

II. The Situation in Kashmir

Introduction

The region of Kashmir has been the centerpiece of a battle of tug of war between several historical empires over time.¹ This is, in part, due to its distinct Western Himalayan location, making the region easily accessible to many bordering Member States, including China, India, Pakistan, and Afghanistan, who all claim to have modern-day territorial rights.² Since achieving independence from the United Kingdom in 1947, continuing pressure for Jammu and Kashmir to accede as Indian or Pakistani territory has manifested into impetuous border attacks and skirmishes.³

Conflict over the territorial status of Kashmir and Jammu has escalated into a security threat for the neighboring South Asian region, particularly for India and Pakistan. Finding a long-lasting resolution through mediation attempts have consistently failed due to the nature of the dispute.⁴ The United Nations Security Council (SC) originally deemed this conflict a political dispute between two bilateral parties, therefore making it more difficult for international intervention.⁵ Not only have long-standing intrastate disputes transpired to cause major conflicts, but also a string of environmental hazards and major disasters such as, widespread famines, floods, and earthquakes, have added to the dissension in the area.⁶ In addition, bilateral resolution between India and Pakistan has remained the primary method of mediation but has yet to be proven as a fruitful endeavor for peace.⁷

Historical Background

History plays an integral role into the contemporary conflict that is present in Jammu and Kashmir.⁸ During the ever-changing history of Kashmir, scholars have postulated that Kashmiris have not only suffered from the hands of cruel, corrupt leaders and religious zealots, but have been impacted by many natural disasters such as famines, floods, epidemics, earthquakes, and fires.⁹ Notable historical changes in Kashmir began in the early 1800s when Dogra rule fell over the region after the Second Sikh War, in which Kashmiri ruler Maharaja Ranjit Singh lost to the British Empire.¹⁰ Following the end of the war, a deed was crafted to sell Kashmir back to the Dogra under the Treaty of Amritsar in 1846.¹¹ Much speculation surrounds the selling of Kashmir as not just the selling of a territory, but the selling of the inhabitants within that territory into Dogra oppression.¹² This is due to the fact that the ruler of Jammu at the time sold the Kashmir valley to the British government in India under a contract that was not favorable amongst the people of Kashmir.¹³ Although the Dogras have a history of repressive ruling, efforts were made to consolidate the State of Jammu and Kashmir in terms of geography, sociology and culture.¹⁴

During Ranjit Singh's rule a devastating famine fell upon the Kashmir region which led to the death of nearly three-fifths of the population.¹⁵ This famine had a more harmful impact on the Muslim population of Kashmir than on the more privileged Hindu class population.¹⁶ Although the Hindu population had elevated control over Kashmir, it is

¹ "Kashmir: Why India and Pakistan Fight over It." *BBC News*, BBC, 8 Aug. 2019, www.bbc.com/news/10537286

² Wirsing, Robert G. *Kashmir in the Shadow of War: Regional Rivalries in a Nuclear Age*. Armonk: Routledge, 2003. Web.

³ "Kashmir: Why India and Pakistan Fight over It."

⁴ Deutsche Welle. *Kashmir: Is the UN Security Council Reluctant to Get Involved?: DW: 17.08.2019*. 17 Aug. 2019, www.dw.com/en/kashmir-is-the-un-security-council-reluctant-to-get-involved/a-50061172

⁵ Deutsche Welle. *Kashmir: Is the UN Security Council Reluctant to Get Involved?*

⁶ Aijaz Ashraf Wani. (2019). Jammu and Kashmir. *Economic and Political Weekly*.

⁷ 27, Durdana Najam February, and Durdana Najam. "Kashmir's Legal Framework." *The Nation*, 26 Feb. 2018, nation.com.pk/27-Feb-2018/kashmir-s-legal-framework

⁸ Wirsing, Robert G. *Kashmir in the Shadow of War: Regional Rivalries in a Nuclear Age*. Armonk: Routledge, 2003. Web.

⁹ Sheikh, Shabi Ahmad, and Irm Jalali Bodha. "Famine in Kashmir: The Policy of Dogra Ruler: 1846-1925." *International Journal on Arts, Management and Humanities*, no. 2319-5231, 28 Nov. 2016, doi:10.1107/s0108768107031758/bs5044sup1.cif

¹⁰ Lone, Fozia Nazir. "From 'Sale to Accession Deed' - Scanning the Historiography of Kashmir 1846-1947." *History Compass* 7.6 (2009): 1496-1508. Web.

¹¹ Lone. "From 'Sale to Accession Deed' - Scanning the Historiography of Kashmir 1846-1947."

¹² Lone. "From 'Sale to Accession Deed' - Scanning the Historiography of Kashmir 1846-1947."

¹³ Lone. "From 'Sale to Accession Deed' - Scanning the Historiography of Kashmir 1846-1947."

¹⁴ Lone. "From 'Sale to Accession Deed' - Scanning the Historiography of Kashmir 1846-1947."

¹⁵ Lone. "From 'Sale to Accession Deed' - Scanning the Historiography of Kashmir 1846-1947."

¹⁶ Sheikh and Bodha. "Famine in Kashmir: The Policy of Dogra Ruler: 1846-1925."

notable that both Muslims and Hindus have experienced repression and discrimination because of their non-Dogra origins.¹⁷ Over the course of the next several decades, policies were put into place to prevent unification of Kashmiri Muslim's with their Afghani compatriots to the north-west. For example, in the late 1800s, British leadership adopted a policy to appoint Muslim council members to the State Council to protect their interests.¹⁸ Thus the period for the "dawn of modernism" for the Muslim majority population was born as well as a political awakening among the oppressed Kashmiri Muslims.¹⁹

Although many years of social reforms to separate the Kashmiri Muslims and Hindus as well as the establishment of radical land reforms were promised to the people of Kashmir, the withdrawal of the British Empire in South Asia ultimately catapulted the uncertainty of Kashmir's religious and legal status.²⁰ Upon this withdrawal, the transfer of power was left to the hands of all the newfound princely states scattered throughout South Asia.²¹ Within two months of British departure, all princely states, defined as sovereign entities of British India not directly governed by the British, had acceded and transferred power to either India or Pakistan except Kashmir.²² Maharajah Hari Singh, the ruler of Kashmir during that time, had hoped to gain independence as a free state, further inciting anger amongst neighboring tribesmen.²³ Pro-Pakistani Muslim tribesmen had crossed over into Kashmir territory and taken control of one-third of the region.²⁴

In response, Hari Singh sought for military assistance from neighboring India.²⁵ However, India would not put forth assistance unless Kashmir agreed to sign official Instrumentation of Accession to legally accede into India for sovereign control.²⁶ In desperation, Hari Singh signed accession over to India and shortly thereafter, Indian troops stormed into Kashmir to take control over the remaining two-thirds of the region.²⁷ Pakistani military forces had an almost immediate reaction to the presence of Indian troops catapulting the full-scale Indo-Pakistani war over Kashmir in 1947.²⁸

Failed Resolutions

Believing they now held sovereignty over the region, India approached the SC to assist with removing Pakistani troops, shortly after their arrival in 1947.²⁹ Although India considered the signed accession for Kashmir as a legally binding document, Pakistan continued to counterclaim the legitimacy of the agreement.³⁰ This led to the SC's suggestion that any say regarding Kashmir's legal succession should be left to the people through a plebiscite, which is a direct vote of all electorate members through a public survey.³¹ The SC began to examine the conflict and published S/RES/38 and S/RES/39 in response to the dispute.³² S/RES/39, also referred to as the United Nations Commission for India and Pakistan (UNCIP), was put into place to further investigate the facts surrounding the conflict and offer mediatory advice to resolve any difficulties, mandate Security Council directions and report progress of these measures.³³

¹⁷ Sheikh and Bodha. "Famine in Kashmir: The Policy of Dogra Ruler: 1846-1925."

¹⁸ Lone. "From 'Sale to Accession Deed'— Scanning the Historiography of Kashmir 1846–1947."

¹⁹ Lone. "From 'Sale to Accession Deed'— Scanning the Historiography of Kashmir 1846–1947."

²⁰ Wirsing. *Kashmir in the Shadow of War. Regional Rivalries in a Nuclear Age.*

²¹ Wirsing. *Kashmir in the Shadow of War. Regional Rivalries in a Nuclear Age.*

²² Wirsing. *Kashmir in the Shadow of War. Regional Rivalries in a Nuclear Age.*

²³ Wirsing. *Kashmir in the Shadow of War. Regional Rivalries in a Nuclear Age.*

²⁴ Wirsing. *Kashmir in the Shadow of War. Regional Rivalries in a Nuclear Age.*

²⁵ Rafael Hernández. "The Media and Conflict: Case Study Overview Reporting on the Kashmir Conflict Between India and Pakistan." *Global media journal* 18.34 (2020): 1–4. Print.

²⁶ Rafael Hernández. "The Media and Conflict..."

²⁷ Rafael Hernández. "The Media and Conflict..."

²⁸ Rafael Hernández. "The Media and Conflict..."

²⁹ Sumathi Subbiah, "Security Council Mediation and the Kashmir Dispute: Reflections on Its Failures and Possibilities for Renewal", 27 B.C. Int'l & Comp. L. Rev. 173 (2004),

³⁰ Sumathi Subbiah, "Security Council Mediation..."

³¹ Khan, Nyla Ali. *Islam, Women, and Violence in Kashmir : Between India and Pakistan* . 1st ed. New York: Palgrave Macmillan, 2010. Print.

³² Khan. *Islam, Women, and Violence in Kashmir : Between India and Pakistan*

³³ UN. "Resolutions Adopted and Decision Taken by the Security Council in 1948." *United Nations Security Council Resolutions*, UNSC, <http://unscr.com/en/resolutions/38>

Additionally, S/RES/47 was passed by the Security Council as a permanent solution to the conflict.³⁴ S/RES/47 consisted of a two-part declaration to demilitarize the region and establish plebiscite.³⁵ It included a call for Pakistan to assist in withdrawing tribesmen and nationals, followed by India withdrawing their military presence to a law and order maintenance presence.³⁶ Once this was accomplished the plebiscite would take effect to survey the Kashmiri people on which Member State they would accede to.³⁷ Although both India and Pakistan initially agreed to allow the UNCIP to intervene, before they arrived in the region, Pakistani troops began to instigate violence against the Indian military, therefore calling for a ceasefire by the UNCIP.³⁸ After deliberating, a ceasefire was met in January of 1949, creating a border that gave India two-thirds control and Pakistan one-third control over Kashmir.³⁹ While neither party was truly happy with this result, the conflict continued and ultimately the UNCIP was terminated, abandoning any mediatory role of the SC.⁴⁰

The Kashmir Wars and Rivalries in Nuclear Warfare

The first war in Kashmir started in October of 1947 and ended in January of 1949 with the creation of the Line of Control (LoC), a de facto division of the state and an unofficial border line that is still recognized today.⁴¹ This line left Pakistan in control of the northern third region of Kashmir, leaving India in control of the southern two-thirds.⁴² The Indian held section became known as the Federal State of Jammu and Kashmir in 1957.⁴³ The second war took place in 1965, when in Pakistan attacked for a second time to alter the LoC.⁴⁴ Again, Pakistan lost to India.⁴⁵ In 1999 a brief conflict, referred to as the Kargil Conflict, occurred at the hands of India against Pakistan, now both self-declared nuclear powers.⁴⁶ The Kargil Conflict took place between May and July of 1999 along the LoC, when the United States intervened in India's defense in response to Pakistan acting in violation of the border.⁴⁷

The arms race between India and Pakistan has been perpetuated since 1957 and has evolved into a potential nuclear threat.⁴⁸ As of today, India and Pakistan have a combined estimated 290 nuclear warheads, leaving the region a considerable "nuclear flashpoint" and potentially one of the most dangerous regions in the world.⁴⁹ China, which also borders Jammu and Kashmir, entered into an alliance with Pakistan in 1962, and began occupying part of India that borders the region by constructing a military base there.⁵⁰ China's economic power has helped to strengthen the Pakistani presence in the region by investing in infrastructure and energy projects.⁵¹ Over the past 30 years Kashmir and Jammu has suffered from a string of rebel attacks from militant groups interfering along both sides of the LoC causing death to at least 45,000 people.⁵² According to human rights organizations, the total number of deaths subsequent to the Kashmir Conflict over the course of history is roughly 70,000.⁵³

Conclusion

³⁴ UN. "Resolutions Adopted and Decision Taken by the Security Council in 1948."

³⁵ UNSC. "Security Council Resolution 47 (1948)." *UNMOGIP*, 8 Oct. 2016, unmogip.unmissions.org/security-council-resolution-47-1948

³⁶ UNSC. "Security Council Resolution 47 (1948)."

³⁷ UNSC. "Security Council Resolution 47 (1948)."

³⁸ Sumathi Subbiah, "Security Council Mediation..."

³⁹ Sumathi Subbiah, "Security Council Mediation..."

⁴⁰ Sumathi Subbiah, "Security Council Mediation..."

⁴¹ Deutsche Welle. *Kashmir: The World's Most Dangerous Conflict: DW: 07.08.2019*. 8 July 2019, www.dw.com/en/kashmir-the-worlds-most-dangerous-conflict/a-49924773

⁴² Deutsch Welle. *Kashmir: The World's Most Dangerous Conflict*

⁴³ Deutsch Welle. *Kashmir: The World's Most Dangerous Conflict*

⁴⁴ Deutsch Welle. *Kashmir: The World's Most Dangerous Conflict*

⁴⁵ Deutsch Welle. *Kashmir: The World's Most Dangerous Conflict*

⁴⁶ "Kashmir: Why India and Pakistan Fight over It."

⁴⁷ "Kashmir: Why India and Pakistan Fight over It."

⁴⁸ Wirsing. *Kashmir in the Shadow of War. Regional Rivalries in a Nuclear Age.*

⁴⁹ Deutsch Welle. *Kashmir: The World's Most Dangerous Conflict*

⁵⁰ Deutsch Welle. *Kashmir: The World's Most Dangerous Conflict*

⁵¹ Deutsch Welle. *Kashmir: The World's Most Dangerous Conflict*

⁵² Wirsing. *Kashmir in the Shadow of War. Regional Rivalries in a Nuclear Age.*

⁵³ Deutsch Welle. *Kashmir: The World's Most Dangerous Conflict*

The escalating conflict between India and Pakistan over Jammu and Kashmir has manifested in various ways, bringing violence and war to the area. Although interventions from the SC took place in the early stages of the conflict, they have yet to provide true mediatory resolution for the region. Leaving the dispute to be resolved bilaterally between India and Pakistan, with little to no international influence, is a major defining factor for why this issue has persisted for so long. Presently, there is an unstable LoC dividing Jammu and Kashmir between the two prominent Member States involved. Border attacks, air strikes, and the threat of nuclear war have remained major concerns for the security and safety of the area. Member States must keep in mind the drastic consequences that could potentially arise from failing to establish peace between the two nuclear powers holding control of the area. Member States should also consider past SC interventions and the reasons behind their failures to bring about a resolution. As regional tensions continue to rise along with the fear and uncertainty that has spread across the world over the past year, preventing a potential nuclear conflict and bringing about the end of one of the longest ongoing territorial disputes of modern times must be a priority for the SC and all Member States.