

THE ROLE OF THE UNITED NATIONS IN PREVENTING HUMAN RIGHTS AND SEXUAL ABUSE IN JAMMU-KASHMIR CONFLICT

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Abstract

The conflict between Jammu and Kashmir has acquired a multifaceted character. On one hand, the conflict involves national and territorial contestations between India and Pakistan, and on the other, it entails different kinds of human rights abuses and various political demands by religious, linguistic, regional, and ethnic groups in both parts. This article aims to portrait the images and human rights abuses meted on the people of Jammu and Kashmir. It also urges and pleads to India and Pakistan and all those countries who are taking part directly or indirectly in the territorial disputes or conflict in the region of Jammu and Kashmir to end the conflict. Human rights abuse such as torture, rape, sexual harassment, murder, and unnecessary killings of the people of this region were all condemned by the author of this article. He further requests the international community such as the United Nation to take a bold step in settling the conflict in that region by passing an effective resolution at the international level that will put an end to the conflict. In this article, the author uses a qualitative research method to explore different journals and write up of scholars in finding tangible solutions to the conflict in Jammu and Kashmir. The author also uses a theoretical explanation in the article. The result of this article intends to see that all the main concerning points raised in this write-up are fully considered and implemented by the United Nation in bringing

peace and stability in the region of Jammu and Kashmir. Conflict in this region has become a worrying issue in the international community and the necessary steps should be taken to bring it to halt.

Keywords: *United Nations, Jammu, Kashmir, International Law, Resolution, Human Rights abuses.*

Abstrak

Konflik Jammu dan Kashmir memiliki karakter yang multibentuk. Di satu sisi, konflik ini melibatkan kontestasi nasional dan territorial antara India dan Pakistan, di sisi lain konflik ini menunjukkan adanya pelanggaran hak asasi manusia dan berbagai tuntutan yang bersifat keagamaan, Bbhasa, regional dan etnisitas di kedua sisi negara. Artikel ini ingin mencoba untuk memotret pelanggaran hak asasi manusia terhadap penduduk jammu dan Kashmir. Artikel ini juga ingin mengajak India dan Pakistan serta semua pihak yang terlibat baik secara langsung ataupun tidak untuk mengakhiri konflik. Pelanggaran hak asasi manusia seperti penyiksaan, pemerkosaan, pembunuhan baik sengaja ataupun tidak, semuanya dikutuk oleh artikel ini. Lebih lanjut, artikel ini meminta komunitas internasional seperti PBB untuk mengambil langkah tegas dalam penyelesaian konflik dengan mengeluarkan resolusi yang efektif. Dalam artikel ini, penulis menggunakan metode kualitatif untuk mengeksplorasi tulisan-tulisan di berbagai jurnal untuk menemukan solusi untuk konflik Jammu dan Kashmir. Temuan dari artikel ini dimaksudkan untuk melihat bahwa semua pon-poin perhatian utama yang ditulis oleh berbagai artikel tersebut sudah diimplemetasikan oleh PBB untuk menciptakan perdamaian dan stabilitas di kawasan Jammu dan Kashmir. Konflik di kawasan ini sudah menjadi isu yang mengkhawatirkan di kalangan komunitas internasional dan langkah-langkah yang diperlukan harus segera diambil untuk menghentikan konflik

Kata kunci: Perserikatan Bangsa-bangsa, Jammu, Kashmir, Hukum internasional Resolusi, pelanggaran HAM.

Introduction

The maintenance of peace and order at a global scale is a key factor in maintaining world peace in the international forum. The international community has the right to intervene in sovereign states to end serious Human Rights Abuses, especially when these crimes are against humanity and are escalating. The international community has contributed immensely in settling numerous disputes, conflicts, and wars around the globe. The community settles disputes among nations with the use of the slogan, "Responsibility to Protect". The concept of R2P refers to the right humanitarian intervention, which describes the act of taking military actions against another state to protect the lives of people. (Chataway, 2007). The international community has participated in settling disputes in countries such as Libya, Bosnia, South Sudan, and many other countries. Humanitarian intervention in the international community has both admirers and critics because many accuse it of acting for geopolitical reasons

This can be seen in their mode of settling disputes at the international community level. It is the responsibility of the international community to protect the human rights of people from all kinds of sexual abuses and atrocities. The development of the international community holds a lot of promise for the improvement of human rights. The basis for such a community is mutual understanding among different countries, people, and groups. The Jammu and Kashmir-region conflict is between two countries, Pakistan and India. It has brought about the loss of many lives since 1989, and it has led to many human rights

violations such as rape, murder, torture, sexual harassment, and enforced disappearance of the inhabitants of the region.

According to (Behera, 2016) in his article entitled the Kashmir Conflict: Multiple Fault Lines, he stated that the Kashmir conflict has radically transformed since its genesis in 1947 when the conflict first became a bone of contention between India and Pakistan. This conflict remains emblematically tied to the territorial and ideological parameters, which suggests that the dispute is rooted solely in the idea that a Muslim-majority state had its fate determined by a Hindu maharaja, that Pakistan—the homeland of the subcontinent's Muslims is incomplete without Kashmir's inclusion, or that India's secular credentials depend on Kashmir's continued accession. This notion is what has significantly fueled the conflict in that region.

The United Nations, an international organization, should maintain peace in Jammu and Kashmir by granting it independence, ensuring India and Pakistan respect international laws on human rights and sexual abuses, and also, by the use of the diplomatic means of conflict resolution.

In this article, the author uses neoliberal institutional theory which emphasizes the roles and significance of international organizations. Neoliberals argue that institutions work to facilitate cooperation and mutual understanding as advanced by Robert Keohane. The ideas and facts of this theory can be used to solve the political crisis that exists between India and Pakistan in the Jammu and Kashmir territorial disputes. The United Nations should apply the theoretical ideas of neoliberal institutionalist and many other international relations grand theories that promote peace cooperation in solving the conflict in the region of Jammu and Kashmir. Neoliberal institutionalists agree that states act in their interests, yet hold a much more optimistic view on cooperation. Keohane (1984) recognized that cooperation is not

an easy feat and can lead to tension, but states could potentially benefit from cooperative strategies (Keohane, 1984). In the conflict of Jammu and Kashmir, both internal and external factors have to its intractable problem. The deep-rooted mutual hostility that exists between India and Pakistan is thought to be the major contributing factor to the Kashmir conflict. The conflict theory succinctly argues that conflict occurs between parties mostly based on non-negotiable goals (Hoskote, 2018). The parties perceive each other as enemies in terms of seeking their vital interests.

Literature review

The literature on Jammu and Kashmir is fairly extensive but consists principally of descriptive studies, which underscore the main arguments at hand and highlight the mechanisms of the conflict. The conflict between Jammu and Kashmir has become a famous and most escalating and unending conflict in the whole world since its inception. The conflict according to (Behera, 2016) has been a battleground for four wars-1948, 1965, 1971, and 1999-between India and Pakistan. This conflict is also said to be escalating as a result of the involvement of superpowers. According to (Saifuddin & Chakma, 2012) the rivalry between the US and Soviet Russia during the Cold War also served as a catalyzes in adding more tensions as far as the conflict is concerned. These two countries all involved themselves in the conflict for geopolitical reasons. The United Nations in 1948 raised the issue in the UN and they adopted many initiatives intending to resolve the long-lasting and prolonged conflict on several occasions. The security council of the UN calls on both parties to take immediate and effective measures within their power to improve the situation. By so doing, they imposed on them an order of Cease-fire, truce agreement and that the government of India and Pakistan should reaffirm their wish that the future status of Jammu and Kashmir shall be determined by

the people in the region. These and many other conflict resolution techniques were put in place but to no avail. According to (Wani, 2017) self-determination and secessionism have no significance in the 21st century he asserted. He believes that greater autonomy is the only mechanism or technique to be used to end the alienation and to resolve the Kashmir conflict.

Meanwhile, in the paperwork of (Saifuddin & Chakma, 2012) a question was raised as to how can the conflict in Jammu and Kashmir be resolved. And the then Indian prime minister Lal Bahadur Shastri put the matter in a nutshell in his speech in the opening session of the Tashkent meeting in January 1996. He urges both countries to respect the sovereignty of each other since the respect of sovereignty is essential for peace and good relations. The precise contours of solutions to the conflict in Jammu and Kashmir are uncertain. According to (Bakaya & Bhatti, 2011) numerous proposed solutions can be used in solving this conflict among which is respect of the Line of Actual Control which divides the region into two, with one part governed by India and the other by Pakistan. With all these resolutions, the conflict keeps escalating. From the words of (Bhat, 2019) in his article, he stated that May 2018 recorded the highest number of extrajudicial executions with thirty-eight civilians killed. According to (Tavares & Tavares, 2008) the theory that political relations need to be adopted in the idea of sovereignty is a fair assumption which he believes can also solve the conflict in the region of Jammu and Kashmir.

After review of the above literature works of various scholars, I differently articulated my work with a unique style of bringing forward different conflict resolution tactics which I believed shall go a long way in solving the conflict in Jammu and Kashmir. The United Nations, as an international governmental organization, should maintain peace in Jammu and Kashmir by granting it independence, ensuring India and Pakistan respect international

laws on human rights and sexual abuses, and also, by the use of the diplomatic means of conflict resolution.

Methodology

The method used in this paperwork is a qualitative research method. This research method shows textual descriptions of how the people in the region of Jammu and Kashmir were maltreated and dehumanized. The research method provides information about the inhuman and militaristic brutality of the troops deployed in the region of Jammu and Kashmir. The author explores different journals, books, and other academic write-ups that talks about the conflict in general and all other similar conflicts in particular. In essence, in qualitative research, three types of data collections are usually made and these are field notes, audios or video recordings, and transcripts. But in this paperwork, only field notes are utilized.

Discussion

To begin with—independence. The people of the state of Jammu and Kashmir, once an independent and sovereign state, have been subjected to oppression, subjugation, and forced division since 1947, and this is inhumane. India and Pakistan have been locked in conflict over Kashmir for quite a long time and both claimed the entity as their region. (Tavares & Tavares, 2008). Article 370 of the Indian constitution once gave privileges to the state, or region, of Jammu and Kashmir but this was later revoked by the Indian government. Jammu and Kashmir belong to all who live in it, without any distinction of color, race, caste, or religion. The United Nations, as an important part of the international community, should stand in solidarity with the people of Jammu and Kashmir in their quest for independence. The region is endowed with both natural and human resources and can stand on its own if it is granted the opportunity to do so. One

of the ways of maintaining peace and stability in Jammu and Kashmir is by granting the territory independence, but this cannot be achieved without the intercession of the international community and the United Nations. In particular, Jammu and Kashmir's issue of self-governance is not impossible, but rather quite attainable, if the UN and other world governmental organizations, such as the OIC (Organization of Islamic Cooperation), make it their top priority, responsibility and duty; it's dependent upon them. In helping the people of Jammu-Kashmir to become a sovereign state, the United Nations Security Council's Resolution 47 must be put into effect. (Section & Duties, 2020). This is a resolution which stipulates that both India and Pakistan should withdraw their military forces from Jammu and Kashmir and let a plebiscite be conducted to provide the people of Jammu-Kashmir the choice of which state to join. Since this seems to be unrealizable, I put this challenge to the United Nation—bring forward another resolution which will entail or grant the people of Jammu-Kashmir absolute independence. The above resolution was an effort made by the Security Council to put the right to self-determination into practice. And the basis for this decision is at the heart of the UN Charter itself. Although the United Nations Charter famously calls for the 'equal rights and self-determination of peoples' in Article 1, Article 2 also transparently states that 'nothing contained in the present [UN] Charter shall authorize the UN to intervene in matters that are essentially within the jurisdiction of any state' (1945, 3).

Many thought this is what has limited the power of the UN in the conflict of Jammu and Kashmir since the issue of self-determination conflicts with the norm of state and territorial integrity. The United Nations should be bold enough to interfere in the conflict of Jammu and Kashmir by granting its people political, economic, and cultural independence, even though some may think such action is against territorial integrity.

Some may say that the United Nations is adopting a double-standard when it comes to conflict resolution. It intervened in the Libyan conflict simply because the organization felt that the rights and liberties of people living in that country were being trampled and took the measures needed to put an end to it. Now a similar case is happening in Jammu and Kashmir, but it is taking the UN decades to settle this conflict. The conflict in Jammu and Kashmir began well before the Libyan conflict and the organization passed a resolution in the Security Council with which China and Russia were not in support. However, the United States of America, under the leadership of Barack Obama, intervened in the Libyan conflict. Many people claimed this intervention was for geopolitical reasons, while America called it humanitarian intervention. One may regard the Libyan conflict as different from that of Jammu and Kashmir, but the fact is, these are conflicts that have human rights violations, and the United Nations should take steps to grant the people of Kashmir independence without any further delay because the people of Kashmir are suffering

Secondly, the international community represented by the United Nations should ensure that both India and Pakistan respect international laws on human rights and sexual abuse. Human rights are those fundamental rights that every single human being is entitled to. These rights are based on the fundamental principle that all people possess an inherent human dignity, regardless of sex, race, national origin, language, age, religion, class, political beliefs, or other distinctions. The current human rights abuses in Jammu and Kashmir are becoming uncontrollable and the United Nations seems to be downplaying the situation in the region. Regarding the respect of fundamental human-rights laws, the first formal expression of human rights in international law is enshrined in the Universal Declaration of Human Rights (UDHR) and this was proclaimed by the United Nations in 1948. (شريفی, 2010). The declaration states that, "All

human beings are born free and equal in dignity and rights," and that, "recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world." This universal declaration of human rights has attained the status of customary international law and all nations are bound to uphold its principles. The basic principles of human rights are universality, inalienability, equality, non-discrimination, the indivisibility of rights, and more importantly, interrelation of rights. (شريفى, 2010). The UN, an inter-governmental organization, should work hard and put into effect the aforementioned fundamental principles of human rights in Jammu and Kashmir. It is only when the above fundamental principles of human rights are respected by both countries that peace and stability can reign in Jammu and Kashmir. India and Pakistan are involved in this conflict for political and economic reasons, and this has dramatically increased the tension of the conflict. Both countries want demand to annex the region and manage the affairs of the people living in it. The rights of the people of Jammu and Kashmir have been violated for too long and the United Nations, as an international community, should now put an end to it, whatever it costs.

The residents of Jammu and Kashmir must have the right to life, good health, personal freedom, and security. They must not be exposed to torture, sexual harassment, killing, rape, or any other inhuman, cruel, or degrading treatment, as guaranteed by the UDHR and other international laws. The international community in the past did not formally recognize violence against women, including domestic violence and sexual abuse, as a human-rights violation until 1993, when the UN World Conference on Human Rights was conducted in Vienna.(Relations, 2020). There were many reasons for this omission, the most basic being that the traditional human rights analysis was mainly focused on how governments violate the human rights of its citizens, not on

how private citizens treat one another. And as a result, the international community did not consider domestic violence and sexual abuse to be human rights violations. The abusers, who are often batterers and rapists, are private citizens and not government actors, and because domestic violence and sexual abuse are seen as private, or cultural matters which do not merit public attention or government intervention. It was after this that all human- rights movements worked hand-in-hand to fight for the rights of women at both domestic and international levels, and this led to the definition of violence against women as a human rights violation. The current human- rights violations in Jammu and Kashmir are against the international human rights laws, treaties, and declarations, and the United Nations, with its numerous principles on human-rights violations, should take immediate action against the maleficent treatment of the people of Jammu and Kashmir. If the United Nations is unable to put an end to the human rights violations in Jammu and Kashmir, then one may conclude that the essence, significance, and importance of human rights laws are less effective and fruitless when it comes to the settlement of conflicts and disputes in the international community. The United Nations should take another bold step in putting an end to the humanrights violations happening in Jammu and Kashmir, as their previous treaties and declarations have not worked in solving the conflict. The organization should make the best use of international law and hold both India and Pakistan accountable for the atrocities that they are committing on the people of Jammu and Kashmir. Human-rights protection is vital, and since the main purpose in the creation of the United Nations is to maintain international peace and security, develop friendly relations among nations, and, above all, promote social progress, better living standards, and human rights protection, then I put forth this challenge and further, implore them to bring the conflict in Jammu and Kashmir to a halt.

Thirdly, the use of diplomatic means in settling the conflict in Jammu-Kashmir is another solution that this paperwork finds necessary. Modern-day advanced diplomacy is used in many conflict resolutions, and it has worked in many cases. The United Nations is the most important, representative, and authoritative inter-governmental international organization and its status in the international community is important. Diplomatic means of conflict prevention in the international community is one of the primary goals of the United Nations. The modern-day diplomatic methods of conflict resolution include the use of mediation, conciliation, 'good offices', negotiation, arbitration, and other alternatives, dispute-resolution actions. (Okere, 2015). The United Nations must use some of these methods of conflict resolution most effectively and appropriately to eradicate the conflict in Jammu and Kashmir. In the case of negotiation, the United Nations should initiate an international agreement among the parties involved in the Jammu and Kashmir conflict, and try to negotiate terms to end the ongoing conflict in the region. The conflict in Jammu and Kashmir has passed the stage of preventive diplomacy since the purpose of this type of diplomatic resolution is to prevent disputes from escalating into conflicts, and to limit the widespread conflicts when they occur. The conflict in Kashmir is at the apex of very serious human rights violations, and the United Nations Security Council must consult with its members and attempt to form new negotiation strategies for solving the conflicts in Jammu and Kashmir. Regarding mediation, the United Nations its inception played a significant role in helping to mediate inter- and intra-state conflicts at all stages. The organization does this by interfering in the conflicts before they escalate into severe, armed conflict by implementing a peace treaty, or agreement. The Secretary-General of the United Nations and his representatives carry out 'good offices' and mediation efforts at the request of the parties in conflicts and disputes. This type of mediation, that is normally carried out by

the United Nations, should be raised to a level that – even if the parties involved do not get invited to the UN to take part in mediation – yet, they still allow the organization to intervene, for one reason or another. Especially when the fundamental human rights of the masses are being trampled. The United Nations, as an essential, important part of the international community, should endeavor to convince India and Pakistan to withdraw their forces in Jammu and Kashmir with the use of effective and efficient mediation. Another way of settling the conflict in Jammu and Kashmir would include efforts from the United Nations to carry out peacemaking efforts. This type of mediation flourished in the decades following the end of the Cold War and it has brought to an end many longstanding armed conflicts. The UN should send its peacekeeping troops into Jammu and Kashmir, to protect the lives and properties of the people in that region, and further, to provide an environment of peace and tranquility for them.

Conclusion

In conclusion, For the just and fair resolution of the Jammu and Kashmir conflict, an alternate architecture for peace is essential. The international community, represented by the United Nations, an international and inter-governmental organization, should strive to maintain peace and stability in Jammu and Kashmir by granting it independence, ensuring that India and Pakistan heed and take notice of international laws on human rights and sexual abuse, and also use diplomatic techniques of conflict resolution. Firstly, self-determination and respect for fundamental human rights is the easiest way to solve the conflict in Jammu- Kashmir. Secondly, diplomatic methods on conflict resolution at the United Nations level should be standardized and taken to a higher level to aid in settling the dispute in Jammu and Kashmir. In a nutshell, there is no conflict which cannot be

settled, except when proper measures are not taken, and I believe this is the case in Jammu and Kashmir and the

United Nations should take proper steps to settle this conflict immediately.

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