

Conflict Resolution: Revisiting the Unresolved Kashmir Dispute

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Abstract

Kashmir issue, a source of tension between Pakistan and India has numerous aspects and is termed by many an international dispute. The conflict not only hampered Indo-Pak relations but also precipitated regional instability. This is the reason that foreign policy of Pakistan since her inception remained India centric. Although both states share borders but never remain on same page when it comes to the viable solution of Kashmir dispute. Interests of Kashmiri population will have to be respected to make any decision long lasting. This paper by adopting narrative approach explains number of conflict management techniques to find any feasible solution but all efforts ended with the beginning of new conflict. With the indigenous freedom movement and India's massive military response, Kashmir dispute has entered a new phase. The paper finds that possible viable solution of Kashmir disputes is impeded by Indian stubborn and uncompromising attitude; therefore, mediation by third party is essential. The paper argues that any approach to settle this multifaceted conflict necessitates different but interconnected trajectories or unending interactions and negotiations.

Keywords: Kashmir, conflict resolution, resolution strategies, impediments.

Introduction

In 1947, Muslims of Kashmir were compelled to pledge their loyalties with India. Maharaja Hari Singh, made the decision, against the aspirations of the people of this paradise-like land of Kashmir. Annexation of Kashmir with India initiated miseries for the people of Kashmir. These sufferings deprived them of their basic human rights as well as destitute them from their right of plebiscite. The rulers turned a deaf ear to their legitimate demands and general suppression prevailed in the valley. The anti – Muslim attitude of the Indian forces and violation of basic rights of ordinary Kashmiris by the Hindu nationalist political parties, reinforced the Islamic ideology of the militants and gave birth to indigenous movement (Azmi, 1990).

The political struggle has been overrun by the gunpowder. The issues of social justice and democracy were set aside and Kashmiris became the victims in an ideological war of supremacy. Politics of extremism subverted the movement, sidelining the common Kashmiri. Jammu and Kashmir has been transformed into a garrison state,

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overrun by nearly 7,00,000 armed soldiers (Hussain, 2016) . More than 100,000 Kashmiris have been killed in their struggle for self-determination (Aziz, 2016). Over 30,000 are in illegal detention and about 5,000 missing. The rising number of widows/ “*half- widows*” (Hussain, 2016), orphans, victims of torture has led to the breakdown of traditional support structures, nullifying the internal strength of this society and pushing vast numbers to the brink of incapacitating anxiety.

For the freedom fighters and a majority of Jammu Kashmir leadership, present state of affairs is undesirable and they have deep rooted belief that it must change in favor of Pakistan on moral, ideological and political grounds. India is in favor of maintaining the division of Kashmir since this scenario justifies Indian claims of secularism and denying unchecked access to economic resources by Pakistan, especially the river waters of the disputed territory (D.D.Saklani, 1999).

“Confrontation should not be our destiny in South Asia. Pakistan wants peace with India. I have gone the extra mile to achieve this, repeatedly offering a dialogue. But India has posed unacceptable preconditions to engage in a dialogue. Peace and normalization between Pakistan and India cannot be achieved without a resolution of the Kashmir dispute.”

(PM Nawaz Sharif at the UNGA, 21 Sep 2016)

Kashmir conflict has had significant implications for the United States when seen in the context of its dealings with Pakistan and India. The conflict also had an impact on long term U.S policy efforts in South Asia. There is also a view point that Washington’s stake in the dispute has never been sufficient for it to launch substantial efforts for the just settlement of the Kashmir dispute. As per Mr. Wirsing, “Washington’s policy towards South Asia has tilted against Pakistan and with regards to Kashmir, U.S. now leans towards a policy which favors India” (Wirsing, 1995).

Therefore, there is a need to review the conflict resolution strategies, the impediments and way forward for peaceful settlement of the Kashmir dispute.

This paper attempts to develop understanding about conflict management techniques that can be applied to find durable solution of

Kashmir issue. This paper sheds light on the underlying causes that hinders the way of settlement of the dispute. For this purpose, the paper has been suitably divided in different parts. The first part introduces the whole debate about the subject under consideration. The second part of the paper explains the significance of Kashmir. The third part of the paper theoretically explains different models and theories of conflict resolution that are relevant to the case of Kashmir. The fourth part of the paper sheds light on the expedients of conflict resolution. The fifth part of the paper discusses the obstacles that hinder the way of resolution of Kashmir issue. The last part concludes the whole debate.

Significance of the Territory Geopolitical

Kashmir lies at the heart of the most important region of the world. It is at the cross road of Central Asia, South Asia and West Asia. Three Nuclear armed states inhabit the region. Due to its location and natural resources, Kashmir remains the most crucial security dilemma for this region. Since independence, people from both the countries consider each other enemies due to Kashmir dispute (Gilani, 2014). It is not to be taken as mere inter-state dispute. Besides, the two neighbors, irrespective of their interests, the involvement of global players is also very significant which will decide the fate of the dispute since their economic and security interest impinges upon resolution of Kashmir dispute. Not only could the people of the state but also the United States and China be termed as other important players in this regard. They are closely monitoring the situation so as to chalk out their strategies according to the ever changing political and economic developments in the region (Gilani, 2014). Pakistan's former Army Chief, General Raheel Sharif while addressing the Royal United Services Institute in London termed Kashmir as "*unfinished agenda of partition*" and said *the world community must help resolve the longstanding issue if it wants peace in the region* (PTI, 2018).

Economic

Ever since the partition of subcontinent, Kashmir has been a continuous dispute between both the countries. The two countries have never come to terms with each other difficulties. It has proved very costly to both the countries. The dispute resolution is important from the socio-economic development point of view. It is also important to

note that both the countries rely on water that flows down the rivers from the glaciated mountains located in Kashmir. Kalis is rightly of the view that Kashmir is the lifeline of Pakistan. (Kalis & Dar, 2013)

Conflict Management: Theoretical Explanation

Conflict management is a process through which the parties concerned tackle the conflict. Conflict resolution is the process of ending the conflict and vengeance in peaceful manners.

There are variety of contributory models that can enable the scholars and policy planners to find a reliable solution to Kashmir dispute.

The first is Irish Model 'The Good Friday Agreement.' It is based on two interconnected propositions; it acknowledges the legitimacy of people's right of freedom of expression. The agreement reasserts the complete demilitarization of paramilitary forces. This model talks about freedom of expression given to people. The agreement aimed to bring an end to the past 30 years' conflict (Northern Ireland Assembly 2017). Kashmir issue can also get resolved by giving Kashmiris right of self-determination and establishing nationalist government. UN resolutions also advocates to hold plebiscite in Kashmir.

Besides composite dialogues held between Pakistan and India, multi-tasking dialogues at three different levels needs to be started; dialogues among the Kashmiris from both Azad and Jammu Kashmir including the freedom fighter groups; Pakistan and Kashmir; and Kashmir and India (Mazari, 2007). For durable peace, freedom fighters should be made part of this process; dialogues should be started at trilateral rather than bilateral level; mediator role is crucial and indispensable for dispute settlement.

The next model is Faith Based Reconciliation. It rests on eight propositions or instrumental principles; this model has six core components; the main concern of this model is reconciliation rather employing tradition methods of resolving the conflict. The model is has three prime objectives; settlement of dispute, reclamation of political order, and rapprochement among stakeholders (Cox 2017).

The solution of Kashmir issue is found in reconciliation, a foundation for reclaiming the identity of Kashmiris and amicable relations in the entire region. There is a need to interlink the different ethnic groups and develop understanding among them. Efforts should be made to overcome the trust deficit between different ethnic groups and between India and Pakistan. Steps should be taken to address the human right issue and develop relationship between Kashmiris, India and Pakistan. The stake holders should adopt measures to rehabilitate the torn fabric of Kashmiri society. The leaders should find the solution of the

problem, considering it the problem of all parties concerned (Mazari, 2007).

This theory was driven by Australian Scholar John Burton (1986) known as Human Need Base Theory. Fulfillment of basic human needs is a prerequisite for resolution of any conflict. Burton re-designated it as 'Role of Defense' that means individual interest should be defended in every circumstances. To him this theory deals with grave and long term problems while taking into account basic human needs (John, 1986).

This theory can be applied to find long lasting peace and bring an end to Kashmir dispute. To protect the interest of Kashmiris, uninterrupted trilateral dialogues should be started.

Rogers Fisher an academic derived the theory in 1990s known as 'Interest Based Negotiation Theory.' To Fisher, conflict can be resolved if the interests of the parties concerned converge. Parties negotiate on different issues like security, revere and common interest while in position based theory the parties concerned hold their respective positions. Because of the rigid attitude of the parties, the conflict remains unresolved. In interest based theory the parties concerned make rational choices and dig out converging interests for them to settle the conflict. Man's basic needs are security, economic well-being and quality of life etc. (Roger, 1991).

The theory is relevant to the Kashmir dispute in that interests of India and Pakistan are involved in the issue. There is a need on the part of both governments to negotiate on converging interests to get the issue resolved.

The last and most important theory is 'Conflict Transformation Theory.' Paul Lederach, Peter Wallensteen, Joseph Folger, Robert Baruch and R. Varnayen are regarded as the originators of this theory during 1990s. Conflict resolution began to be named as conflict management or Peace-building. Conflict is not an end. The conflict continues to transform from one phase to other (Varnyen, 200). Conflict is transformed into peaceful environment but this theory is not applicable in case of Kashmir at the conflict has not yet been settled.

These theories/models spell out and explore the eventual fallouts of conflicts. All challenges and missteps of conflict resolution endeavors between Pakistan and India can comprehensively be analyzed under these theories/models.

Pre-Requisites for Conflict Resolution

Confidence Building Measures (CBM)

Successful peace process hinges upon a set of CBMs and their implementation. It needs support of the masses for peace, put an end to hostile propaganda, and encouraging non-political links. It has to be a whole hearted determined effort within a specified time period.

Employment of CBMs in South Asia has been under discussion. Those who favor CBMs to move gradually from non-contentious to controversial issues and those who considers these as mere lip service to gain time. These measures can pave the way for a meaningful dialogue and bridge the gap between two hostile nations.

Fair Mediators

Wong Jo states that in mediation a “neutral third party” facilitates linkage between the two warring factions so that they may come to negotiation table (Jeong H. , 2010) . Peacemaking efforts will always confront obstructions unless all those stake holders play an effective role. Third-party mediation should not be seen as biased in favor of any party (Vukovic, 2016). Mediation needs to be very dexterous, should involve big powers and must have sufficient influence and resources at its command.

Pre- requisites for a successful mediation are: -

- (1) It needs to be undertaken early enough when the disputes are in the embryonic stage and easily resolvable.
- (2) Brings dividends when carried out between two equal or near-equal powers.
- (3) Mediator should have economic and political leverage.
- (4) The mediator may have a direct stake in the region or in the early resolution of the dispute.

- (5) The belligerent or opponents must themselves display an equal and active desire for the process.

Negotiations. Negotiation is not a science. It's an art. Barbara A. Budjac defines negotiation as "an effort to influence (Corvette, 2006)". Negotiation is fundamentally routine interaction between individuals. When it comes to two disputant parties, it is shaped by our personalities as well as by our perceptions of the opposite sides. It is primarily influenced and shaped by our national values, policies and national objects. Negotiations in a conflict are time bound and must have the will of the two parties to carry on despite constraints.

Resolution Strategies. Before offering any solution of the Kashmir dispute, it is important to conceive means of achieving it, acceptable to all the parties associated with the dispute. Most of these strategies have been successfully employed in resolving the conflict all over the world and could be applied to Kashmir dispute as well. Different methods are: -

- **Talks.** The most respectable manner to arrive at a resolution is the restoration of mutual talks between Pakistan and India. From Pakistan's perspective, if India could do away with her oppression of Kashmiri populace, go back on its inimical propaganda and come to a negotiating table to talk positively on the issue, both countries can enter into a dialogue. Heavy militarization of the Kashmir valley has impeded the peace process. Abrogation of Article 370 and 35A coupled with Indian Parliamentary Resolution of 22 February 1994 (Satp.org 1994) declaring Jammu and Kashmir as an integral part of India has further raised eyebrows regarding her intentions of fair negotiations. India has always been advocating several prerequisites to recommence the dialogue, which have varied from time to time. It was also declared that there could be no talks with Pakistan unless Azad Kashmir was handed back to India. Nevertheless, while responding to Indian Prime Minister's offer, the Pakistani President General Pervez Musharraf said in January 2002, "*I take you up on this offer. Let us start talking*" (Bose, 2003).

- **International Mediation.** Pakistan has approached number of countries which have agreed to offer their good offices, should both parties to the dispute agree. The United States too is on record on this position. The UN Secretary General has likewise offered to play the go-between role, should both countries, seek his mediation (Saurabh, 2014).
- **Tripartite Talks.** There is a deadlock on the representation of the Kashmiri leadership, which has presented to exercise this option. India has rejected the All Parties Hurriyat Conference (APHC) and the leadership of Azad Kashmir since India considers these as pro-Pakistani. India has sought of promoting the National Conference (A pro India party), counter-insurgents and the Kashmiri Pundits. India also resists that she is only willing to talk to creditable leaders but ruled out full autonomy. India is determined that Pakistan would not be part of any negotiations and that the talks would be strictly restricted within the ambit of Indian constitution. The ex APHC Chairman Professor Abdul Ghani Bhatt has been quoted “tripartite talks involving India and Pakistan are the only way out (F.S.Lodhi, 2000)”.
- **Conflict.** No conflict could be resolved through yet another conflict. Armed conflict does not address the root cause of a conflict but struggles to maintain the hegemony of the stronger over the weaker. As for Kashmir, low intensity conflict between Indian forces and the freedom fighters would continue until an acceptable solution is found.

Impediments to Conflict Resolution in Case of Kashmir

Hegemonic State Syndrome. India cherishes hegemony in South Asia and she exercises it by economic and military superiority. India wants to subdue her neighbors. Her power ambitions left little room for negotiation, especially when it comes to the long standing disputes of Kashmir. Her dominating attitude acts as a major obstacle to the peace process.

Physical Occupation of Territory. Whenever a State assumes de facto control over a disputed territory, its attitude is antagonistic. It is said that physical possession is nine-tenths

of the law. Not very different from this is the role of the Indian army of which 700,000 soldiers are deployed in the disputed state of Kashmir (Aziz, 2016). A policy of continuous subjugation and violence is implemented. Peace negotiations are not possible unless military strength is vacated.

Non-Implementation of Agreement. Stronger party has to show some altruism in making a deal and ensure faithful implementation/execution of pacts otherwise weaker party loses confidence. With the new governments in place, it makes excuses and extricate themselves of past accords.

War as an Option. War is no longer an alternative. However, political temperature region remains highly charged and the BJP government in India has been issuing threatening statements which tantamount to invasion in Pakistan. The possibility of limited war by accident cannot be ruled out as it stays a *tinderbox* (Malik, 2010).

Findings

- Ever since independence, Pakistan and India have seldom enjoyed cordial relations.
- Current US economic and political interests in India are more pronounced than in Pakistan and will not use its position of superiority in the matter.
- West generally assumes that Kashmir is a bilateral issue and India's consent is essential for any mediation process.
- India has refused to accept third party mediation as it considers Kashmir as a bilateral issue.
- Negotiations have always been derailed by India on one pretext or the other. Failure of Agra summit of 2001 is a glaring example of this deadlock. India blames Pakistan for happenings in India. It provides excuse not to come to the negotiation table.
- The hatred among the masses of both the countries has been a hurdle in the peaceful resolution of the Kashmir dispute.

- Conflict management mechanisms have failed in sub-continent thereby leading to instability in South Asia.

Recommendations

- World is concerned and it would like the core issue to be settled peacefully. Pakistan must capitalize on this concern and bring India to the negotiating table.
- Both the countries need to enhance and work for Confidence Building Measures (CBMs).
- Print and electronic media can play vital role to involve various segments of the society through series of discussions and opinions.
- Track II diplomacy must be utilized to bring India to negotiation table. Freedom fighters must be part of a negotiated settlement.
- Pakistan should also keep pursuing the plebiscite option any solution, will flow out of this stance.
- Pakistan must maintain close liaison with the APHC leadership so that a consistent approach is sustained.
- Pakistan must vie for international attention on the Kashmir issue. It has to remind the nations that Kashmir is a longstanding unresolved UN agenda item and holds priority.
- British Parliamentarians have suggested holding referendum on the lines of BREXIT (Khan, 2017). Pakistan must seriously debate on this proposal.

Conclusion

Kashmiris have offered sacrifices worth of a living nation and continue to do so to the present day. It is a very critical time not only for the armed freedom struggle but also for the Kashmir cause. It is essential for Pakistan to project human rights violations to put pressure on Indians to stop the brutalities and resolve the issue through negotiations. In resolving the issue, the most preferred choice should be a plebiscite; we should keep our options open and settle for a solution which is according to the aspirations of the Kashmiri Muslims.

It appears that the Indian leadership has not yet realized the folly of holding on to Kashmir despite the fact that India, Pakistan and the Kashmiri people are suffering because of the lingering dispute. The world community, in particular the United States should continue to persuade India to agree to talk to Pakistan on all issues, including Kashmir as to ensure lasting peace and prosperity in this region.

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