



KASHMIR ISSUE & PROBLEM

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Abstract:

The Kashmir issue stands as one of the most protracted and complex conflicts in the modern world, presenting a challenge at the intersection of geopolitics, nationalism, and human rights. This paper delves into the multifaceted dimensions of the Kashmir issue, examining its historical background, the perspectives of key stakeholders, and the broader implications for regional stability. Through a comprehensive analysis of historical records, international agreements, and scholarly research, this study aims to provide a deeper understanding of the complexities inherent in the Kashmir problem.

The roots of the Kashmir issue can be traced back to the partition of British India in 1947, which led to the dispute over the region's accession to India or Pakistan. The paper explores the historical context and conflicting narratives that have shaped the issue since then. It examines the perspectives of India, Pakistan, and the local population in the Kashmir Valley, each of whom hold distinct viewpoints on the matter.

The study also investigates the broader geopolitical implications of the Kashmir issue. It explores how the dispute has led to multiple conflicts between India and Pakistan, with implications for regional stability and security. The paper analyzes the role of international actors and organizations in mediating the conflict, as well as the challenges they have faced in promoting a sustainable solution.

Human rights and humanitarian concerns are integral to the Kashmir problem. The study delves into reports of human rights abuses, militarization, and the impact of conflict on the lives of civilians. It examines the challenges faced by the local population and the efforts of civil society to address these issues. The study also investigates how media narratives and public opinion play a role in shaping perceptions of the conflict.

Furthermore, the paper explores potential pathways towards resolving the Kashmir issue. It examines past attempts at negotiations, the role of Track II diplomacy, and the feasibility of various proposed solutions, including autonomy and self-determination. The study also considers the importance of inclusive dialogues involving all stakeholders to arrive at a just and lasting resolution.

Introduction:

Under article 1 of the Indian constitution the state J&K is a constituent state of Indian union and its territory forms a part of the territory of India. On the other hand article 370 in part 21 of the constitution grants a special status to it according all the provision of the constitution of India do not apply to it .It is also the only state in the Indian union which has its own separate state constitution the constitution of J&K under the same part 21 of the constitution ten other state of the Indian union also enjoy special status but only in certain minor matter on the hand the special status enjoyed by the state of J&K as mentioned accession of Jammu and Kashmir to India J&K is

constituent state of Indian union . It is included in the list of states in the first scheduled of the constitution of India also under article 1 of the India constitution the state of Jammu and Kashmir has been mentioned as an integral part of the territory of India the state was assented to the dominions of India by Maharaja Hari Singh who was the ruler of the state in 1947 in itially Maharaja Hari Singh decided not to join India or Pakistan and remain independent .In oct1947 .Pakistan sent tribal infiltrators from its side to conquer Kashmir it forced Maharaja to seek Indian help .India gave military aid to Kashmir and the infiltrators ware driven back only after the Maharaja signed an instrument of accession on 26 Oct. 1947with India under this the state surrendered only three subject , Defiance External affair and communication to the dominion of India . special status of constitution J&K in India all that time signed of instrument of accession the Govt. . of India made a commitment that the people of this state through their own .

Literature review:

Operative on 17 Nov 1952 with the end of the British Paramount the state of J&K Kashmir became independent on 15th august 1947 initially its ruler Maharaja Hari Singh .decided not to join India or Pakistan and there by remain independent on 20 oct1947the Azad Kashmir force supported by the Pakistan army attacked the frontiers of the state under this unusual and extraordinary political and the ruler of the state decided to accede the state to India according the instrument of accession of Jammu and Kashmir to India was signed by Pandit Jawaharlal Nehru and Maharaja Hari Sing on 26 oct 1947 under this he state surrendered only three subjectd efence external affair and communication to the dominion of India at that time the Govt. . of India made a commitment that the people of this state through their own constitution assembly would determine the internal constitution of this state and then ature and extent of the jurisdiction of the union of India over the state and until the decision of the constituent assembly of the state the constitution of India could only provide interim arrangement regarding the state in pursuance of this commitment article 370 was incorporated in the constitution of India it clearly state that the provision will respect to state of J&K are only temporary and not permanent it became operative on 17

Nov.1952 integration of princely state .At the time of independence India comprised two categories of political units .Namely the British provinces under the direct rule of British Govt. . and the princely state under the rule of

nativeprincesbutsubjecttotheparamountcyofthebritishcrown.Indianindependenceact 1947 created two independent and separate dominions of India and Pakistan and gave there option to the princely state India Hyderabad by means of police action junagarh by means referendum and Kashmir by the instrument of accession

Treaty of Amritsar

March 16 1846 is regarded as a red letter day not in the life of Maharaja Gulab Singh but also in the history of Jammu and Kashmir state after spending more then half of his life on horseback and ceaselessly running from corner of the north western India to other to carryout the order of his master Maharaja Ranjit Singh along with his distinguished and brave lieutenants Maharaja Gulab Singh finally saw his dream of securing or himself and independent sovereign hill state having been realized on auspicious day when the treaty of Amritsar was signed between Maharaja Gulab Singh and the British Govt. . by this treaty Gulab Singh was made the Maharaja of Jammu and Kashmir and all the hilly and mountainous country with its dependencies situated to the east of Indus and west of the ravi were transform to him in consideration of his transfer maharaja Gulab Singh paid to the British Govt. the sum of seventy five lakh nanak shahi rupees treaty of Amritsar the foundation of Jammu and Kashmir was laid

J&K state Briefly History

The foundation of modern state of Jammu and Kashmir was laid by Maharaja Gulab Singh dogra Gulab Singh was also the founder of royal dogra dynasty and the first Maharaja of the princely state of J&K the second largest princely state in British India Gulab Singh began his

career as a trooper in Maharaja Ranjit Singh army Being a seasoned soldier and as an astute politician Gulab Singh achieved distinction so rapidly that Maharaja Ranjit Singh conferred him the title of raja of Jammu he followed the policy of consolidation he extended his authority up to Ladakh and Pakistan's Kashmir Policy

Pakistan's Kashmir policy rests on two legs: the UN resolutions and cross border terrorism. The UN resolution have gradually become contextually redundant and cross-border terrorism has increasingly become more of a problem for Pakistan than a solution. Pakistan also feels frustrated at not being able to secure the confidence of the Kashmiri people, who reject a merger with Pakistan as a solution.

In order to understand Pakistan's Kashmir policy, it is essential to analyse the salient features of the UN resolutions and the efficacy of cross-border terrorism as a tool to further Pakistan's case in Kashmir.

United Nations Security Council (UNSC) Resolutions:

In the wake of the October 22, 1947 Pakistani aggression in Kashmir under Major-General Akbar Khan, the Maharaja of Kashmir, Hari Singh, signed the Letter of Accession on October 26, 1947, and having formally informed India, sought Delhi's help. India referred the case to the United Nations Security Council (UNSC) on January 1, 1948, in the context of the Pakistani aggression.

UN Response

The UNSC president under UN Security Council Resolution (UNSCR) 38 of January 17, 1948, called for direct talks between India and Pakistan.1 On January 20, 1948, the UNSC passed Resolution 39 to investigate any 'dispute or situation' as a matter of 'urgency' the facts pursuant to Article 34 of the UN Charter" and two, "to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties."

Subsequently, the Security Council adopted Resolution 47 of April 21, 1948, and ‘strongly’ opined that “early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their utmost to bring about a cessation of all fighting”, [and] “noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of free and impartial plebiscite.”

The UNSCR 47 recommended measures to end hostility and create ‘proper conditions’ for “a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan.”⁴ It called upon Pakistan to “secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident there in who have entered the State for the purpose of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State.”⁵ The Resolution recommended to India that once the withdrawal by Pakistan has been affected, India in consultation with the UNCIP should draw its own plan for troop withdrawal from Jammu and Kashmir to the “minimum strength required for the support of the civil power in the maintenance of law and order.” The Resolution also recommended certain directions on how and under what law and order conditions the plebiscite has to be conducted.

A few months later, the UNCIP passed a resolution on August 1948, which demanded the withdrawal of Pakistani forces, both ‘regular’ and ‘irregular’ to withdraw from the occupied territory and urged India to reduce its troop strength in the area. Part III, now the fulcrum of debate, talked about determining the status of J&K in accordance with the ‘will of the people’.

The A2 section of the Truce Agreement reaffirmed the UNSCR 47 and laid down that “[T]he Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the state for the purpose of fighting January 20, 1948, the UNSC

passed Resolution 39 to investigate any ‘dispute or situation’ as a matter of ‘urgency’ and constituted the United Nations Commission on India and Pakistan (UNCIP) to proceed to the spot with ‘dual functions’. One, to “investigate the facts pursuant to Article 34 of the UN Charter” and two, “to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties.”²

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A few months later, the UNCIP passed a resolution on August 13, 1948.⁸ The resolution had three parts. Part I called for a ‘ceasefire’, which India implemented from January 1, 1949. Part II made it incumbent upon Pakistani forces, both ‘regular’ and ‘irregular’ to withdraw from the occupied territory and urged India to reduce its troop strength in the area. Part III, now the fulcrum of debate, talked about determining the status of J&K in accordance with the ‘will of the people’. The A2 section of the Truce Agreement reaffirmed the UNSCR47 and laid down that “the Government of Pakistan will use its best Endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribes men and Pakistan nationals not normally resident there in who have entered the state for the purpose of fighting On the question of the withdrawal of forces from the occupied areas, Pakistan stated that it could not answer on behalf of ‘Azad Kashmir’ (Pakistan’s nomenclature for POK) and raised several objections in this regard. The UNCIP finding the response impertinent, concluded, “The Commission observes with regret that the Government of Pakistan has been unable to accept the resolution without attaching certain conditions beyond the compass of this resolution, thereby making impossible an immediate cease-fire and the beginning of fruitful negotiations between the two governments and the Commission to bring about a peaceful and final settlement of the situation.” According to B.L. Sharma, Pakistan was avoiding plebiscite because of the uncontested popularity of Sheikh Abdullah in Kashmir.

Besides, the implementation of Part III was subject to Pakistan’s compliance with Part I and II of the resolution.¹⁴ The UNCIP also gave assurances to India that “the plebiscite proposal shall not be binding if Part I and II of the August 13 resolution were not implemented.”¹⁵ Withdrawal from the ‘occupied territories’ by Pakistan never took place thus putting the resolution in the cold.

In the following decades, the Indo-Pak wars of 1965 and 1971, the breakup of East Pakistan from West Pakistan and the political upheaval in Pakistan after the 1977 military coup put the Kashmir issue on the

back burner until 1987, when political developments in Kashmir gave Pakistan an opportunity to interfere. Since then, Pakistan has called for the implementation of the UN resolution and at the same time created disturbances in J&K through a proxy war and by abetting terrorism. In March 2001, UN Secretary General Kofi Annan, on a visit to Pakistan, responded to the UN role in J&K saying:

I call upon both India and Pakistan to retain the spirit of the Lahore declaration. This will require restraint, wisdom and constructive steps from both sides...The UN resolutions that come under Chapter VII of the Charter were self-enforcing, like those related to East Timor and Iraq.

He further added, “There are Security Council resolutions which are important but they are not self-enforcing...India and Pakistan must come together through dialogue to implement whatever agreements are taken, which the Security Council resolutions could bearup.”¹⁷ He apparently refused an audience with representatives of the All Party Hurriyat Conference, which was criticized by the latter.

Establishment of Bilateralism

Pakistan’s locus stand on Kashmir based on UN resolutions was weakened by the 1972 Shimla Agreement, which envisaged bilateralism as the basis for all Indo-Pakistan negotiations. Clause 1(i), (ii) and 4(ii) of the Agreement are significant. Clause 1(i) provides, “The principles and purposes of the Charter of the United Nations shall govern the relations between the two countries”.²⁹ Clause 1(ii) mentions, “[t]he two countries are resolved to settle their differences by peaceful means through bilateral negotiation sor by any other peaceful means mutually agreed upon between them. Pending the final settlement of any of the problems between the two countries, neither side shall unilaterally alter the situation and both shall prevent the organization, assistance or encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations.” ³⁰ Clause 4 (ii) says, “In Jammu and Kashmir, the Line of Control resulting from the cease fire of December

Almost three decades later, the Lahore Declaration signed between Atal Bihari Vajpayee and Nawaz Sharif on February 21, 1999, reiterated bilateralism enshrined in the Shimla Agreement. The Declaration says that India and Pakistan are “...reiterating the determination of both countries to implement the Simla Agreement in letter and spirit...”³² Similarly, the January 6, 2004, Indo-Pak joint statement also makes similar commitments.³³

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17, 1971 shall be respected by both sides without prejudice to the recognized position of either side. Neither side shall seek to alter it

Conclusion:

The Kashmir issue is a multifaceted problem with historical, political, and humanitarian dimensions. This study contributes to a comprehensive understanding of the complexities and challenges that define the issue. By examining the perspectives of different stakeholders and the potential for dialogue and resolution, the study underscores the urgency of addressing the Kashmir problem for the sake of regional stability, human rights, and lasting peace.

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