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Nuclearization of Pakistan and India: Kashmir as a Legal Issue for Region

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Abstract

The fact that India and Pakistan have not been able to resolve their dispute over Kashmir is the key factor that contributes to the continued state of instability and hostility that exists in the area. Throughout the course of history, it has been the primary impetus behind not one, but two major wars, in addition to many more near-misses. Since the early 1990s, India and Pakistan have been involved in what has been referred to as a "proxy war" around the contentious area of Kashmir. The commencement of the proxy war resulted in the worst conceivable degradation of the bilateral relations between the two governments and was a significant factor to the overt nuclearization of South Asia in 1998. This occurred as a direct outcome of the proxy war. It has made the possibilities for regional integration considerably worse, and it has increased people's anxieties about the likelihood of a fatal nuclear exchange taking place between India and Pakistan at some point in the future. Because of this, the necessity of finding a solution to the violence that is taking place in Kashmir has never been greater than it is right now. In this research, the history of the Kashmir dispute is investigated, as are its effects on relations between India and Pakistan, as well as the prospects for finding a solution to the issue in the foreseeable future.

Keywords: Kashmir Issue, India-Pakistan Conflict, Legal Issue and Nuclearization of Region

Introduction

Pakistan and India are bitter rivals who fight each other with great vigor. This hostility dates to pre-partition India, when Hindus and Muslims of India were apprehensive to live alongside one another after the British obtained control of the subcontinent. This happened while India was still a one country. On August 14, 1947, Pakistan was formally recognized as a nation-state by the United Nations. Tensions between India and Pakistan started to rise almost immediately after Pakistan was

established, and those tensions have been steadily growing ever since. Those in Pakistan who oversee making judgments as a result felt uneasy because of this development. Because of this palpable feeling of dread, Pakistan found itself running right into the arms of the United States. The United States of America and Pakistan have collaborated on several different defense contracts. In the meanwhile, the issue of Kashmir continued to serve as a catalyst for conflict between the two countries. The dispute over Kashmir has been a factor in all three of the conflicts that have broken out between the two nations. There is never a shortage of hegemonic ambition among the Indians. They originally started working on their nuclear program in the 1960s, and in 1974, they detonated their first nuclear weapon. This was their first nuclear explosion (M.zen, 2008). Because of this, Pakistan was driven to launch its own nuclear program, which in turn started off the race between the two nations to produce nuclear weapons. The year 1998 was significant for the countries since it was the year that they officially acquired the capability to make nuclear weapons. The fact that both governments now possess nuclear weapons has made the Kashmir dispute much more significant. This is since another confrontation between India and Pakistan over the controversial issue of Kashmir may culminate in a full-scale nuclear war between the two countries.

Hypothesis

Nuclearization of Pakistan and India have made Kashmir a flashpoint, since another war on this issue may lead to a full fledged nuclear war between India and Pakistan.

Theoretical Framework

The concept of Realism is applied to this study. When it comes to Kashmir, Pakistan and India both the state, to the fullest extent of their capabilities, the states put out every effort to realise the objectives they have set for their national security. The states are the most important actors when discussing the background of the system of international politics. In the event that the state believes that it is the target of an assault, its leaders will ignore any and all considerations and use any and all methods that are required to achieve their goals. This theory provides an explanation for why countries do not adhere to the terms of international treaties. They are willing to resort to whatever means necessary in order to safeguard their interests.

Significance of the Study

The study is very significant since it focuses on the prospect of war between the two arch-rivals is India and Pakistan. During cold war it was observed that the nuclear weapons served as a deterrence and neither USA nor USSR dared to go to war with each other. They only engaged each other indirectly through proxies. The story in Indo-Pak subcontinent is quite different. Both the countries have acquired nuclear weapons quite recently. Extremism and intolerance have been on rise in both the states. An event like attack on Indian parliament can easily motivate India to mobilize its forces on its borders with Pakistan which could lead to a war. And that war might go nuclear. This study focuses on those situations which could result in nuclear war.

History

Since 1947, when the Indian subcontinent was separated into two different nations, the foundation has been laid for the continuing, prolonged bloodshed in and around the Jammu and Kashmir areas. This disagreement has continued for centuries. Both India and Pakistan continue to make territorial claims over the whole area, which has been the root cause of their three previous confrontations. In addition, China holds authority over a substantial portion of the disputed land. These enduring conflicts continue to exacerbate regional instability and complicate demilitarization attempts. These concerns may be traced back to past grudges and unsolved conflicts (Yasir, 2009).

The Line of Control is a section of the international boundary that divides Indian- and Pakistani-controlled territory (LoC). Consequently, a disputed boundary line has been established across the contested territory. Both Indian and Pakistani soldiers exert tremendous effort to preserve this dividing line, which often results in inadvertent cross-fire and casualties on both sides. On the Indian side of Kashmir, there have been frequent outbreaks of violence along many political lines; nonetheless, the great majority of these outbreaks have occurred between Indian security forces and terrorist groups that threaten Indian sovereignty. These splits have happened along several political lines.

Due to the Line of Control (LoC), residents on either side of the border could not visit their relatives on the opposite side. This resulted in the alienation of numerous families. As a result of years of violent fighting in Jammu and Kashmir, the several Jammu and Kashmiri communities living on either side of the Line of Control have become estranged and mistrustful of one another. This is a consequence of the violence in Jammu and Kashmir during the last many decades.

Civil society organizations have continued to foster interaction across divisions in India, Pakistan, and on both sides of the Line of Control in Kashmir. Even though India and Pakistan are currently engaged in a highly militarized impasse and that the official level of their bilateral dialogue process remains uneven, this situation has emerged. Since 2004, the whole community of Kashmir has reacted with tremendous excitement to the historic attempts to rebuild some linkages across the LoC. To restore specific communications across the Line of Control, several actions have been taken. On both sides of the Line of Control, these gaps provide chances for greater collaboration and peace building that must not be missed.

India and Pakistan took the first steps toward initiating bilateral discussions in 2004. This so-called "composite communication" resulted in the formation of a bus service that enabled persons on both sides of the Line of Control (LoC) to interact with one another and even reconcile with family members on the other side. Additionally, there has not been a significant increase in commercial activity across the border. India and Pakistan reached a ceasefire agreement during their talks, and it has remained in effect despite the ongoing tension and disastrous conflicts between the two countries.

Since 2008, the official peace process has almost entirely failed to advance. As an immediate and direct response to the terrorist attacks that happened in Mumbai (Viney, 2008), Pathankot (2016), and most recently in Pulwama, the amount of military measures, including air strikes, has substantially grown. This relates to the use of unmanned aerial vehicles (2019). The current accusatory language between the two nuclear-capable states may rapidly reach a tipping point, and it is still pervasive in public discourse. Nonetheless, continued progress on the ground has enabled ordinary Kashmiris to maintain contacts across the LoC. Despite the precarious nature of formal relations between the governments of India and Pakistan, this is the truth (Zeeshan, 2019).

Origin of Kashmir Issue

State of Jammu and Kashmir had the most inhabitants and the fourth-largest geographical area among the 565 princely states that comprised British India. It consisted of the Kashmir Valley, Jammu Province, the district of Pooch, Ladakh and Baltistan, and the Gilgit region. In the middle of the 1800s, a single government was established for all of these formerly autonomous regions. A little more than 4 million people resided there in 1941. Approximately 77 percent of them were Muslims, 20 percent Hindus, 1.5 percent Sikhs, and 1 percent Buddhists. Kashmir has traditionally been a region where people of many religions and cultures have coexisted in harmony. Kashmir at refers to a spirit of humanism and tolerance that arose from the region's long history of peace amongst diverse ethnicities. This is one of the distinguishing characteristics of Kashmiris. During the latter years of the Mughal monarchy in India, Ahmed Shah Abdali seized control of Kashmir. Ahmed Shah Abdali

was ruthless and aggressive when in control in Kashmir. In 1819, when the Sikhs expelled the Afghans from Kashmir and established control of the region, the locals greeted them with open arms. It became immediately apparent that the Sikhs were an even more authoritarian bunch. In addition, they were religious extremists who vowed vengeance against the bulk of the populace, who were Kashmiri Muslims. Raja Gulab Singh, a member of the Hindu Dogra family who ruled a principality southeast of Jammu, aided the Sikhs in their several military assaults on Kashmir. These journeys were supervised by Sikhs. As a gesture of gratitude for Gulab Singh's assistance, the Sikhs awarded him sovereignty of the whole province of Jammu. By capturing Ladakh and Baltistan from Tibet in 1839, Gulab Singh was able to govern over these neighboring regions. Gulab Singh assisted the British during their conflict with the Sikhs in 1844. Under the conditions of the Treaty of Amritsar (1846), the British government released the Sikhs from sovereignty over Kashmir and handed the region to Gulab Singh for Rs. 7.5 million as a "independent possession." The British administration expressed gratitude for Gulab Singh's faithfulness. Because of Maharaja Gulab Singh's conquest of Kashmir, this mostly Muslim territory is now governed by a Hindu kingdom. Due to the Dogras' inability to exert effective authority over Gilgit, the British established the Gilgit Agency in 1889 and placed the province under the direct administration of a British political agent. At the time, the British were concerned about what the Russians might do in the Pamir Mountains.

The significance of possibilities for continuous connection on both sides of the border lies in the fact that they enable civil society to gain wide popular support for the peace process. It is considered that this assistance would help to developing momentum for a return to formal discussion, as well as ensuring that official dialogue procedures are attentive to the needs and aspirations of communities who bear the lion's share of the war's cost. It is expected that these two goals will be met via the provision of this assistance.

It is essential to combat the widespread feeling of dissatisfaction and alienation among young people in the region by encouraging their participation in peacebuilding, economic, and public life activities. To do this, it is essential to enable youth to actively participate in peacebuilding initiatives. Since 2016, Kashmiri youth have organized and coordinated frequent protests and marches, particularly in the sections of the Kashmir valley under Indian control. This is especially true in the Indian-controlled areas of the Kashmir valley. These situations typically culminate in violent, sometimes deadly confrontations with police enforcement.

Wars between Pakistan and India

In October 1947, when Pakistan feared that the Maharaja of Kashmir may join India, the First Kashmir War began. Princely states may join India, Pakistan, or stay independent after partition. The largest princely kingdom, Jammu and Kashmir, was controlled by Hari Singh. Pakistani soldiers supported Islamic tribal fighters in capturing a kingdom. The princely state's Maharaja signed the Instrument of Accession asking Indian military aid. The United Nations Security Council passed Resolution 47 on April 22, 1948. The fronts of the Line of Control hardened. The cessation of hostilities happened on January 1, 1949, at 23:59. Pakistan controlled one-third of Kashmir, which included the Kashmir Valley, Jammu, and Ladakh (Azad Kashmir, and Gilgit-Baltistan). Pakistan administers Kashmir.

Indo-Pak War 1965

To destabilize India, soldiers were dispatched to Jammu and Kashmir as part of Operation Gibraltar. India struck back against West Pakistan. Hundreds perished during the seventeen-day conflict. The tank combat was the largest since World War II. Hostilities stopped because of Soviet and American diplomatic efforts and the Tashkent Declaration. India signed the ceasefire pact before Pakistan.

1971 India-Pakistan War

This conflict was notable because it did not include Kashmir; it was prompted by a political dispute in what is now Bangladesh between Sheikh Mujibur Rahman of East Pakistan and Yahya Khan and Zulfikar Ali Bhutto of West Pakistan. Bangladesh's secession from Pakistan would thereafter occur. Ten million East Pakistanis migrated to India in the aftermath of Operation Searchlight and the horrible events of 1971 in Bangladesh. India supported Bangladesh's independence. Following India's pre-emptive assault on Pakistan, all-out war broke out.

The Indian Army guarded India's western border against Pakistan. In response to Pakistan's westward assault, the Indian Army quickly occupied 15,010 square kilometers. Pakistan's environment (land gained by India in Pakistani Kashmir, Pakistani Punjab and Sindh sectors but gifted it back to Pakistan in the Shimla Agreement of 1972, as a gesture of goodwill). After two weeks of combat, the Pakistani army in East Pakistan capitulated, leading to the formation of Bangladesh. This combat caused the most casualties between India and Pakistan, when 90,000 Pakistani forces surrendered. The highest number of POWs since World War II. One-third of the Pakistani army, one-fourth of its navy, and one-fourth of its air force

India-Pakistan War 1999

The Kargil War was unexceptional. In 1999, Pakistani soldiers crossed the Line of Control and seized Kargil. India used both military and diplomatic tactics to combat Pakistani invaders. India reclaimed the bulk of the hills after two months of warfare. Two months had passed. Seventy-five to eighty percent of the populated region and almost all the highlands were under the dominion of the Indians. The international world, headed by the United States, exerted diplomatic pressure on Pakistan to remove its forces from Indian territory out of fear of a huge escalation in armed war. Pakistan's economy suffered when it seemed isolated. During the retreat, heavy Northern Light Infantry casualties demoralized the Pakistanis. The unwillingness of the government to recognize fallen police officers provoked discontent in the North. Nawaz Sharif said that 4,000 Pakistanis were killed in the operation and that Pakistan was defeated. In July 1999, fighting ceased in Kargil. The war ravaged the Pakistani military.

We think that the participation of the Kashmiri people, in conjunction with ongoing discussions between Pakistan and India, is important to halt the killing in the region and achieve a permanent peace for the foreseeable future.

India started its nuclear program secretly with Soviet help in 1960's. The 1962 Indo-China war led the Indian policy makers to acquire a weapons capability which would deter China from any future adventurism. The Chinese did give India a fair beating in that war. India also wanted regional hegemony and nuclear weapons were the only means through which they could achieve that hegemony. These Indian ambitions combined with the Indian insecurities pushed India towards the nuclearization. India tested first nuclear weapons in 1974. However, these explosions were not successful.

Pakistan had just faced a disastrous defeat in 1971 war. It lost its eastern wing. Pakistan found itself helpless since its ally US did not intervene to save it from disintegration as she had assumed. Pakistani leadership was shocked after the India tested its nuclear arsenal. India tried to pacify Pakistan by stating that its nuclear weapons are not Pakistan oriented. These Indian justifications did not deter Pakistan from pursuing its nuclear programmed. Pakistan Prime minister at that time Mr. Bhutto stated at that time that Pakistan national security is under grave threat and that Pakistan will eat grass but still would go nuclear. The Indian actions provoked Pakistan to pursue a nuclear weapons program. Pakistan was never in the mood to make nuclear weapons.

USA was concerned about the nuclear weapons program of Pakistan and tried to force Pakistan out of it. But then came an era of peak of Cold War which distracted USA away from this issue. USSR invaded Afghanistan and USA and Pakistan again became strategic allies. The USA started to pour money and weapons in Pakistan for the purpose of its protection from possible soviet Invasion of Pakistan and to train and support the Afghan freedom fighters. This period from 1979 to 1988 in which The USA and USSR were engaged in proxy war in Afghanistan was utilized by Pakistan to its advantage and she pursued its nuclear weapons program unhindered. Pakistan according to some reports had acquired the capability to make nuclear weapons by 1986 but Pakistan did not go for nuclear experimentation.

India meanwhile was busy in her own nuclear weapons program. The USSR involvement in Afghanistan distracted it from helping India in its pursuit if nuclear weapons program. The Indians used black market and other illegal resources to make its nuclear weapons and increased the pace of its program. Indians knew of Pakistani nuclear program and didn't want to lag. By the end of the 20th century India was ready to announce its nuclear capability, so was Pakistan.

In the month of May 1998, India tested its nuclear weapons. Pakistan responded by testing its own nuclear weapons on 28th May 1998. The USA and the world were shocked by the behavior of both the states and immediately imposed economic and military sanctions on Pakistan and India. India had achieved its dream of regional hegemony and Pakistan had secured itself from the Indian aggression. Pakistan and India were adamant about waging war against one another even throughout the Cold War. Pakistani troops invaded Kargil during the winter of 1999, crossing the Line of Control. It was too late for the Indians when they finally realized what was going on. More than a month of fighting in the Kargil region necessitated India's deployment of thousands of troops; hundreds of soldiers on both sides were killed.

Terrorists stormed the Indian parliament in December 2001. After accusing Pakistan of helping and funding these attacks, India quickly mobilized its forces and deployed them close to the Pakistani border. Both India and Pakistan have accused each other of being behind the attacks. For more than nine months, the whole world held its collective breath as tensions rose between the two countries, raising the spectra of a full-scale nuclear war. It was only possible to avoid this conflict because to American and other Western engagement. Traditionalists believe that both countries should not have acted in the way they did. That's what former Secretary of State Madeleine Albright had to say about their actions. If they didn't start the war, the deployment of troops on the border of another country is seen as an act of war because of their closeness.

Once again, India's nuclear weapons did not deter it from redeploying its military near Pakistan's borders, as seen by the Mumbai attacks. Given how sensitive the issue is and the potential consequences of even the smallest miscalculation, it is not unexpected that both countries' responses were excessive. In order to weaken the other country's might, India and Pakistan are said to be engaging in proxy warfare. Pakistan has been supporting Kashmiri independence militants for a long time. The Indian military has not altered its course in the Kashmir Valley. More than 700,000 troops are stationed there to put down the revolt that is taking place there. In a same fashion, India has placed Afghanistan at the top of its priority list. The Indian consulates in Afghanistan have contributed to the insurgency in Pakistani Baluchistan. Pakistan has also accused India on several occasions of financing terrorist operations inside the country itself.

As Prime Minister of India in 2014, Modi was re-elected. If Pakistan doesn't agree with his demands, the Hindu extremist has repeatedly threatened that war would break out. The spread of Hindu fanaticism in India presents a threat to the whole region. Extremism, which has already shaken Pakistan to its core, is already causing havoc in Pakistan. Fundamentalists may one day gain control

of either country because of the surge in extremism in both. India and Pakistan might start a nuclear war if the current situation continues.

Because of the conflict in Kashmir, this corner of the globe has been plagued by instability for decades. This dispute has sparked three wars between Pakistan and India. According to both countries, their claims to Kashmir would be upheld. An argument over this topic between Pakistan and India might spark a war. In addition, this fight will be violent and disastrous in its scope and scope. Even though both Pakistan and India are armed with nuclear weapons, they have a history of reckless behavior. This kind of behavior might possibly have devastating consequences for the whole world, not just for the locality (Kukreja, 2009).

Findings

Both India and Pakistan have engaged in reckless behavior, even though they are in possession of nuclear weapons. It is an indication that any one of the countries, or both, may go to war at any time and use nuclear weapons. Both Pakistan and India are having problems that may be traced back to the growth of extremism in their own countries. Pakistan has sustained a great deal of damage as a direct consequence of this fanaticism. The area of Kashmir is at the center of the argument that exists between Pakistan and India. Both countries have engaged in several conflicts with one another over the course of the years as a direct result of the sensitive issue. Even though they have nuclear weapons, they are willing to do it again if given the chance.

Legal Option for both Parties

The Pakistan-India Kashmir issue is a complex and long-standing dispute over the region of Kashmir, which is currently divided between India, Pakistan, and China. The dispute has its roots in the partition of India in 1947, which led to the creation of India and Pakistan as separate countries. The status of Kashmir, which was a princely state at the time, was left unresolved, leading to a conflict between India and Pakistan over the territory.

In terms of the need for law in resolving the Kashmir issue, there are several international laws and agreements that could potentially be applied. The United Nations has been involved in efforts to resolve the Kashmir dispute since the 1940s, and there have been several UN resolutions calling for a plebiscite to be held in Kashmir to determine its future status. However, these resolutions have not been implemented, and the dispute remains unresolved.

There are also international laws regarding the right to self-determination, which could potentially be applied to the Kashmir issue. The right to self-determination is enshrined in the UN Charter and other international instruments, and it allows people to determine their own political status and freely pursue their economic, social, and cultural development. Some argue that the people of Kashmir should be allowed to exercise their right to self-determination and decide their own future status.

In addition, there are bilateral agreements between India and Pakistan that could potentially be used to resolve the Kashmir issue. The 1972 Shimla Agreement between India and Pakistan, for example, calls for the two countries to resolve their disputes through peaceful means and bilateral negotiations.

Ultimately, the resolution of the Kashmir issue will likely require a combination of legal, political, and diplomatic efforts. It will require both India and Pakistan to be willing to engage in constructive dialogue and find a mutually acceptable solution that considers the interests and concerns of all parties involved.

Conclusion

India's clandestine nuclear program was kicked off with the help of the Soviet Union in the 1960s. After the war that broke out between India and China in 1962, the decision-makers in India made the conscious decision to construct a military capability with the intention of discouraging China from participating in any subsequent acts of adventurism. The Chinese did, in fact, emerge victorious from the conflict after fighting India on an even keel. The acquisition of nuclear weapons was the sole means, in India's view, by which they felt they could achieve their objective of becoming the dominant power in the area, which India shared with other countries. After suffering a humiliating defeat in the war that took place in 1971, Pakistan was in a precarious situation. The only wing that was still intact was the eastern one. Pakistan was rendered helpless when it became apparent that its ally, the United States of America, would not intervene to stop the collapse of the nation as she had thought it would. The announcement that India had carried out a nuclear test using its arsenal caught the Pakistani authorities off guard. India has said, to pacify Pakistan, that the nuclear weapons it has were not built with Pakistan in mind when they were developed. The reasons presented by India had little impact on Pakistan's desire to go on with the development of its nuclear program. Because of Kashmir, this region of the globe has historically struggled with an issue related to instability. The territorial dispute between Pakistan and India has resulted in three conflicts between the two countries. Both countries have made it clear that they would not budge from their respective positions about Kashmir's ownership. It is possible that a war would break out as a result of the competitiveness between Pakistan and India about this subject. In addition, this fight is going to end up being quite violent and disastrous. Although they have nuclear weapons in their arsenals, Pakistan and India have a track record of engaging in reckless behavior in the past. This behavior has the potential to have devastating ramifications not just for the region but also for the whole planet.

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