Question of Self-Determination

¹ Izzat Raazia * ² Saqib Ur Rehman

1. M. Phil. Scholar, Department of Political Science and International Relations, University of Management & Technology, Lahore, Punjab, Pakistan
2. Assistant Librarian, Centre for South Asian Studies, University of the Punjab, Lahore, Punjab, Pakistan

PAPER INFO	ABSTRACT
<p>Received: July 30, 2021</p> <p>Accepted: October 15, 2021</p> <p>Online: October 20, 2021</p> <p>Keywords: India, Kashmir Conundrum, Pakistan, Regional Security, Sovereignty</p> <p>*Corresponding Author:</p> <p>izzat.raazia@gmail.com</p>	<p>The objective of this paper is to explore relations between Pakistan and India since their inception in the perspective of Kashmir conundrum and its impact on the regional security. Kashmir is the unfinished agenda of partition and a stumbling block in the bilateral relations between Pakistan and India. After the partition of sub-continent in 1947, Pakistan and India got their sovereign status. Kashmir conflict, a disputed status state, is the byproduct of partition. Pakistan and India are traditional arch-foes. Any clash between Pakistan and India can bring the two nuclear states toe-to-toe and accelerate into nuclear warfare. Due to the revulsion, hostility and lack of trust between the two, the peaceful resolution of the Kashmir issue has been long overdue. Ever-increasing border spats, arms race and threat of terrorism between the two have augmented anxiety in the subcontinent along with the halt of talks between India and Pakistan at several times. Additionally, it hampers the economic and trade ties between the two. India, time and again, backtracked on Kashmir issue despite UN efforts to resolve the issue. Recently, Indian government has responded heavy-handedly to the Kashmiri agitators' demand for sovereignty and revocation of 'Special Status' of Kashmir impacting the stability of the region in future.</p>

Introduction

The tragedy of Kashmir had not started with the partition of Sub-continent but in 1846 Kashmir was sold through an infamous deed of sale called the Treaty of Amritsar by British colonial rulers of India to a Hindu Maharaja (Sohail & Raazia, 2018). From then onwards, the Kashmiri population has been subjected to violence. Later on when Pakistan and India partitioned, despite its religious, ethnic, geographical and civilizational affinities and the majority population's assent to join Pakistan, the Maharaja of Kashmir signed the Instrument of Accession in favour of India (Javaid, 2018). The Kashmir conflict has become increasingly layered and fragmented with territorial, legal, and political dimensions and has its impact at regional and global levels (Masood & Muzaffar, 2019).

Kashmir is sited at the northernmost corner of the South Asian Subcontinent. "It is located between Pakistan, India, China, and Afghanistan, encompassing the Indian-

occupied state of Jammu and Kashmir (the Kashmir Valley, Jammu and Ladakh), the Pakistani-administered Azad (liberated) Kashmir, Gilgit and Baltistan (the last two being part of a territory called the Northern Areas), and the Chinese-controlled regions of Aksai Chin and Trans-Karakoram Tract.” (Hilali, 2001 & Masood, et. al 2020) The mountainous region of Kashmir often lauded for its serene beauty has become one of the world’s most militarized regions (OHCHR, 2018).

The 1947 forced accession of Kashmir to India was questioned by Pakistan and since then, there is a persistent military stalemate between India and Pakistan. The government of Pakistan challenged the resolution on the basis that majority population of Kashmir was Muslim. Resultantly, India and Pakistan went for a war in 1947-48. India took the issue to the United Nations Security Council (UNSC) but the status quo remained the same. On April 21, 1948, UN made a resolution:

- An immediate cease-fire;
- Pakistan was to pull back her forces from Kashmir and India was to station only a minimal force on her side to help local authorities to maintain law and order;
- An impartial plebiscite accorded with the wishes of Kashmiris (Schaffer, 2009).

After 1948, a Line of Control (LOC), a defacto border was established separating Indian and Pakistani administered regions of Kashmir. On 1st January 1949, a UN brokered cease-fire came into effect. It was pre-requisite that Pakistan and India would gradually withdraw their forces from the Vale and then, a plebiscite would be held to determine the future of the territory (Schaffer, 2009).

Since then, India and Pakistan had fought four wars in 1947, 1956, 1971 and 1999 over Kashmir (in 1971, Kashmir was perhaps the peripheral issue) and they had been involved in several skirmishes on both sides of LoC. Tensions between the two countries escalated in the 1990s after the 1987 rigged elections in the Indian Occupied Kashmir.

Despite efforts of international community including the UN to determine the fate of Kashmiris; a right of self-determination, India never let the plebiscite took place. Paul (2005) delineates that India and Pakistan disagreement as a, “persistent, fundamental, and long term incapability of goals between two states”. Lamentably, Kashmir issue was left to be determined mutually by India and Pakistan. Since 1998, a new dimension was added with the overt nuclearization of India and Pakistan with a risk that these nuclear weapons would be used in aggravation.

According to Lamb (1994) the tragedy of Kashmir is twofold, human and geopolitical. At first, India tried to rule Muslim-majority state of Jammu and Kashmir with repressive measures. Tens of thousands of people have been slaughtered, tortured, abducted and molested. Secondly, in the geopolitical context, India and Pakistan have been thrice engaged in an overt war and a military clash at Kargil. They have been generally in a state of confrontation which dominated the economies and foreign policies of both the countries. Also, they both have been involved in nuclear war.

Historical Contextualization

Since 1846 to 1947 A.D., a period more than hundred years was the ferocious period in the history of Kashmir when it was handed over to Dogra Chieftain, Maharaja Gulab Singh through Sale Deed of Amritsar for a sum of seven and half a million rupees. Kashmiris, since then have been subjected to inhuman and brutal treatment. At the time of partition of subcontinent, due to its religious, cultural and geographical congruity, Kashmir was deemed to join Pakistan. Likewise, the overwhelming majority of the Kashmiri population wished to annex with Pakistan.

On October 26, 1947, Maharaja Hari Singh signed the Instrument of Accession in favour of India. The very next day, on October 27, 1947, Indian armed forces infiltrated in Kashmir and military apparatus gradually penetrated in the lives of Kashmiris. Kashmiris responded in retaliation. Since then, they had been observing October 27, a Black Day (Bose, 2003).

Pakistan, for the several times, voiced the just demand of Kashmiris' right of self-determination by holding a free and impartial plebiscite under the joint control of both governments India and Pakistan but India never agreed. The rise in escalation in Kashmir resulted in the 1948 war between India and Pakistan. India went to UNSC. The UN passed a resolution calling for a plebiscite in Kashmir. According to the text, "the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of United Nations." (Bakshi, 1997) Furthermore, the Resolution states that both India and Pakistan should withdraw their forces from Kashmir Valley. Reversely, as yet, no plebiscite has taken place. But the conflict remained unsettled even after almost seven decades. The status-quo remained the same. Consequently, there is a rising communal tension between Muslims and Hindus over the question of sovereignty of Kashmir issue.

Victoria Schofield has described that in the early days of the partition of the sub-continent, the Kashmir situation was highly sensitive for both India and Pakistan. At that time, Jinnah asserted that the state should be given the right to opt one from both unions, rather than having the matter settled as one of a choice between accession to India or Pakistan (Schofield, 2009).

In 1998, the nuclear tests of India and Pakistan have changed the strategic outlook of the entire region. The sub-continent has become a danger zone. After India's acquisition of nuclear weapons, Pakistan perceives it not as a choice but a necessity. The impasse in Kashmir is carried on to be a major source of hostility between India and Pakistan.

Shakoor (1998) asserts that Pakistan has never conceded the Indian argument of Kashmir being its integral part... The possession of nuclear capability by Pakistan and India acted as a deterrent in preventing war between the two countries after the outbreak of uprising in Kashmir. However, if situation between them intensified, it would bring a nuclear catastrophe in South Asia.

Repressive State Apparatus in Indian held Kashmir

Indian military responded heavy-handedly and used repressive measures to hush the voices of Kashmiris' demand for nationalism. Till date, Kashmir has been the victim of state repressive forces. Alongside, the Kashmiri youth, who are living through years and years of violence by Indian state forces, raises slogans of *azadi* (freedom) during protests. There is a prison-like reality in Kashmir and it is ridiculous to expect its people to remain silent. In a pamphlet distributed in Jawaharlal Nehru University was quoted, "Caged in conduit wires and faced with blood stained bayonets from all sides, turned into the most militarized zone in the world, Kashmir remains: the country without a post office." (Ashraf, July 21, 2016)

Kashmir is not only an impasse in ties between India and Pakistan but the irresolution of Kashmiris demand for autonomy provoked tens of thousands to street. To curb their claim for sovereignty, a report 'Structures of Violence', conducted by Jammu Kashmir Coalition of Civil Society (JKCCS) in 2015 states that an estimated 6.5 lakh to 7.5 lakh armed forces personnel have been engaged in Jammu and Kashmir (Jammu Kashmir Coalition of Civil Society, 2015).

The Indian Occupationists have retorted with irreplaceable ferociousness. Giving a legal sanction to execution, torture and genocide of Kashmiri nationals, draconian laws have been enforced in the Vale. Armed Forces Special Power Act (AFSPA), Prevention of Terrorism Act (POTA), Terrorist and Disruptive Activities (Prevention) Act (TADA), and National Security Act (NSA) are such laws that have given Indian security forces special powers to fire at accused offenders and those disrupting peace (Naseer & Asad, 2020). Rather than taking measures to restore the law and order situation in Kashmir, the Indian Occupational forces have unleashed a sway of panic in the Vale. A large number of people have been affected by these laws. They are physically abused, mentally tortured, executed and arrested etc. There is no justice and transparency in evaluating the cases that often resulted in impunity. Mostly, the cases have been abandoned without any allegation being framed.

Instead of granting a sovereign right to Kashmiris, Article 370 of Indian Constitution sanctions a 'Special Status' to Jammu and Kashmir region. Nehru made a promise that this provision of special sovereign status would be observed on temporary basis and would get eroded that had become a chimera. Conversely, the Kashmiris are neither allowed to exercise their right of self-determination as guaranteed by Nehru nor they have been given a 'Special status state' envisaged in Article 370 of Indian Constitution. However, the succeeding Indian governments are also failed to fulfill the pledge to let Kashmiris hold a free and fair plebiscite.

For India, Kashmir is the sign of harmony between diverse nationalism and state building, albeit she had not succeeded in bringing the Kashmiris into her fold through the employment of a forceful annexation of the state. The Indian security forces have grown in number and gained in control in the valley. They are functioning over a broader region than ever before. Frequent clear out and search and cordon operations have been observed by the security force personnel in Kashmir due to which the death toll has also increased. India even denies allowing the international intervention in Kashmir. The solution lies in

implementation of UN resolutions calling for free and impartial plebiscite to determine the future of Kashmiris.

The Vale of Kashmir saw hundreds of protestors being killed and injured brutally by the Indian Armed Forces in response to their non-violent protests after the execution of Maqbool Bhat, leader of Jammu & Kashmir Liberation Front (JKLF) in 1984 and killing of Afzal Guru (convicted of taking part in a 2001 attack on the Indian Parliament) (Zargar, April 27, 2016) and then the killing of Burhan Wani in 2016. Indian-held Kashmir has been shaken for months by near-daily clashes between brutal Indian security forces using lethal force and stone-throwing, pro-independence Kashmiri youth.

The current phase of indigenous Kashmiri movement is launched by Kashmiri youth to secure their right of sovereignty against the unjust and oppressive Indian rule. The unarmed and innocent youth has been tortured, arrested, killed and disappeared. Since July 2016, after the death of Burhan Wani by Indian Security Forces, Kashmir has been again roiled by large pro-independence protests that have shattered the idea of normalcy (Latif, Siddiqua & Iftikhar, 2020). The Vale once again witnessed excessive militarization of the public space, and frequent human rights violations by the Indian state security apparatus, are invigorating anti-India sentiments. Indian government responded heavily to the demonstrators and deployed more troops in an already highly militarized zone. Curfews have been imposed for several consecutive days. Life has been stuck in the valley.

The stone pelters are now responded with pallet guns. The security forces have used lethal weapons to restrain the mob. Additionally, the security forces have opened fire on the demonstrators. The internet and mobile services have also been blocked. During the unrest, it is reported that several people have been died and got acute injuries including the loss of vision of both their eyes (Khurshid, 2016, July 25).

The essential feature of the recent wave of separatist movement is that Kashmiri youth has come forward with the zeal of freedom. Most of protests held in Kashmir are led by the youth of Kashmir. They have taken the endeavor to fight against the brute Indian forces because lots of Kashmir's new generation is born after the armed uprising erupted during late 1980s. Additionally, the succeeding vicious requital operation instigated by Indian government left a major blow on the collective memory of the Kashmiris. This was further rejuvenated by the unremitting violations of human rights and impunity of offenses by Indian Security Forces, victims of forced disappearances, mass rapes, extra-judicial killings and torture.

According to a journalist, Haris Zargar, "the increasing radicalization represented a counter-reaction to the shaping of the nationalist identity in India based on its rising middle class and Hindu nationalism. The rise of forceful Hindu nationalism affected how Kashmiri Muslims viewed the Indian state and reshaped their Kashmiri Muslim identity. The communal polarization in India and the violence targeting Muslims are widely discussed in Kashmiri homes." (Zargar, April 27, 2016).

By ruthless intimidation, India has found a way to react to this generation's drive for popular mobilization. Another cycle of violence, arrests, and bloodshed has got hold of the Vale. Unarmed peaceful demonstrators confronted rigorously by Indian security forces.

In Indian Occupied Kashmir, thousands of unmarked single and mass graves and unidentified bodies have been found. The summer of 2016 again marked the wave of passionate, resolute, and unarmed demonstration. Since then, in a full-scale crisis, Indian forces used lethal weapons which resulted in the deaths of 110 civilians. For Kashmiris, the conflict has been a great catastrophe in all aspects: a huge casualty rate, human rights violations, displacement of huge people, a damaged economy, grave ecological damage, colossal military buildup, and intense psychological problems. There are several unmarked and mass graves. The snow has buried its history with thousands of mass graves.

Moreover, on August 5, 2019, Indian Premier Narendra Modi's ruling Bharatiya Janata Party (BJP) declared the revoking of two Articles 370 and 35-A of Indian Constitution and stripped the Kashmiris with 'Special Status' granted to them (Shah, 2019 August 12) since 1954. India not only abolished the disputed status of Kashmir but state of Jammu and Kashmir is called "Union Territories." One is Jammu and Kashmir and other is Ladakh. After annexation of Kashmir territory, it has become virtually a settler colony in the making (Andrabi, 2020 August 4). Pakistan lodged many protests against India. Resultantly, on the request of China, UNSC has met twice for closed-door meetings on the situation in Kashmir and previous passed several resolutions in favour of referendum of Kashmiris but implementation on the UN resolution remains a formidable challenge (Iqbal, 2019 Aug. 16).

Tens of thousands of additional troops were deployed in what is already one of the world's most militarized zones ahead of the government's revocation of Article 370. Later on, in 2019–2021 a political lockdown with communications blackout had been imposed throughout the Indian-Occupied union territory of Jammu and Kashmir that lasted until February 2021.

Kashmiris have observed lockdown, curfew, and communication blackout. Telephone networks and the internet service were disrupted in the Vale. During the pandemic of Covid-19 period, Kashmiris were again housebound, short of food and medical healthcare needs. Schools were shut and education was disrupted (Khan & Perrigo, 2020 May 5).

Kashmir is the core agenda between India and Pakistan. Lasting peace in the region cannot be accomplished without its permanent resolution. There is a looming threat that any tension would provoke a nuclear war in the region. Efforts have been made by both India and Pakistan to resolve the issue but it's a long road. The 1972 Simla Agreement and 1975 Accord (between the Indian premier and the chief minister of Jammu and Kashmir) are such efforts to solve the issue, but have failed, because the first agreement ignored Kashmiris as a third party and the second has excluded Pakistan's stance. Following, the 2008 Mumbai attacks the two countries re-engaged peace negotiations to decide the solution of Kashmir conflict. India again postponed all efforts of peace process. The need of the hour is to draw lessons from the history.

Conclusion

The Vale of Kashmir has been a major concern between India and Pakistan that has encouraged three wars and an armed conflict between the two nations since independence. Kashmiris have given a huge cost to their struggle for self-determination; Kashmiri genocide, human rights abuses, displacement of populations, severe ecological destruction,

colossal military presence, psychological disorder and poor economic condition. For Kashmiris, the conflict has been a great misfortune and calamity. Recurrent tensions over Kashmir will challenge the concept of bringing stability in South Asia. Further, it will perpetuate the threat of a nuclear conflict in the region. Currently, normalized relations between India and Pakistan and a regionally acceptable settlement on Kashmir are necessary for their wellbeing and that of the region. The responsibility to arrange a negotiated settlement lies on the all involved parties. It is also an appropriate time for the international community to pursue a persistent high-level diplomacy to help move the peace process forward.

A Way Forward

Pakistan and India need to engage in composite bilateral talks on all important agendas of conflict especially the resolution of Kashmir. Domestic audiences should be involved in the dialogue process. India should also hold dialogue with Kashmir as a third party while preparing the floor for a comprehensive discourse with all stakeholders. India says that she will not accept third-party involvement but how can an acceptable resolution be drawn without the involvement of Kashmiris, who are suffering the most. Whatever the circumstances are, the process of dialogue must continue. U.N. can play an effective role in engineering a constructive settlement of Kashmir by holding a free and impartial plebiscite. A way forward in Kashmir is viable only after mending Pakistan-India ties. In more than seven decades since their freedom from colonial rule, India and Pakistan have drifted further away. Without giving Kashmiris the right for self-determination, peace in the region cannot be anticipated. The sooner India understands the reality, the better.

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