

Forum: Security Council

Issue: The Situation in Kashmir

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Introduction

One of the oldest ongoing international conflicts in modern history, Jammu and Kashmir have remained highly contested between India and Pakistan since 1947. Although there were many Indo-Pakistani wars, negotiations, and treaties, this geopolitical issue remained unsolved due to complex political incentives. The conflict over Kashmir involved India, Pakistan, Jammu and Kashmir Liberation Front (JKLF), Organization of Islamic Cooperation (OIC), China, United Nations Military Observer Group in India and Pakistan (UNMOGIP), and the United States of America (USA). India and the Organization of Islamic Cooperation (OIC)-backed Pakistan are in a ceasefire with minor skirmishes, and human rights violations like censorship and the revocation of Article 370 continue to be committed.

Definition of Key Terms

Censorship

Censorship is the suppression of speech and information, usually unconstitutionally by governments. Censorship is a violation of the United Nations Universal Declaration of Human Rights (UNHR) Article 19, which states that “everyone has the right to freedom of opinion and expression [and] seek, receive and impart information and ideas through any media and regardless of frontiers.”

Human rights

Human rights are rights every person has “regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty... freedom of opinion and expression... and many more.”¹

Power Vacuum

Commonly resulting after decolonization and failed order of succession, a power vacuum is when various parties rush to fill in as the central authority, prompting power struggles and violence. When India was decolonized in 1947, Pakistan took control over Azad Kashmir and Gilgit-Baltistan and China over Aksai Chin.

Territorial dispute

A territorial dispute is a disagreement over control of land and its borders, which usually stems from vague treaties and leads to militarized conflict, terrorism, and wars than any other diplomatic disputes. A territorial dispute occurs when official representatives of one country make explicit statements claiming sovereignty over another country’s territory.

Partition

A partition is a state of dividing a nation into separate regions. India, Pakistan, and China each owned parts of Kashmir.

Plebiscite

A plebiscite is a general vote by the electorate on a political question proposed by a legislative body, but the term has a negative connotation referring to an unfair vote in an undemocratic system. The Dixon Plan of 1950 proposed a plebiscite for the Kashmir Valley but failed as Pakistan and India rejected the plan.

History

Before 1947, Hindu Maharajas (princes) ruled Kashmir, a Muslim majority, under British rule. The British withdrawal from the Indian subcontinent on August 15, 1947 resulted in India and Pakistan, and princely states had to choose to join India or Pakistan or remain independent. Jammu and Kashmir was dominantly Muslim but ruled by the Hindu Maharaja Hari Singh, so he stayed independent to avoid escalating tensions. In October 1947, Pakistan’s military attempted to take over the Kashmiri Valley, so Singh signed the Instrument of Accession that gave Jammu

¹ U. (n.d.). Human Rights. Retrieved July 14, 2020, from <https://www.un.org/en/sections/issues-depth/human-rights/>

and Kashmir to India. India and Pakistan fought the Indo-Pakistani War of 1947- 1948 until the ceasefire of 1949 through the United Nations Security Council (UNSC) Resolution 47. The resolution established the Line of Control (LoC) and mandated that India owned the Kashmir valley, eastern Ladakh, and southern Jammu and Pakistan claimed Azad Kashmir. Jammu and Kashmir formally became a part of India in 1957 with the implementation of Article 370. From October to November 1962, China and India fought the Sino-Indian War over the Himalayan border, and the war ended when India granted Aksai Chin to China. From April to September 1965, India and Pakistan fought the Second Indo-Pakistani War because Pakistan's Operation Gibraltar attempted to precipitate an insurgency against India, signing the ceasefire Tashkent Agreement on January 10, 1966. As the Muslim United Front (MUF) and the Jammu Kashmir Liberation Front (JKLF) gained immense support, the Indian army cracked down on protests, imposed military rule, committed assassinations, censored the press, and denied Kashmiris due process of law. Violence broke out again in the Indo-Pakistani War of 1971 that had the highest number of casualties in any conflict between India and Pakistan, with Bangladesh declaring independence from Pakistan in the end. The war ended with the Simla Agreement in 1972. In the 21st century, although there weren't frequent wars, skirmishes and conflicts often broke out in the region.

Most notably, in August 2019, India disregarded Article 370 and deployed troops to Kashmir, suspended communication services, and placed Kashmiri political leaders under house arrest. The government claimed that the five-month internet blackout, the longest in any democracy, was a necessary security measure to counter unrest. However, the Indian Supreme Court stated that the blackout violated Indian telecommunication laws and freedom of speech and expression.

Key Issues

Human Rights Abuses

Amnesty International and human rights groups accused Indian troops in Kashmir of committing humanitarian abuses, mass extrajudicial killings, torture, rape, sexual abuse, unlawful cordon and search operations, communication blockades, collective punishment, child soldier recruitment, and arbitrary detentions without trial. All these atrocities were strengthened by India's Armed Forces Special Powers Act (AFSPA) that granted the Indian Armed Forces

special powers to maintain order. The Indian Army also refused to release trial details where its soldiers were acquitted by higher military tribunals and claimed that the Armed Forces Special Powers Act (AFSPA) was crucial in combatting terrorism. Pakistan's amended Interim Constitution also contained clauses that directly violated international human rights laws. Especially after the revocation of Article 370, security forces cracked down on Kashmiris' freedom of press, speech, and assembly.

Nuclear Weapons

Kashmir being in the middle of three nuclear powers—India, Pakistan, and China—meant that the international community refrained from getting involved to prevent escalation, as India and Pakistan tested their nuclear weapons in 1998 and 1999. India and Pakistan politicians also frequently mentioned their nations' nuclear weapons in speeches, increasing tensions on local, regional, and international levels. To make matters worse, India and Pakistan both aren't signatories of the Nuclear Non-Proliferation Treaty (NPT) as they don't want to voluntarily give up their nuclear weapons and open themselves to foreign intervention and international agreements. Because all three nations could threaten one another with mutually assured destruction by nuclear weapons, there were usually skirmishes and conflicts as they believed the other side wouldn't initiate a large-scale war. However, this made the Kashmir conflict even more devastating as countries and parties may miscalculate escalation risks.

Revocation of Article 370

Fulfilling Modi's promise in the Hindu nationalist Bharatiya Janata Party (BJP)'s 2019 election, Modi's government in India dismissed Jammu and Kashmir's special autonomous territory status by repealing Article 370 in August 2019, sparking nationwide protests. Thousands of additional troops were deployed to Kashmir, communication services were suspended, and Kashmiri political leaders were placed under house arrest. Indian politicians also abused the Public Safety Act that allowed the government to detain people above sixteen years old without a trial for two years. Kashmiris face discrimination and are lynched for being Muslim, anti-India, and pro-Pakistan. The repealing of Article 370 also worsened Kashmir's unemployment as nonlocals could compete for jobs in the region where unemployment for 18 to 29-year-olds reached 24.6%.

Major Parties Involved and Their Views

India

India believed that Kashmir belonged to India and accused Pakistan of causing civil unrest and funding terrorism in Indian-ruled Kashmir. India countered Pakistan's argument that the Muslim majority areas in Kashmir should belong to Pakistan by stating that India was a multicultural nation with the second-largest Muslim population worldwide. In August 2019, the ruling right-wing Bharatiya Janata Party (BJP) revoked Article 370 to form Hindu settlements in Kashmir, a promise to target Muslims made by Prime Minister Modi made to cater to his Hindu nationalistic voter base. This move was condemned by human rights organizations and the international community, but India rejected third-party mediation and claimed that the United Nations Observers Group in India and Pakistan (UNMOGIP) had no role in Kashmir due to the Simla agreement.

Islamic Republic of Pakistan

Demanding that the Muslim majority areas in Kashmir should belong to Pakistan, Pakistan claimed that India continuously violated agreements and that Indian soldiers committed human rights abuses and rapes in Kashmir. Pakistan believed that India's initial claim to Kashmir was invalid as the prince was a tyrant that oppressed the people. It sought to control a larger part of Kashmir as Pakistan relied heavily on hydroelectricity provided from the Indus River, but according to an Indian newspaper poll, 47% of Pakistanis supported Kashmiri independence. Pakistan called upon India to immediately end its abhorrent occupation of Kashmir and grant Kashmiris the right to self-determination by cutting trade and transport links and planned to take the Kashmir case to the International Court of Justice (ICJ).

Jammu and Kashmir Liberation Front (JKLF)

Founded by Amanullah Khan and Mohammad Maqbool in 1977, the Jammu and Kashmir Liberation Front (JKLF) was an armed separatist movement and pro-freedom political alliance that sought Kashmir's independence from both India and Pakistan through civil

disobedience. The group's goal was to “establish political and social infrastructure based on democracy and social justice²” and promote Kashmiris’ rights. India banned the Jammu and Kashmir Liberation Front (JKLF) in March 2019 under the Unlawful Activities (Prevention) Act (UAPA), claiming that the organization funded terrorism.

Organization of Islamic Cooperation (OIC)

Seeking to “safeguard the interests of the Muslim world,³” the Organization of Islamic Cooperation (OIC) supported Pakistan’s stance on Kashmir and criticized Indian atrocities in the region. For example, after India revoked Article 370, Pakistan and the Organization of Islamic Cooperation (OIC) condemned the move. The organization was also against human rights violations, India’s annexation of Kashmir, and Indian laws that allowed non-Kashmiris to buy property in Kashmir. However, India claimed that the Organization of Islamic Cooperation (OIC) had *no locus standi* (the right or ability to bring an action in court) and that it should stop being used by a nation “which has an abominable record on religious tolerance, radicalism, and persecution of minorities⁴,” referring to Pakistan.

People’s Republic of China (PRC)

With China controlling 20% of the Jammu and Kashmir region, China refused to acknowledge Aksai Chin as part of the Kashmir region but as China’s. Although China was a member of the BRICS alliance (Brazil, Russia, India, China, and South Africa), it favored Pakistan more than India due to the Indo-China war over the Himalayan border in 1962. Also, China and Pakistan trade through the Karakoram Highway, part of the China-Pakistan Economic Corridor (CPEC) project, connecting their Kashmir regions. After India revoked Jammu and Kashmir’s special status in August 2019, China called on the United Nations Security Council to hold an informal meeting upon Pakistan’s request. China said it would help Pakistan defend its

²Canada: Immigration and Refugee Board of Canada. “Pakistan: The Jammu Kashmir Liberation Front (JKLF), Including Its Objectives, Leaders, and Affiliations; Treatment by Authorities and Society; Situation near the Line of Control (2012 - July 2016).” *Refworld*, 12 July 2016, www.refworld.org/docid/58945b1c4.html.

³TRTWorld. *Muslim Bloc OIC Reaffirms 'Unequivocal' Support for Kashmir*, TRT World, 28 Nov. 2020, www.trtworld.com/asia/muslim-bloc-oic-reaffirms-unequivocal-support-for-kashmir-41889.

⁴TRTWorld. *Muslim Bloc OIC Reaffirms 'Unequivocal' Support for Kashmir*, TRT World, 28 Nov. 2020, www.trtworld.com/asia/muslim-bloc-oic-reaffirms-unequivocal-support-for-kashmir-41889.

legitimate rights and interests in Kashmir and supplied Pakistan with nuclear missiles against India.

United Nations Military Observer Group in India and Pakistan (UNMOGIP)

Created on March 14, 1950, the United Nations Military Observer Group in India and Pakistan (UNMOGIP) 's mandate was to supervise, not intervene in, the ceasefire between India and Pakistan and submit reports to the Secretary-General. However, critics claimed that this observer group was not efficacious as the last report was issued in 1972, and India also argued that the United Nations Military Observer Group in India and Pakistan (UNMOGIP) 's mandate should have ended with the Simla agreement.

United States of America (USA)

As India and Pakistan both possess nuclear weapons, the United States of America (USA) avoided policies that favored either party to prevent escalation and supported bilateral negotiations between India and Pakistan. However, after the 2001 September 11 attacks, the United States favored India more as Pakistan's army had ties with Al-Qaeda. In 2018, the Trump administration significantly reduced more than \$1.1 billion in security assistance to Pakistan for supporting the Taliban and built more ties with India, with India favoring Trump's anti-Muslim rhetoric and business-savvy image. However, in 2019, Trump reiterated that the United States would serve as a mediator, which Pakistan welcomed but India vehemently rejected. After India revoked Article 370, United States Congress members urged India to stop its human rights abuses and communication restrictions. With the new Biden administration, Kashmiris and human rights groups hope President Biden would be more attentive to human rights abuses in Kashmir.

Timeline of Relevant Resolutions, Treaties and Events

Date	Description of Event
August 15, 1947	The British withdrawal from the Indian subcontinent on August 15, 1947 resulted in India and Pakistan. The Hindu Maharaja Hari Singh refused to grant Jammu and Kashmir to either India or Pakistan.

October 1947	Pakistan's military attempted to take over the Kashmiri Valley, so Singh signed the Instrument of Accession that gave Jammu and Kashmir to India, resulting in the Indo-Pakistani War when India sent its troops in after.
1947- 1948	India took the Kashmir case to the UN Security Council to hold Pakistan accountable for its forced occupation of Kashmir.
1950	The Dixon Plan was proposed but rejected by both India and Pakistan.
1957	Jammu and Kashmir formally became a part of India with the implementation of Article 370. Article 370 granted special status to Jammu and Kashmir to have its separate constitution, flag, autonomy in all matters except defense, communications, foreign affairs, and finance. It also prevented Indians from buying land in Kashmir.
Oct~ Nov 1962	China and India fought the Sino-Indian War over the Himalayan border, and India granted Aksai Chin to China.
April~ Sept 1965	India and Pakistan fought the Second Indo-Pakistani War.
January 10, 1966	India and Pakistan signed the Tashkent Agreement.
December 3~16, 1971	The Indo-Pakistani War of 1971 was between East Pakistan and West Pakistan, and Bangladesh declared independence. The 13-day war ended with the signing of the Simla Agreement.
July 2, 1972	India and Pakistan signed the Simla Agreement that determined the ceasefire line as the Line of Control (LoC).
1987- 1990	Insurgency, anti-India protests, arrests by the Indian police, and curfew in the Kashmir Valley increased.
1998	India (Pokhran-II) and Pakistan (Chagai-I and II) perform nuclear tests.
August 2019	The Bharatiya Janata Party (BJP) revoked Article 370 and deployed troops to Kashmir, suspended communication services, and placed Kashmiri political leaders under house arrest. On August 8, Secretary-General Guterres called on India and Pakistan to hold bilateral negotiations to resolve the issue.

Relevant UN Treaties and Events

- Karachi Agreement, 27 July 1949

- Security Council resolution 1172 (1998) [on nuclear tests conducted by India on 11 and 13 May 1998 and by Pakistan on 28 and 30 May 1998], 6 June 1998 (S/RES/1172 (1998))
- Security Council resolution 47 (1948) [on restoration of peace and order and the plebiscite in the State of Jammu and Kashmir], 21 April 1948 (S/RES/47(1948))
- Simla Agreement, 2 July 1972
- Tashkent Declaration, 10 January 1966
- The India- Pakistan Question, 30 March 1951 (S/RES/91(1951))

Evaluation of Previous Attempts to Resolve the Issue

Dixon Plan of 1950

Sir Dixon, then the United Nations' Representative for India and Pakistan, proposed the Dixon Plan that assigned Ladakh to India, Azad Kashmir and the Northern Areas to Pakistan, and Jammu between the two countries, also suggesting a plebiscite limited to the Kashmir Valley and suspended Kashmiri politician Sheikh Abdullah from the plebiscite. However, Pakistan rejected the plan as it believed India should hold a plebiscite for the entire Jammu and Kashmir region, and India rejected the plan as Abdullah was suspended. Although Dixon hosted many summits to negotiate, the Dixon Plan failed, and Dixon stated that India and Pakistan should resolve the issues on their own through bilateral negotiations.

Simla Agreement

Signed on 2 July 1972, the Shimla Agreement ended the Indo-Pakistani war of 1971, created Bangladesh, restrained third parties from involving themselves in negotiations, and had India and Pakistan respect Jammu and Kashmir's Line of Control (LoC). However, even after several decades, politicians from both India and Pakistan criticize the agreement. The Shahbaz Sharif, current Leader of the Opposition in the National Assembly of Pakistan, stated that it "dampened the spirit of the Kashmiris fighting for their freedom⁵," and Indian politicians called

⁵Pti. "Simla Agreement Was a Big Mistake: Shahbaz Sharif." The Economic Times, Economic Times, 30 Sept. 2016, 11:22 PM IST, widgets.economictimes.com/news/politics-and-nation/Simla-agreement-was-a-big-mistake-Shahbaz-Sharif/articleshow/54614783.cms.

the agreement “a disaster in conducting diplomacy⁶” as the agreement granted Pakistan the territory lost to Pakistan and the return of the Pakistani army that committed genocides in Bangladesh.

Possible Solutions

1. Kashmir joins Pakistan

- **Pros:** Kashmir’s Muslim majority would better assimilate with Pakistan’s population and suffer fewer clashes with army forces on the grounds of discrimination.
- **Cons:** The proposal disregarded Hindu and Buddhist minorities in Kashmir, and most Kashmiris favor independence. Also, tensions and conflicts might escalate as India wouldn’t give up Kashmir that easily and claimed that Kashmir already could exercise their right to self-determination through elections.

2. Kashmir becomes independent

- **Pros:** Allowing Kashmir to become an independent state would grant Kashmiris autonomy to influence the politics and outcomes of their issue. In a 2010 poll by the *Sunday Hindustan Times* newspaper, 66% of respondents in the Kashmir Valley wanted “complete freedom to entire Jammu and Kashmir as a new country⁷” and only 6% wanted a “complete merger of the entire Jammu and Kashmir in Pakistan.⁸”

⁶Pti. “Simla Agreement Was a Big Mistake: Shahbaz Sharif.” *The Economic Times*, Economic Times, 30 Sept. 2016, 11:22 PM IST, widgets.economictimes.com/news/politics-and-nation/Simla-agreement-was-a-big-mistake-Shahbaz-Sharif/articleshow/54614783.cms.

⁷Hughes, Lindsay. “Pakistan and India Claim Kashmir – But What Do Kashmiris Want?” *Future Directions International*, 4 Sept. 2019, www.futuredirections.org.au/publication/pakistan-and-india-claim-kashmir-but-what-do-kashmiris-want/.

⁸Hughes, Lindsay. “Pakistan and India Claim Kashmir – But What Do Kashmiris Want?” *Future Directions International*, 4 Sept. 2019, www.futuredirections.org.au/publication/pakistan-and-india-claim-kashmir-but-what-do-kashmiris-want/.

- **Cons:** The solution could reinforce similar pro-independence arguments made by regions in India and Pakistan and unbalance the global order. While this solution encompassed the international community and human rights groups' views, India and Pakistan are unlikely to give up Kashmir and other territories that became theirs since 1947 and escalate tensions as a last resort.

3. More Human and Civil Rights Monitoring

- **Pros:** To uphold human and civil rights under government oppression, there needs to be accountability and awareness, possibly through parties declaring entry of journalists into Kashmir and conducting human rights reports at time intervals set by member nations.
- **Cons:** According to Reporters Without Borders (RSF), Indian authorities committed press freedom violations including obstructing the dissemination of articles and videos, intimidating and harassing journalists, suspending high-speed Internet, and censoring content as fake news. The statistics and reports from Kashmir are most likely forcefully construed to fit India's narratives.

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Appendices

- I. Video explanation of the Conflict in Kashmir:
https://www.youtube.com/watch?v=cyayif_nla8.
- II. Video explanation of Revocation of Article 370:
<https://www.youtube.com/watch?v=9nNwwX2s1IM>