

# CONFLICT OF KASHMIR: CAUSES AND CONSEQUENCES

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## Abstract

This paper is a modest attempt to understand the Kashmir conflict and human rights violation in every knock and door of the valley. It tries to address a larger historiographical problem of modern South Asia that gives primacy to the cause of conflict and the violation of human rights prevailing since 1947. The mass mobilization in Indian disputed territory do not get adequate academic attention as the freedom movement of the kashmiri people are seen as an agitation of small group of people against unemployment, underdevelopment condition of the state and often by some people as provoked by few terrorist minded people. The paper underscores the manifold meanings of freedom struggle in Indian administered state of Jammu and Kashmir.

**Key notes:** *conflict, causes, Indian view, Pakistan view, human rights violation.*

## Introduction

Besides being the longest unresolved dispute in the World, Kashmir is also a nuclear flash-point between two of South Asia's enemy countries, India and Pakistan since the withdrawal of the British following the creation of the two Dominions India and Pakistan, Jammu and Kashmir has been the bone of contention between the two countries as they fought three wars on Kashmir in 1948, 1965 and 1999. One-third of Jammu and Kashmir is under Pakistan's occupation since the cease-fire went into action on January 1, 1949. The Kashmir dispute is an international dispute and it is more than 70 years old. The Kashmir conflict however, apparently appears to an outcome of a 'communal-legal' dispute with Pakistan advocating for a communal solution to the conflict while India sticking to legal aspect of the accession as per the Indian Independence Act 1947. The entire South Asian geopolitics is focused on the Kashmir and the peace in the region necessarily depends on the successful resolution to the dispute. The Kashmiris on the other hand have been fighting for their right of self-determination recognized by the UN for many decades. The promise made by the first Indian Prime Minister, Jawaharlal Nehru which is also envisaged in the Instrument of Accession of 1947 to let Kashmiris decide their future through a Plebiscite still eludes Kashmir. In the past two decades, the region has been witness to a lot of violence which has resulted in the killings of thousands of people and the severe violation of even basic human rights. There have been several rounds of talks on issue between governments of India and Pakistan, But unfortunately the kashmiri stakeholders and the common people has never been consulted systematically so far, however the central government dispatched few delegations to talk with them but the reports collected from the sources has never been made public still now. There has not been taken any substantial positive step in resolving this dispute. The Kashmir dispute has been analyzed several times in terms of its impact, economical or political, on India, Pakistan and also Kashmir. An analysis through a Kashmiri point-of-view as to what the Kashmiris

want and how the two decade long conflict has affected their resolve for self-determination makes for an interesting research.

### **Geographical Outfit Of Jammu And Kashmir**

Jammu and Kashmir is situated between 32.17 degree and 36.58 degree north latitude and 37.26 degree and 80.38 degree east longitude. The total area of the state is 222,236 sq. Kms [census 2011] It is bordered on the west by Pakistan, on the south by India, and on the north and east by China. The region is divided between the Indian state of Jammu and Kashmir (2001 provisional population 10,069,917) 39,179 square miles (101,437 sq km), with its summer capital at Srinagar, the historic capital of the state, and its winter capital at Jammu the Pakistani-controlled areas (1981 estimated population 1,980,000) Azad Kashmir, 2,169 square miles (5,619 sq km), with its capital at Muzaffarabad and the Northern Areas, 27,991 square miles (72,496 sq km), with its capital at Gilgit and the largely uninhabited Chinese-controlled areas, 16,481 square miles (42,685 sq km) within Xinjiang and Tibet. At the time of partition of Indian Jammu and Kashmir including Aksai Chin, had an area of 222,236 square kilometers. Out of this area Kashmir had 10 percent, Jammu 14.4 percent, and the frontier districts 75.6 percent. According to the census of 1941 population of Kashmir was 4.02 millions, 77 percent were Muslims and 20 percent were Hindus. Today 45.62 percent of the original state territory is with India, 35.15 percent with Pakistan and 19.23 percent with China. The Line of Control (LoC) divides Jammu and Kashmir to 778 KM long area and there is an uncontested border of 198 km between the part of state with India and Pakistani Punjab. In the Siachen area there is an undefined line about 150 km separating India and Pakistan.

### **Causes of Jammu and Kashmir Dispute**

People of Jammu and Kashmir have been struggling for their right of self-determination from more than six decades. The issue of Kashmir started just after India's independence and the birth of two dominions India and Pakistan in 1947. At that time there were around 560 princely states under British India and Kashmir was one of them. All the princely states under British rule had to accede India or Pakistan. The princely state of Jammu and Kashmir was a Muslim majority state with 77% of Muslims of just over four million population. If the partition method used by the British in British India, whereby Muslim-majority areas became part of Pakistan, Hari Singh should have chosen to unite his princely state with Pakistan. In fact the maharaja was in favour of acceding with Pakistan but the Hindu Muslim riots which erupted in the Jammu province in which according to sources Dogra forces and Hindu chauvinists killed some five lakh Muslims and when Muslims from the frontier region came to help kashmiri Muslims. Maharaja feel insecure and he decided to seek help from India. India's viceroy Mountbatten promised him militarily help and in return Maharaja signed the "Letter of Instrument of Accession to India", which stands controversial ever since. And with that Instrument of Accession, the Kashmir dispute has stared into the faces of the two nuclear neighbours for more than six decades now. On 2nd November, 1947 India's first Prime Minister Pandit Jawaharlal Nehru announced on All India Radio that "Kashmir future will be decided by the means of plebiscite". However the promise of plebiscite is still pending. India claims that people's participation in elections shows that people are happy and there is no demand for any plebiscite. Pakistan and those opposing this viewpoint on the other hand say that the elections have never been free and fair in Kashmir and when they have been so, the people have voted for governance issues like roads, electricity and other amenities, and not for sorting out the Kashmir dispute. Meanwhile, the number of people having lost their lives during the past two decades of Kashmir is overwhelming with some agencies putting the number at

around 89,000 and the number of enforced disappearances at 10,000. There are around 600,000 to 700,000 Indian troops in Kashmir and aspersions have often been casted on the freeness and fairness of elections conducted under such heavy military presence. On the other hand, the Indian army has often been accused of grave human rights violations like torture, custodial deaths, disappearances, rape and molestation in the state. The army has often invited censure from international human rights agencies like Amnesty International. A statement issued on the floor of the J&K Assembly by the Deputy Chief Minister revealed that there are more than 600,000 security forces in Jammu Kashmir. That means the ratio of deployment to people is 1 soldier for every 18 persons. This is an incredibly high concentration of troops for an area whose population is not more than 12 million. Officially the number of militants operating in J&K has come down to few hundreds. Despite such huge military setup in Jammu and Kashmir and several efforts to bring this dispute to an end, a long-lasting solution eludes the people of Kashmir who bear the main brunt of this conflict.

### Indian point of view

India regards Kashmir conflict as a territorial issue. It claims that Jammu and Kashmir is its integral part and Pakistan is interfering in the affairs of the state by supporting the Terrorists. India holds that the instrument of accession of the state of Jammu and Kashmir to the union of India signed by Maharaja Hari Singh [then ruler of the state] on 26 October 1947 between the maharaja [ruler of the state] and governor general of British-India was a legal act is completely valid in terms of the government of India act 1935, independence act 1947 and international law is all final and irrevocable. The constitution assembly of Jammu and Kashmir had unanimously had ratified the instrument of accession to India and had adopted a constitution for the state. India claims that the constitution was a representative one and that its views were those of the Kashmiri people at that time. India says against the united nations security council resolution which grants the right to self determination to Kashmiri people that it cannot be implemented since Pakistan failed to withdraw its forces from Kashmir which was the first step in implementing the resolution. India is also of the view that the resolution 47 is obsolete since the geography and demographics has been altered permanently. India considers that Kashmir despite being a Muslim majority state is in many ways an integral part of secular India and the state has been provided significant autonomy under article 370 of Indian constitution. India claims that all differences between the two countries including Kashmir need to be settled through bilateral negotiations as agreed by the two countries when they on 2 July 1972 signed the Shimla agreement.

The conflict over Kashmir put into question. When it emerged, the largely publicized and often declared belief that the Muslim majority status of Kashmir is significant for India due to its importance in the context of Indian secularism. Indian Union did not comprise any other majority Muslim state. Therefore Kashmir provides ideology of Indian secularism. India would never let Kashmir to secede as it has a large number of other linguistic states. It is an accepted reality that Indian society is largely segmented. India's population is over a billion and it is divided into various types of innumerable languages and dialects. This has forced India to have a strong grip as well as built a strong occupation over Kashmir. The practical reason for the significance of Kashmir for India can be divided into security and economic needs of India. Post 1947, Kashmir's strategic significance increased due to the creation of the rival Pakistan. Both India and Pakistan were involved in hostilities with each other as well as with other countries of the area. The location of Kashmir was such that whichever country

would control it would have been in strong strategic military position to attack other. Indian hostility with China increased this phenomenon the more. Economically, as a state rich in the production of timber with the headwaters of three major rivers of Indus Basin Kashmir could be very beneficial to India.

### **Pakistan's Point of View**

The perceptions of Pakistan and India about the constituents of the Kashmir conflict are altogether different. Pakistan considers it as life line, a jugular vein and unfinished agenda of the division of India in 1947. Pakistan regards it as an issue of giving the right of self-determination to the Kashmiris, a principle also approved by the UN Security Council Resolution. Original importance of Kashmir for Pakistan lies in the two-nation theory upon which All India Muslim League based its demand for a separate Muslim homeland. The theory mentions that the Hindus and Muslims are two separate nations who cannot live together and that the Muslims of the subcontinent cannot lead their lives in full accordance with their beliefs under Hindu domination. Indian control over Kashmir was problematic because it was the sole Muslim majority region that was not given to Pakistan. In contrast, the Hindu majority state of Junagadh, whose Muslim ruler preferred to join Pakistan, was incorporated by India in 1948 at the time of independence. It became a useful issue for Pakistani rulers to gain political support because it raises 'deep passions and emotions' that touch the heart of Pakistani identity. For the majority of Pakistanis, Kashmir is so central to their national identity that without it, partition of India and liberation of Pakistan still remains 'fundamentally incomplete' Kashmir is significant for Pakistan practically in the strategic and economic fields. The strategic importance of Kashmir was the same as to India mentioned above. In a cable to Nehru, on 16th December 1947, Prime Minister of Pakistan Liaquat Ali Khan stated, "the security of Pakistan is bound up with that of Kashmir". Pakistan was as much concerned about the effects of leaving Kashmir because threats were there from India and Russia. Kashmir's river links with Pakistan were also vital. The waters of the Indus, Jhelum and Chenab rivers all flowed through Kashmir before they reached Pakistan. The agriculture of the Punjab and Sindh that is the backbone of Pakistan's economy depended on the water of these rivers to a large extent. Pakistan had the fear of permanent switching off the water supply on behalf of India. This fear of Pakistan was expressed by Pakistan's first Foreign Minister Zafarullah Khan: "If Kashmir accede to India, Pakistan might as well, from both economic and strategic points of view, become a feudatory of India or cease to exist as an independent sovereign state". The Pakistani concerns on the water issue that increases the significance of Kashmir issue for Pakistan is still present. Indian move to stop the water by building dams on the rivers flowing towards Pakistan would damage the bilateral ties, which the two countries had built over the years. In the UNSC Pakistan denied all Indian allegations of illegal action in assisting the tribesmen in Kashmir. It represented the situation in Kashmir in the start of the issue as essentially one of the popular revolt against the oppressive regime of Maharaja. Pakistan maintained that a standstill agreement was reached between Pakistan and the State of Kashmir in 1947. Under this agreement, Pakistan had become responsible for the defence, foreign affairs and communication of the State. The Pakistan also stated that the accession of Kashmir to India was based on fraud and violence and therefore, could not be recognized.

### **Human Rights Violation**

Human rights violation is a common phenomenon in the state of Jammu and Kashmir and especially in Kashmir division of Indian administered Kashmir. However there is no reports of human rights violation from Pakistan administered Kashmir Human rights abuses in the Indian-administered Jammu and Kashmir state are an ongoing issue. The abuses range from mass killings, enforced disappearances, torture, rape and sexual abuse to political repression and suppression of freedom of speech. The Indian Army, central reserve police force, border security personnel have been accused and held accountable for committing severe



human rights abuses against Kashmiri civilians. Revised figures from Indian sources state the number of civilians killed due to the Kashmiri insurgency has been estimated to range from 17,000 to 47,000 civilians while 3,642 civilians were killed by security forces. India accuses the Pakistan Army for abusing human rights in Jammu and Kashmir by violating ceasefire and keeps on killing Kashmiri civilians, a claim which is totally rejected by Pakistan who blames Indian army for the violation of human rights in Kashmir.

In a 1993 report, Human Rights Watch stated that Indian security forces "assaulted civilians during search operations, tortured and summarily executed detainees in custody and murdered civilians in reprisal attack. A 2010 US state department report stated that the Indian army in Jammu and Kashmir had carried out extrajudicial killings of civilians and suspected insurgents. The Indian Army claims that 97% of the reports about the human rights abuse have been found to be "fake or motivated" based on the investigation performed by the Army. However, a report by the US State Department said, "Indian authorities use Armed Forces Special Powers Act (AFSPA) to avoid holding its security forces responsible for the deaths of civilians in Jammu and Kashmir." Thousands of Kashmiris have reported to be killed by Indian security forces in custody, extrajudicial executions and enforced disappearances and these human right violations are said to be carried out by Indian security forces under total impunity. Civilians including women and children have been killed in "reprisal" attacks by Indian security forces. United Nations has expressed serious concerns over large number of killings by Indian security forces. Human Rights groups have also accused the Indian security forces of using child soldiers, although the Indian government denies this allegation. Torture, widely used by Indian security forces, the severity described as beyond comprehension by amnesty international has been responsible for the huge number of deaths in custody. The Telegraph, citing a Wiki Leaks report quotes the International Committee of the Red Cross (ICRC) that Indian security forces were physically abusing detainees by beatings, electrocutions and sexual interference. These detainees weren't Islamic insurgents or Pakistani-backed insurgents but civilians, The detainees were "connected to or believed to have information about the insurgents". Amnesty International accused security forces of exploiting the Armed Forces Special Powers Act that enables them to "hold prisoners without trial". The group argues that the law, which allows security to detain individuals for as many as two years "without presenting charges, violating prisoners' human rights".

The soldiers of the 4th Rajputana Rifles of the Indian Army on 23 February 1991 launched a search operation in a village Kunan Poshtora, in the Kupwara district of Jammu and Kashmir and allegedly gang raped 53 women of all ages. Later on an interview of victims and eyewitnesses was documented into a short film Ocean of Tears which was prevented from its broadcast. Human Rights organisations including Human Rights Watch have reported that the number of raped women could be as high as 80. The Indian Army is also accused of many massacres such as Bomai Killing 2009, Gowakadal massacre 2006 Kulgam massacre, Zakoora And Tengpora Massacre 1990, Sopore massacre. They also didn't spared the health care system of the valley. The major hospitals witnessed the crackdowns and army men even entered the operation theatres in search of terrorist patients. On 22 October 1993, the 13th Battalion of the Border Security Forces was accused of arbitrarily firing on a crowd and killing 37 civilians in Bijbehara, The number of reported dead and wounded vary by source. Amnesty International reported that at least 51 people died and 200 were wounded on that day. In another incident which took place at Handwara on 25 January 1990, 9 protesters were killed by the same unit. Mass graves have been identified all over Kashmir by human right activists believed to contain bodies of thousands of Kashmiris of enforced disappearances. A state human rights commission inquiry confirmed there are thousands of bullet-ridden bodies buried in unmarked graves in Jammu and Kashmir. Of the 2730 bodies uncovered in 4 of the 14 districts, 574 bodies were identified as

missing locals in contrast to the Indian governments insistence that all the graves belong to foreign militants.

Further more in 2008 and 2010 Jammu and Kashmir uprisings above nearly 300 people were killed and at least thousands of people were wounded, so comes the 2016 uprising Burhan aftermath which has almost broken all the records of Kashmir human rights violation history. In this agitation over 100 people has been killed [ most of them below the age of 18] over eleven thousands injured out of which about 1 hundred people has lost their eye sight fully or partially by the use of deadly pellet guns which are being used by the Indians forces as a latest technology to foil the pro-freedom rallies in Jammu and Kashmir. The state has been put under curfew for nearly three months in fact the longest curfew so far in the world. The people mostly youth and very mostly minors below the age of 16 are booked under PSA [public safety act]. The educational institutions were closed for the several months mobile system and internet service were shut down, transport and trade all chopped. The people lived a hard life struggling for the sustenance. The essential needs water, medicine, electricity were hardly assessed. The state and the central government were failed to prevail the law and order in the state or at least in facilitating the essential needs of the aggrieved people this unrest is still showing its signs till the end of 2018.

### Conclusion

There is no denying to the fact that both India and Pakistan are now keenly looking for an immediate end to the Kashmir dispute. India is, also worstly pre-occupied with the problem of militancy, insurgency, terrorism and agitation in the Valley for the past 28 years, i. e. since 1989, while Pakistan also observe the same threat. For a permanent and meaningful and an all-acceptable solution to the seven decades-old Kashmir conflict between India and Pakistan, including the present impasse in Jammu and Kashmir State of the Indian Union. A two-way approach is suggested, One is to address the present impasse in Jammu and Kashmir, and to bring to an all-acceptable end to the impasses, and the other is to suggest for a permanent solution to the Kashmir dispute between India and Pakistan. The most disturbed part is the Kashmir Valley of the Indian Jammu and Kashmir, where there is no rule of law since 2016 and the agitation has gone beyond the control of the State administration, because of the involvement of the people of all ages, besides it has acquired a gender dimension with more and more women of all ages participating in the agitation, leading and or resulting into widespread 'human rights violations' being perpetrated by the security forces. To address the present impasse in the Valley (which is more than two- decade old) the granting of self-rule to the Valley appears to be a reasonable solution and the majority would accept it, in fact all the kashmiri stakeholders presently demand for it. Of course, the Constitution has to be amended to bring about these changes. This part of the approach is based on the model, once prepared by the Ministry of the Home Affairs, Government of India in the 90s of the last century. However, the only fundamental difference between this approach and the model of the 90s is that the present approach favours self-rule in the Valley. A plebiscite, under the supervision of the UN Security Council's permanent Members can be held simultaneously in Jammu and Kashmir, and Pakistan-occupied Kashmir, to ascertain the desire of the people on either side of the Line of Control. Although, India has time and again rejected Pakistan's demand for plebiscite as per the UN Resolution of 1948, on the ground that the accession was legally tenable as it was carried out as per the provisions of the Instrument of Accession of the Indian Independence Act 1947, with regard to political destiny of the Indian States. But situations have changed enormously in the region since then and there is no other way to find out a better option other than the plebiscite. There is an urgent need to resolve the Kashmir conflict at the earliest, because time is too short for the conflict to continue more. All options including military solutions, bilateral negotiations, back channel diplomacy and so on, to resolve the dispute, since 1948 have proved complete failure. Plebiscite therefore appears to be the only option left out

so far. India should accept it without further delay, so that time should not run out of hand. Pakistan three years back during Parvez Musharraf's period was ready to drop the plebiscite demand. But, now it is a geopolitical necessity.

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