

# An Overview Of Political And Historical Perspective Of Conflict Between India And Pakistan Over Jammu And Kashmir

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## ABSTRACT

*After the partition of Indian subcontinent in 1947, the conflict between Pakistan and India arose over Kashmir. The two countries (Pakistan and India) have fought wars over Kashmir and face almost daily skirmishes on the Line of Control. They are attracted to nuclearization because both states have nuclear powers and this conflict symbolizes a danger for global Security. Due to conflicting relations and political deadlock, Kashmiri youth have started resistance, which has led to Indian-administered Kashmir. Serious violations of human rights continue due to Indian militancy. Earlier, the United Nations passed resolutions in favor of a fair and impartial referendum in Kashmir, but instead of implementing it, India unconstitutionally revoked the special status of Jammu and Kashmir (J&K) on August 5, 2019. India abrogated Article 370 and 35-A by allowing non-states to buy property in J&K, paving the way for changing the demographic situation of J&K.*

**Keywords:** *Pakistan, India, Jammu and Kashmir, Article 35-A, Human Rights violence*

## Introduction:

The state of Jammu and Kashmir (J&K) was founded under the “Treaty of Amritsar” of 16 March 1846, in which the British rulers sold Kashmir to a Hindu Dogra Raja Gulab Singh of Jammu. (Korbel, 2002) After the partition of subcontinent, the issue of the J&K state arose between India and Pakistan. On 3<sup>rd</sup> June 1947, the Congress and the Muslim League signed the plan for the partition of Indian subcontinent, and at the same time, the Hindu leaders began to put pressure on the Maharaja of J&K to annex the state to India. In this regard, Congress President Acharya Kar Pillai, Raja Patiala, Raja Kapur Thala and Raja Farid Court visited the state and tried to convince Maharaja Hari Singh. (Tishna, 2014) On 17 June 1947, Pandit Jawaharlal Nehru sent a long note to Mountbatten on Kashmir in which paragraph 28 stated that the proper and direct course for Kashmir was to accede to the Constituent Assembly of India because this border state has immense strategic importance in the region. (Mir, 2006) On 20 June 1947, Lord Mountbatten planned with Pandit Jawaharlal Nehru and visited Srinagar that how to convince Maharaja to accede to India. (Mir, 2006)

On the other hand, the General Council of the majority representative party of the state, All Jammu and Kashmir Muslim Conference (AJ&KMC) considering the religious, ethnic, geographical and cultural affiliations of the region, passed the resolution of accession to

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Pakistan on 19 July 1947 at the residence of Sardar Muhammad Ibrahim Khan in Srinagar and demanded the accession of the state to Pakistan from Maharaja. (Abbasi, 1992) After partition of India on 14-15 August 1947, the efforts of the Indian leaders to annex the state to India did not end, but continued to pressure the Maharaja of Kashmir for the annexation of the state. Despite the deep hatred of Maharaja for Nehru, he continued to correspond with other Congress leaders. Prime Minister Nehru and Home Minister Patel corresponded regularly that Kashmir should be included in India in one way or another. (Schofield, 1996) The Maharaja of Kashmir and Prime Minister Chandra Kark were in favor of a "Standstill agreement" with both countries. Therefore, on August 12, 1947, the Maharaja of Kashmir offered Pakistan to sign "Standstill agreement" under which trade, transport and postal services would continue to be reduced in the same way as with British India. On August 15, 1947, the "Standstill agreement" was signed between state of J&K and Pakistan. (Mir, 2006) Standstill agreement had been reached between Pakistan and the state of J&K, but relations could not be cordial. The Pakistani authorities reduced the supply of grain, petrol and other necessities of life. In October Mehr Chand Mahajan became Prime Minister of Kashmir and complained to the British Prime Minister that the Pakistan government was not following the "Standstill agreement". Supplies were cut off and the railway line from Sialkot to Jammu was also breakdown. (Jaffari, 1960) The Maharaja of Kashmir also offered India a "Standstill agreement", but India made the offer conditional on the accession of the state to India. (Rehman, 2017)

The people of the state of J&K in general and the Poonch region in particular were suffering from a strange uneasiness due to which voices started rising against the unjust policies of the Dogra government in Poonch. The Maharaja of Kashmir ordered the Dogra army to enter Poonch with following orders to suppress them. (a) Confiscation of all weapons. (b) Clearing of Pakistani Border areas. (c) Empowering the Dogra troops to shoot any person suspected of subversive activities; and (d) Poonch and Mirpur districts to be placed under Martial Law. (Khan, 1990) Due to this action of the Maharaja, there was a strong reaction throughout the state and a regular armed struggle against the Dogra government started from Poonch. As a result of this armed struggle, on October 24, 1947, a revolutionary government was founded under the leadership of Sardar Muhammad Ibrahim Khan, which was named Azad Kashmir Government. (Abbasi, 1992) Meanwhile on October 26, 1947 Maharaja Hari Singh signed "Treaty of Accession" of the state in favor of India, and India occupied forcefully Srinagar, Ladakh and Jammu on October 27, 1947, which created the issue between Pakistan and India over Kashmir. (Javaid, 2018) As a result, first war was fought among Indian armed forces and Pakistani tribal over Kashmir. Later in 1948, the armed forces of Pakistan also joined the war. (Aroosi, 2020) Since then, Kashmir has been a flashpoint between the two countries that is important in determining the foreign policies of India and Pakistan. (Cohen, 1995) In 1948, tensions escalated to a point that brought both Pakistan and India to the brink of war and a ceasefire was reached with the intervention of the United Nations (UN). United Nations Security Council (UNSC) resolution of August 1948 called for the gradual withdrawal of Pakistani and then Indian security forces from Kashmir, a ceasefire and a plebiscite in the state under UNSC supervision. Despite several resolutions of the United Nations, plebiscite has not yet been held in the state of J&K. (Raazia et al., 2021) However, the declaration of ceasefire in 1948 was insufficient and the border was later changed into Line of Control (LoC). After the ceasefire, the UN acted as a mediator between the two countries. The five-member United Nations Commission for India and Pakistan (UNCIP) was initially established by UN Resolution 39. The purpose of this commission was to assist Pakistan and India to restore peace in Kashmir after holding talks with both countries by visiting the Indian subcontinent. Additionally, the commission was to assist the two countries in preparing for a referendum in the state to decide on the accession of J&K. Apart from this, the commission was to assist the two countries in preparing for a referendum in the state to decide on the accession of J&K. The

commission also recommended a three-step process to the United Nations to de-escalate tensions. (a) All Pakistanis who entered to fight in the state of J&K were to be sent back from the state. (b) India had to gradually reduce its forces in the state of J&K. (c) The Government of the State of J&K was to appoint a plebiscite administrator who was to be nominated by the UN. Unfortunately, there was no withdrawal of forces from the state and no plebiscite was held. Attempts at further in the form of Dixon Plan between two countries also failed as each time either Pakistan or India rejected or did not implement the terms. (Aroosi, 2020) Pakistan and India have fought three major and two minor wars over the Kashmir issue, and for the past 77 years, the two countries have been in a confrontational mode and blame game that has marred relations with an atmosphere of suspicion and hostility. Such long and sustained tensions have prompted them to pursue the nuclear option. (Raazia et al., 2021)

### **Strategic Importance of Jammu and Kashmir**

Overall, the combination of geographical location, natural resources, military importance and cultural factors constitute the strategic importance of J&K, which makes it the focal point of international and regional politics. The state of J&K being valuable in terms of geography, natural resources and national security is the main reason for this conflict between the two countries. (Chandra, 2011) The strategic importance of Kashmir arises from several factors, some of which are as follows:

- a) Geographically, the state of J&K is a region at the junction of South and Central Asia, adjacent to borders of China, India and Pakistan. This location gives it important geopolitical value, as it affects regional stability and tends to affect relations between nuclear powers.
- b) The state of J&K is an area of central importance between three nuclear powers: China, India and Pakistan.
- c) Kashmir is of strategic military importance due to its high altitude and rugged mountains. Both countries (India and Pakistan) have strengthened their positions in the region, due to which balance of power and security in the region is likely to be affected.
- d) Tourism and natural resources are best contributors to economic development in this region, which is the reason for the economic importance and strength of this region.
- e) The region of Kashmir is home to people of various communities and tribes for whom it holds cultural and historical significance-
- f) There is no other route connecting India to Europe through Central Asia. This is essential for the region's Belt and Road project.
- g) Kashmir is also important component of the China Pakistan Economic Corridor (CPEC).
- h) The region is the source of many major rivers and small streams, including the Indus, Jhelum, Poonch, Chenab and others, which are very important for agriculture and water supply.
- i) The largest and most important river of this region, the Indus River passes through J&K state, which has a great importance for the agriculture of the Sindh province of Pakistan. This river is important in lower areas of the Indus valley where rainfall is unusual. Similarly, India also depends on water of the Indus River for irrigation.
- j) The state who controls J&K will be entitled to deprive others of water supply. To ensure a fair distribution of water between the two countries, the Sindh water agreement came into being on September 19, 1960, under which India will have control over Beas, Ravi and Sutlej, while Pakistan will be controlled by Sindh, Chenab and Jhelum.

- k) In Kashmir, Mojo Dandi Nalwa and other aquatic reservoirs also have a range of capacity to generate large quantities of hydroelectric power.
- l) The state of J&K is a region, rich in natural resources (minerals, uranium, gold, oil and gas). These resources are of economic importance to the region.

### **Jammu and Kashmir Conflict in United Nations**

On January 1, 1948, Indian Prime Minister Pandit Jawar Lal Nehru formally approached the UN on the issue of Kashmir through Indian representative, Mr. Padmanabha Pillal and lodged a complaint against Pakistan under Article 35 (Chapter VI) of the UN Charter with the President of the Security Council. (Lamb, 1991) On January 1, 1948, India claimed before the Security Council (SC) that Pakistan had committed aggression by invading Kashmir. India states before the Council that: (a) Pakistan allowed the "invaders" of the state of J&K to move into its territory. (b) Pakistan allowed "invaders" of the state to use its territory as a base of operations. (c) Pakistani nationals were among the "invaders" of the State of J&K. (d) The "invaders" drew most of their transport, military tools and supplies from Pakistan. (e) Pakistani officers were actively guiding, training and otherwise assisting the "invaders". (Faksh, 1965) In the agenda of the 226<sup>th</sup> meeting of the UNSC on 6 January 1948, this issue was presented under the title "J&K Question". Technically, the role of the United Nations under Chapter VI is advisory or recommendatory rather than legally binding. On the Kashmir dispute, the UNSC adopted its first resolution No. 338 (1948) dated 17 January 1948 in its 229<sup>th</sup> session. (Rahman, 2017)

On January 20, 1948, the UNSC set up a commission to investigate the facts surrounding the Indian complaint. The 230<sup>th</sup> Session renamed the Commission as the United Nations Commission on India and Pakistan (UNCIP) by Resolution No. 39 (1948). After Resolution No. 51 (1948), of 3 June 1948, the UNSC changed the title of the complaint from "Jammu and Kashmir Question" to "Indo-Pak Question". (Menon, 1994) In response to the growing tension between the two countries, the UNSC approved a resolution demanding ceasefire in the state of J&K in 1948, in which acknowledged that the region should be determined by people of Kashmir. The council has made a condition that a plebiscite will be organized under the supervision of the United Nations to detect the priority of the Kashmiri people. Through this resolution, UN observers were appointed to monitor the ceasefire line in Kashmir. (Staniland, 2008). The UNCIP developed a detailed process in light of its resolutions passed on August 13, 1948 and January 5, 1949. (Rehman, 2017) On March 14, 1950, after 126 meetings of the Commission, UNCIP's success in not holding a referendum was considered marginal. Resultantly, UNCIP proposed its own dissolution in an attempt to address the issue more effectively and requested the nomination of an arbitrator with full authority acceptable to all parties. (Haq, 1991)

In January 1949, as a result of the United Nations intervention, a cease-fire line was established in the state of J&K, and after the Simla Agreement, the name of the cease-fire line was changed to the Line of Control (LoC), (Rehman, 2017) which divided Kashmir into territories administered by India and Pakistan. A cease-fire line was drawn in July 1949 that included a large part of the Ladakh peninsula adjoining China, as well as Gilgit, some parts of Jammu and Poonch in western Kashmir were included in Pakistani administrated J&K (Marshall Cavendish, 2006) whereas, Ladakh, Kashmir Valley, parts of Jammu and Poonch were included in Indian-controlled J&K (Abdullah, 1964).

### **Indian Viewpoint over Jammu and Kashmir**

India fully considered the state of J&K as its part, claiming that Maharaja Hari Singh had signed "The Instrument of Accession to India" and legally handed over Kashmir to India on October

26, 1947 which was ratified by the assembly of the state of J&K. (Kotru, 2011) India rejects a two-nation ideology, which is the basis of Pakistan's claims and believes that Kashmir is a "integral part" of secular India in many ways despite being a Muslim-majority area. (Hardgrave, 1993) The United Nations endorsed India's position and passed many resolutions in different times, calling Kashmir a global issue. The UN Security Council has passed these resolutions under Chapter VI of United Nation Charter, in which its role is advisory. (Ahmad, 2004) It is an irresistible fact that the state of J&K is the only way to connect India to Central Asia. India does not have direct ground access to Central Asian and European countries without it, which is also very important for India's national security. In 1963, Pakistan handed over the Valley Shaksgam, to China, which was the part of Kashmir under administration of Pakistan (Ahmed, 1998) India claims that Pakistan took this step to weaken India and allow Chinese military presence in Kashmir to further strengthen the bilateral relations between China and Pakistan. The increasing number of Chinese and Pakistani military in the region has increased its importance. (Aroosi, 2020) Thousands of Indian soldiers and civilians were killed as a result of the terrorist attacks after the Kashmir issue, which has created feelings of anger among the Indian people because they believe that these terrorist camps are in Pakistan, so all this anger is against of Pakistan. The Indian people want to stop these terrorist acts and desired the government of India deal with them decisively. The Indian people believe that Kashmir belongs to India, which have forcibly occupied by China and Pakistan. (Aroosi, 2020) Kiran Singh, son of Maharaja Hari Singh, the last ruler of J&K, said that like the head of other states, my father had signed an instrument of Accession. He opined that J&K is a part of India and has received special status through Article 370 of the Indian Constitution. (Sharma, 2010) Under Article 370 of the Constitution of India the state of J&K was provided with significant autonomy. (Akber, 2002) In the light of the Simla Agreement on July 2, 1972, all differences between India and Pakistan, including the Kashmir issue of, need to be resolved through bilateral talks.

### **Pakistani Viewpoint over Jammu and Kashmir**

Pakistan claims that the state of J&K is the "jugular vein of Pakistan" which has become a controversial area due to Indian intervention, whose future will have to be decided by the Kashmiri people. (Durrani, 2006) Pakistan is of the view that the majority of Kashmiris saw the Maharaja as a occupation and did not like him, so his "instrument of accession" has no importance because he had kept the people under military force and revolt had been started against him. (Ahmed, 2016) Besides, they feel that Kashmir should be theirs as most of the Muslim majority states were annexed with Pakistan. (Durrani, 2006) That being said, Pakistan also values Kashmir strategically. China values the region because of military reasons and economic development. The "China -Pakistan Economic Corridor" also passes through Kashmir and the Indian occupation of Kashmir is feared to lose direct relations with China, which will have a negative impact on economic development. Moreover, India's complete control over Kashmir can be a major threat to national security of Pakistan. (Aroosi, 2020) The government of Pakistan is of the view that Pakistan cannot lose the state of J&K as India has no legal or moral right over Kashmir and Pakistan demands UN mediation in the region.

### **Kashmiri Viewpoint over Jammu and Kashmir**

The Kashmir issue arose because the views of Kashmiris were not paid much attention. Kashmiris believe that the Maharaja illegally handed over Kashmir to India under a piece of paper while it did not speak for the majority. Before the partition, about 70% of Muslims, 25% of Hindus and the remaining 5% of Sikhs and Buddhists lived in the region. (Brush, 1949) Before the partition of the subcontinent, there was a movement against the Maharaja of Kashmir. The AJ&KMC condemned the anti-Muslim policies of the Maharaja of Kashmir under the leadership of Sheikh Muhammad Abdullah and claimed that the Maharaja was a

threat to Islam. Later, the Muslim Conference (MC) was changed into the National Conference and after a disagreement in the leadership, the Muslim Conference was revived and the National Conference continued to exist. (Rehman, 2017) After the creation of India and Pakistan, the Muslim Conference, the single majority representative party of the state, demanded the Maharaja to declare the state's accession to Pakistan, while the Maharaja of Kashmir wanted to establish "standstill agreement" with the two countries. A revolt against the Maharaja was announced from Poonch and the tribals entered Kashmir via Muzaffarabad. The Maharaja of Kashmir sought help from India and handed over Kashmir to India under a treaty. (Aroosi, 2020)

Before the tribal invasions, some people were in favor of complete independence and autonomy of Kashmir and some wanted to join India or Pakistan. Maharaja Hari Singh's decision to accede to India was ratified by the Constituent Assembly of Indian Occupied Kashmir in 1954, but still peace could not be established in the state. (Ganguly, 1996) Since 1947 to till now, violence, bloodshed, terrorism and oppression have been going on in this region. The region has been plagued by insurgency by insurgent groups, terrorism by terrorist organizations, conflicts between Pakistani and Indian forces, which have resulted in the loss of thousands of innocent lives. Due to this whole process, the number of military cantonments and dangerous war equipment in the region has increased significantly, which may be dangerous for the future. (Hajni, 2008). A combination of military intervention in the state, insurgent groups and terrorist activities have resulted in serious human rights violations such as the suppression of freedom of expression by force, extrajudicial killings, sexual and physical violence, and kidnappings. In the recent past, the Indian government amended Article 370 of the Indian Constitution and took precautionary measures to ensure law and order by completely cutting off all means of communication and arresting prominent political leaders, which is a clear example of violation of human rights. Internet connectivity was interrupted for 213 consecutive days. International and domestic organizations, including Amnesty International, raised their voices to end the atrocities and human rights violations in J&K. (Munshi, 2020) In the historical context, it is right to say that the people of J&K are tired of the conflicts, problems and violence of the last seven decades. (Whitehead, 2004)

In this region, the continuous attacks of rebels and terrorists on one side and the presence of military forces and camps on the other side and their differences are the cause of human rights violations. The Kashmiri people support a referendum in Kashmir to end the ongoing violence and human rights violations.

### **Wars and Agreements between India and Pakistan over Jammu and Kashmir**

The Kashmir dispute between the two countries has led to many wars. The main conflicts and the details of the agreements are provided below:

#### **First Indo-Pakistani War (1947-1948)**

Pashtun tribal and rebel forces belonging to the western districts of Pakistan quickly entered the Baramola sector of J&K. (Country, 2010) Maharaja Hari Singh, who ruled the royal state (J&K), sought military assistance from India to counter the aggression, which further spread the dispute. (Ghafar, 2024) In January 1949, a ceasefire was announced by the UN mediation, which ended the war. The region was divided into Indian and Pakistan -administered areas by Cease fire line, later which was converted to the Line of Control (LoC). (Rehman, 2017) To decide the future of this region, the UN also demanded a plebiscite.

#### **Second Indo-Pakistani War (1965)**

Due to territorial issues in Kashmir, Pakistan launched Operation Gibraltar in J&K to stop and end the continuous infiltration of Indian Army. (Ghafar, 2024) "Operation Gibraltar" which ended in failure as the Kashmiris did not revolt but instead defected in large numbers to the Indian authorities. The Indian Army engaged in regular fighting with the Pakistani Army and arrested several people, claiming that they were Pakistani soldiers, while Pakistan responded that those captured were Kashmiri 'freedom fighters' (Mankikar, 1967). Mr. Kosin served as mediator and got both sides to agree to the Tashkent Declaration on January 10, 1966, signed by Mr. Ayub Khan, President of Pakistan, and Mr. Lal Bahadur Shastri, Prime Minister of India and re-established pre-war boundaries and emphasized the importance of bilateral communication (Rahman, 2017). The war drew attention to the world's longest conflict, which ended in a military stalemate.

### **Third Indo-Pakistani War (1971)**

In the Indo-Pak war of 1971, the forces of East Pakistan surrendered due to which Pakistan faced defeat. India supported the creation of a new country "Bangladesh" which made it clear that India was a dominant power in South Asia. (Gangoli, 1999). Although this war was not specifically related to Kashmir but it had a larger regional background impact. The secession of East Pakistan from the Islamic Republic of Pakistan and intervention of India in the war for the creation of "Bangladesh" served as its channel. In fact, there was no direct military conflict in the Kashmir region in this war, but it had an impact on the dynamics and balance of the region. (Cheema, 1992) After the end of this war, India and Pakistan signed an agreement on July 2, 1972 in Shimla, the capital of the Indian state of Himachal Pradesh, which is known as the Shimla Pact. This document was signed by the President of Pakistan Mr. Zulfikar Ali Butto and the Prime Minister of India Mr. Indira Gandhi. After this agreement, the cease-fire line of J&K was converted into the Line of Control (LoC). (Rahman, 2017) and stressed the importance of peaceful resolution of all issues, especially those related to Kashmir.

### **Kargil Conflict**

Pakistani militants entered Indian Illegally Occupied J&K in 1999 and targeted Indian outposts located on the highest and snowy slopes of Kargil. Ten weeks later, after the intervention of the United States, this conflict between India and Pakistan ended, but almost 1,000 people lost their lives in this fight. In the Lahore Declaration, reiterating the commitment to a peaceful resolution of the conflict, there was a return to the status quo, ending the conflict in February 1999. (Ghafar, 2024)

These wars had a profound impact on the geopolitical environment of South Asia, India-Pakistan relations and the territory of Kashmir. Despite these agreements, the Kashmir issue has not been resolved as both countries still have different ideologies and interests in the region.

### **Revocation of Article 370 of Indian Constitution**

India consistently rejected the basic human rights of the people of Illegally Indian Occupied J&K (IIOJ&K) for about seven decades. Since the Articles 370 and 35 (A) of Indian constitution were repealed the relations between India and Pakistan have gotten worse. A law that gave Kashmir a special status under the Indian administration has been repealed by Moodi Government (Azam, 2020). This decision of India further strained the relations with Kashmir and Kashmiris became annoyed with the restrictions imposed by India, due to which the anti-India sentiments increased to a certain extent. Kashmiris feel that the Hindu nationalist government is taking all steps to make J&K a Hindu state.

## Recommendations

Here are some recommendations for enhancing Pakistan-Indian political ties in the near future:

1. To improve relations between Pakistan and India, a genuine dialogue between the two would be the most important and necessary step. Both need to focus on finding answers through dialogue rather than pointing fingers at each other while demonstrating a willingness to have productive discussions to solve problems. Apart from using diplomatic channels to resolve disputes, no country should unilaterally take any action to worsen the situation.
2. Pakistan and India must learn to trust each other to strengthen and improve their political relations. It is important that both honor past agreements and commitments. Greater people-to-people coordination and cultural exchanges are essential through confidence-building measures in a cordial environment between the two countries.
3. One of the main ways to bridge the divide between Pakistan and India is through human interactions. Cultural diplomacy, sports activities, student exchange programs, and corporate partnerships should be facilitated by the governments of the two countries. As a result, the people of both countries will benefit from increased trade and economic opportunities as well as increased understanding, friendship and mutual relations.
4. India and Pakistan share a long border on which greater trade can contribute to strengthening the economies of both countries. Both countries should play their part in promoting bilateral trade by reducing trade barriers which will help in the development of trust and confidence.
5. The main source of tension between Pakistan and India is the J&K dispute. It is important that both the countries find a peaceful solution to this problem that works for both and the people of Kashmir. Pakistan and India should talk to each other and give the United Nations full authority to mediate in order to find a lasting solution to the issue.
6. There should be a presence and interest of international community to strengthen the relationship between Pakistan and India. America, China and Russia are among the countries with which both countries have friendly relations. These countries can play the role of mediator in resolving this dispute. It is the responsibility of the international community to encourage and support dialogue between Pakistan and India to resolve the conflict.

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