

Consequences of Colonization: Conflict over Disputed Territories - A Case Study of Kashmir's Right to Self-Determination

Introduction

One of the most tense and dangerous rivalries in the world is between the countries of Pakistan and India. Up until seventy years ago, they shared the same history and experiences, and both now are rampant with nationalism and religious divide. The consequences of colonial rule has left a lasting impact on these two countries, and each country's foreign policy is centered around the other. In order to maintain peace and security, we must analyze the tension between the countries regarding the disputed territory of Kashmir, and consider possible solutions that recognize this conflict, but also the Kashmiris' right to self-determination.

Leading Up to Colonization

The Indian subcontinent has an ancient history and has been ruled by an array of empires and kingdoms, each striving to acquire as much land and prestige as possible to leave a legacy for hundreds of years to come. The Mughal empire was no different and established itself an empire after conquering minor sultanates and dynasties. Under Mughal rule, arts, culture, and science flourished, as well as trade. The East India Company was royally chartered in 1600 by Britain, and began to establish trade in Mughal India. Though just a trading power, the East India Company becomes stronger and the Mughal empire began to incrementally lose power to other kingdoms and empires looking to seize power on the Indian subcontinent. The Mughals held on to one last province before it was ultimately defeated by the East India Company in 1857. During Mughal rule in 1799, the Sikh empire had defeated the Mughals in modern-day northern Pakistan and gained control of that region. The Sikh empire lasted for about fifty years before losing to the East India Company in the Anglo-Sikh wars and the former Sikh land, was divided into princely states, regions that are ruled by a local or regional leader allied with the East India Company, or later on, the British Raj. In 1857, there is an uprising by the Indians against the East India Company's reforms and oligarchical rule, most often referred to as the Indian Mutiny or the Sepoy Mutiny. In this mutiny, Hindus and Muslims united to fight the British rule, and this uprising lasted for one and a half years before it was suppressed by the East India Company.

Following the uprising, the Government of India Act was passed, which transferred direct power to Britain. Queen Victoria becomes Empress of India, and established what was known as the British Raj, officially making India a colonized territory.

British Strategy: Divide and Rule

The key strategy for Britain to establish colonial rule, was “divide and rule” or “divide and conquer,” which aimed to provoke hostility between the native people of the region. Learning their mistake from the Indian Mutiny, the British Raj immediately implements this strategy through education and governance. India already had an established caste, or class system, and the British hoped to capitalize on this by creating class conflict (Rahman 4). They implemented British education systems at the upper-class level and students were taught English within this system. Higher education was only provided in English, and it was mainly upper-class Indians who could afford to pursue a higher degree of education. Because of this, knowing English became a sign of status and divided Indians. The traditional school system was still kept in place, increasing inequality between higher and lower castes and weakened Indian unity. Education was also used as an oppressive tool. In the classroom, the teacher was the supreme authority giving information, where students could not share their own thoughts or critical analyses (Rahman 7-9). This forced Indian students to become indoctrinated and fulfilled the goal of the British to “civilize the savages.” The consequences of these policies can be seen today, where one of the official languages of Pakistan and India, is English. Britain’s education policies aimed to create structural and cultural violence, which are systematic and the hardest to undo.

When the Raj was established, Queen Victoria promised that the Indians would be treated the same as British subjects. Only five years later, the Code of Criminal Procedure is passed and prohibits Indian judges to issue warrants or indict British officials or citizens (Rahman 14-15). This code immediately creates a power dynamic where we are reminded, yet again, that the British are the colonizers, the ones with power. In 1908, the Mint-Morley Reforms are passed, which allow Indians to be elected to legislative councils in the capital and their provinces. This reform allowed Muslims to have their own separate electorate, further preventing Muslims and

Hindus from collaborating or uniting. The Hindu electorate was called the Indian National Congress and the Muslim electorate was called the All Muslim League.

Independence, Withdrawal, Partition

As time went on, these separate electorates became stronger and popular with their bases. The nationalist movement strengthened and they began to call for independence. The All Muslim League was concerned that they wouldn't have a say in a Hindu majority if they were to become an independent Hindu-majority state, and this fear was perpetuated the the divide and conquer strategy of Britain, who often played these electorates off of each other in an attempt to make them weaker. Muhammad Ali Jinnah, the leader of the All Muslim League, proposed the Two Nation Theory (Tharoor). This theory supported the creation of two states, one with all of the Muslim-majority regions, and one with all of the Hindu-majority regions. This theory was a direct consequence of British colonization, as British rule had aggravated tensions and increased distrust between Hindus and Muslims.

Britain emerged from World War II victorious, but weak, and could not support the Indian colony effectively either politically, or financially. As a result, the British decided to withdraw, and Jinnah, and Jawarhalal Nehru, leader of the Indian National Congress, came together for partition discussions. The British announced their intentions to withdraw in February 1947, and intended to complete their withdrawal on June 1948. Instead, they soon decided to accelerate the process by ten months (Tharoor). In June 1947, the borders of the new nations are hastily created. Infamously, Sir Cyril Radcliffe who knew nothing of India, was put in charge of dividing the provinces and districts.

After World War I, Britain and France were tasked with drawing borders of new nations in the Middle East after the fall of the Ottoman Empire. Their goal was to divide and create countries based on religions and ethnicities: Palestine would be mainly Jewish, Lebanon would be Christian, Bekaa Valley would be Shia, and Syria would be Sunni. The lines and borders drawn did not correspond to sectarian or ethnic distinctions, effectively damning the region to everlasting conflict between the peoples of a country (Osman).

Similarly, the borders of India and Pakistan split the regions of Punjab, Bengal, Sindh, and Kashmir. Two months after the borders are created, independence was announced on August 14 and August 15 for Pakistan and India, respectively. This ignited a mass migration, with Hindus and Sikhs leaving for India, while Muslims begin to travel towards Pakistan. About 14 million people abandoned their homes, and between 200,000 to two million people were killed (Doshi). The number of casualties is still unknown because of the true chaotic nature of one of the bloodiest events in human history. The partition was a direct consequence of Britain's fleeting withdrawal. They failed to have a proper transition period instead of giving incremental independence, leaving behind catastrophic consequences for years to come.

Kashmir During the Partition and Indo-Pakistani Wars

Like mentioned before, Kashmir becomes a princely state after the fall of the Sikh empire. The mainly Muslim population is ruled by a Hindu prince named Maharaja Gulab Singh. During the partition, Gulab Singh's grand-nephew, Hari Singh is now the Maharaja. According to the Two Nation Theory, Kashmir should have become a part of the Dominion Pakistan, but Singh, upon the advisement of the British, decides to accede to India, formally signing the Instrument of Accession to the Dominion of India.

The Instrument of Accession immediately triggered the Indo-Pakistani War of 1947-1948. A local uprising in parts of Kashmir along with Pashtun tribes from Pakistan try to capture Kashmir. India responds by sending Indian troops, which are eventually confronted by Pakistani troops. The war was inconclusive and as the war slowed down, there was a ceasefire at the frontlines and that border soon came to be known as the Line of Control, but at this point it was the United Nations Ceasefire Line of 1949 (BBC).

During the war, India took the issue of Kashmir to the United Nations Security Council. In 1948, Resolution 47 was passed and it mandated Pakistan to withdraw its troops from Kashmir, India to limit its military presence, and to hold a plebiscite for the Kashmiris to decide their own future. This resolution was unsuccessful because Pakistan didn't want to withdraw its troops in fear of India not withdrawing its troops. Thus, there continued to be a standstill, and the Kashmiris did not get their right to vote and decide.

Recent Skirmishes and Current Perspectives

There were two more wars between India and Pakistan over Kashmir in the last half of the twentieth century. After, there has been many more skirmishes and confrontations, including most recently, in February 2019. In retaliation for an attack by a terrorist group based in Pakistan, India launched an airstrike, which resulted in Pakistan launching a strike to take down India's fighter jet. India claimed that it shot down Pakistan's jet, and Pakistan captured an Indian pilot during this skirmish. The confrontation officially ended when Pakistan returned the captured pilot to India (Steer). Even today, the issue is still very current and still very tense.

There are three bodies involved in this issue, and each has their own perspective. Pakistan believes that the original UN resolution must be followed through in order to maintain the legitimacy of the United Nations Security Council and that the Kashmiris should vote for their future. India believes that the mandate of the resolution has long expired, so there is nothing to be done. It also believes that Kashmir is rightfully theirs because of the Instrument of Accession and that there should be no parity with Pakistan. The United Nations formally recognizes Kashmir as disputed and believes in parity between the two countries. The United Nations Military Observer Group for India and Pakistan is the longest peacekeeping mission in the history of the UN, and observers are not allowed on the Indian side of Kashmir because India believes the mandate has elapsed.

Office of the United Nations High Commissioner for Human Rights (OHCHR) Report Regarding Human Rights Violations

The OHCHR released a human rights report on June 14, 2018, detailing the human rights violations in Kashmir from both India and Pakistan, and recently published an update of the report on July 9, 2019. In India, it details the amount of Kashmiri civilians that were killed (160 people), due to unnecessary and disproportionate force. The use of pellet guns to disperse protestors is also mentioned, along with the search operation strategy, "cordon and search," which includes "physical intimidation and assault, invasion of privacy, arbitrary and unlawful

detention/collective punishment, and destruction of private property. There is also no prosecution of security officer personnel.

In Pakistan, the OHCHR reports that the federal government still needs to update the local constitutions in Gilgit-Baltistan for the citizens to enjoy full rights, and that Pakistan is restricting the freedom of expression for those that want independence. Another concern is that the Kashmir provinces aren't being included in trade discussions with China, especially since many of those trade agreements are using natural resources in Kashmir, or pass through Kashmir. There is also mention of discrimination against a Muslim minority, called the Ahmadiyya Muslims. The most pressing issue of all, is the use of direct violence to intimidate and scare frequent independent movements, especially in India. Time Magazine reports on the bodily trauma some Kashmiris have from multiple pellet gun shots.

What Can Be Done?

This needs to be a multilateral issue. More countries need to recognize this political and humanitarian crisis which is far from resolved. Bill Clinton called Kashmir the most dangerous place in the world in 2000, only one year after both countries acquired nuclear weapons. After two decades of innovation and increased animosity, this region is more than dangerous. Any other major confrontation can result in a possible nuclear conflict. The international community needs to put aside their national economic interests to achieve diplomacy between these two countries.

There needs to be a reconvening of the Security Council and they either need to create or update the old resolution according to the modern-crisis. The Kashmiri people must be allowed to vote in a plebiscite administered by the UN to prevent bias or intervention from either country.

An anonymous source from the Mission of Pakistan said how South Asia contains some of the world's poorest people and when both nations are pouring money into defense, it's disproportionately affects the people from sustainably growing and developing.

Possible Solutions

After the Kashmiris have their plebiscite, they are most likely going to vote for independence. According to a Reuters poll, 87% of Kashmiris want independence, 7% want to stay in India, and 3% want to stay with Pakistan. It is highly unlikely for either country to give up land to allow Kashmir to form an independent country.

Although the resolution of autonomy has been passed in India for Jammu and Kashmir, it has not yet been implemented. In Pakistan, Azad Kashmir and Gilgit-Baltistan are self-governing and are semi-provincial states. Thus, territorial autonomy will probably be the most feasible option and usually the best compromise to provide a resolution to the conflict. The anonymous source from the Mission of Pakistan also speculated that a joint-administration of Kashmir by Pakistan and India could be a future possibility. If this initiative happens, it could be an incentive for the two countries keep and maintain peace.

Conclusion

Kashmiris, along with many of the other peoples in this region, have been disproportionately affected by issues such as religious polarization, and nationalism (a direct manifestation of divide and conquer), along with disregard for a peaceful transition by Britain. Many of the people in India and Pakistan share the same history, heritage, race, culture, and language. If the rights of Kashmiris, as well as the right to self determination, are given peacefully, this can lead to peace and security and collaboration between the two nations that have been fighting since the day of their birth and unchain themselves from being the prisoners of their past.

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