

RE-VISITING THE TRADITIONAL CONFLICT: ANALYSIS OF KASHMIR DISPUTE USING CONSTRUCTIVIST FRAMEWORK

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Abstract

This article seeks to explicate the interpretative analysis of Kashmir dispute. The epistemological shift in the global politics requires the appreciation of endogenous and exogenous factors. The Kashmir conflict is a perpetual strand between India-Pakistan which re-assert the conflictual nature of political relations. Both the states employ respective ideational framework to legitimise their claim to achieve the respective political objectives. Pakistan espouses the ideational factors grounded on Two-Nation Theory to socially construct their narrative regarding the Kashmir dispute. In India, the differential identity of INC and BJP in terms of secular and ethno-nationalism respectively, shape the contemporary proclamation over the dispute territory. The change in the culture of anarchy from Hobbesian to Kantian seems distant after the revocation of the special status of Indian Illegally Occupied Jammu & Kashmir (IIOJK) by the BJP government. The constructive intervention of international society and regional organisations would be required to safeguard the geo-political and geo-economic interests of the regional states. Followed by empirical analysis, the way forward and future recommendations would be delineated to critically reconnoitre the discursive strategies employed by political leaders for understanding the non-material factors which shape the social reality of India-Pakistan relations.

Keywords: Constructivism, Kashmir Dispute, India

Introduction

Pakistan and India got independence from British rule in 1947, and the Kashmir, one of the princely states with Muslim majority, emerged with uncertainty regarding the accession to either India or Pakistan.¹ The Kashmir conflict is imbued with both exogenous and endogenous sources which created a thaw between Pakistan and India since independence. With respect to exogenous sources, both the states favour maximalist approach to claim their national existence. Endogenous sources emphasis on heterogeneous dimensions of Kashmir owing to multiplicity of religious and caste groups.

Over the last 74 years, Pakistan and India did not able to achieve the political consensus on Kashmir dispute. The Kashmir dispute has embroiled the South Asian region into uncertainties, likewise political and ideological apprehensions. The history of Pakistan and India is marred with social, ideological and political differences. The significance of binary identities, based on their respective socio-cultural milieu, led to the creation of India and Pakistan in 1947. James and Ozdamar analysed the relation between India and Pakistan, with respect to Kashmir conflict, through the simultaneous incorporation of domestic and external factors. The element of religion is important factor

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to comprehend the ethnic conflict in Kashmir.² In spite of many efforts, both UN resolutions and bilateral agreements, Kashmir conflict remains an unfulfilled promise. The imbalance of conventional power urges India to refuse the peace process, which forced Pakistan to neutralise the India's conventional might by acquiring nuclear weapons.³

Both the India and Pakistani state justify their claim based on their ideas, belief and identities. Likewise, India wants Kashmir to become a part of Indian Union to justify their staunch secular nationalism. People in Indian Illegally Occupied Jammu and Kashmir (IIOJK) are facing social and economic problems. After the Indian state revoked the article 35A and 370 on August 5, 2019, India deployed 700,000 forces to quell the demands put forward by Kashmir freedom fighters, which legitimise their protest on the basis of fighting holy war against the Indian hegemonic designs.⁴ After the formation of government by the Bhartiya Janta Party (BJP), India has been intensifying the political claim on Indian Illegally Occupied Jammu & Kashmir (IIOJK) to deprive the Muslim majority state from its right of self-rule. However, Pakistan believes that Kashmir should become its part because latter comprises a Muslim-majority area and concurrently uphold the spirit of UN resolutions to organise the plebiscite in Kashmir. This study aims to understand the role of constructivist approach in explaining the bilateral relationship between Pakistan and India. The post-modern critique of traditional IR theories provided an ontological and epistemological ground to evaluate the Kashmir crisis. The non-traditional theories provide an interpretative epistemological position to examine the social reality through the subjective point of view.

Constructivism: Epistemological shift from Positivism to Interpretative Paradigm

The traditional theories in International Relations have explained the political imperatives using the positivist epistemological framework. As classical theorists explained, their focus primarily is to enhance the prospect of national interest.⁵ Likewise, the non-traditional theories, such as Marxism, Feminism and Constructivism, are pivotal to re-evaluate the underlying assumptions which resultantly shape the dynamic of global politics and multi-faceted kinds of worldview.⁶

The respective theoretical framework enables the researcher to analyse the different structural issues, such as gender-based politics, economic dimension of a conflict and binary division of identities to re-examine the political realities with subject to endogenous and exogenous factors. The gender-based political analysis will provide the impetus and structural support to sustainable peace process by mainstreaming the gender related issues and provide the policy makers with alternate social reality regarding how the international institution can ameliorate the cultural factors to support the inclusion of women in the decision-making process. In 1966, Berger and Luckman coined the concept of 'social construction of reality'.⁷ Constructivist reached the shores of International Relations in 1980s.⁸ In the study of international relations, one of the first groundbreaking constructivist works was Onuf's "*World Of Our Making: Rules And Rule In Social Theory*

And International Relations”, published in 1989. Onuf argued the interests of international actors need to be explained by social interaction.⁹ Before bringing the material forces, the process of theorising the international politics in the system should begin with the “intersubjectively shared ideas, norms, and values held by actors”.¹⁰

As Bhatia argued that governments, to gain legitimacy from the international and domestic community, frame the intra-state struggle in terms of larger conflict, as “it is decidedly in the interest of some quasi-authoritarian governments to over-emphasise the militant character of their opposition, in the hope of US assistance.”¹¹ Constructivism provided a non-traditional way of interpreting the global political landscape amid the presence of conventional security contours i.e. material power. Instead of assuming reality as objective, devoid of discursive powers, the constructivist assumes an international system based on subjective reality formed by employing norms and values. The demise of Cold War provided an impetus to the non-traditional way of political analysis which can be explained using a constructivist approach while discounting the dominant realist and liberalist-based theoretical framework.¹²

The changing nature of identities corresponds with the perception towards the power dynamics in the international system. Certain assumptions define the theoretical contour of constructivism. First, the ideas, beliefs and identities of the state are socially constructed. Second, social factors (relations) define how we evaluate material factors such as military power. Third, the inter-subjective relations between states and actors define the basis of cooperation. Finally, the factor of changeability explains the variation in concepts in international relations over time.¹³ The constructivist framework treats the aspects of social reality like “ethnicity” with associated implications. They take into question why boundaries are drawn and maintained. And for reconciliation, would it be possible to deconstruct the division constructed through the social processes?

Genesis of Kashmir Dispute

The genesis of the Kashmir conflict emphasises the four major themes; “the question of accession, the question of aggression, the question of self-determination and finally, the question of UN resolution”.¹⁴ Both states initially pledged to decide the fate of Kashmir through a plebiscite under the auspices of UN resolutions. Pakistan on 1st January 1948 denied the use of its territory to launch military operations in Kashmir as India instituted a formal complaint against Pakistan, which alleged that the latter allowed the invaders to operate against Kashmir.¹⁵

After the partition of the Indo-Pak subcontinent, all princely states, except Kashmir, Hyderabad and Junagadh, had been acceded to either state based on the guidelines provided by the government.¹⁶ The longstanding and intractable Kashmir conflict between Pakistan and India has mired their economic, social and political relations. Though the root of the Kashmir conflict dates back to 1947, it has turned into a bone of contention in the bilateral relationship between Pakistan and India. At the time of partition, there were around 560 princely states under British India and Kashmir, a Muslim majority, was one of them.¹⁷ After the partitioning of the subcontinent into India

and Pakistan, the delay in deciding the constitutional position of Kashmir, after the British left, was the root cause of the Kashmir conflict.

When Maharaja Hari Singh formally acceded to India, Mountbatten put a condition for the deployment of troops, in support for Maharaja, that the 'subsequent accession must be confirmed by a referendum'.¹⁸ On 2nd November, 1947 India's first Prime Minister Pandit Nehru, a Kashmiri himself, announced on All India Radio that "Kashmir future will be decided by the means of plebiscite".¹⁹ Prolong fighting between Indian and Pakistani troops continued well into 1948, culminated into ceasefire in 1949 mediated by UN to resolve the issue impartially and withdrawal of armed forces. In 1952, under the Delhi agreement, the special status of Kashmir was included under the Article 370 of the Indian constitution. In 1990s, the surge in uprising by Jammu and Kashmir Liberation Front (JKLF), which believes in sovereign Kashmir, roamed the streets and neighbourhoods of Srinagar carrying ammunitions. Indian security forces eventually fought a desperate battle to stem the tidal wave of insurgency and popular uprising sweeping the valley.

India claims that there is no need for plebiscite as people of Kashmir eagerly participates in state elections amid the presence of 600,000 to 700,000 Indian troops which cast aspersion in the narrative of free and fair elections. That means the ratio of deployment to people is 1 soldier for every 18 persons. Meanwhile, in Kashmir, around 89,000 people have lost their lives during the past two decades. Indian army has been accused of violating the human rights like torture, disappearances, and custodial deaths.²⁰

In 1990s, the Operation Tiger and Operation Shiva were launched by security forces to capture and kill suspected militants, resultantly, indiscriminate attacks on civilian escalated during the operations. So, the Indian state constructs the 'terrorist' through the securitisation process and legitimise its use of force. After independence, the Indian state had been facing a myriad of intra-state conflicts due to its large and varied demography.²¹ India's brutal crackdown on Kashmiri people is due to the government narrative, which primarily focused on abetment and direct sponsorship of the violence by Pakistan. Moreover, after the revocation of special status of Kashmir under article 370 and 35A by India, the region experienced unrest being augmented by the forces of resistance and freedom struggle movements.

Though the Indian constitution safeguard the democratic rights and freedom of speech, but the BJP-led government in New Delhi violated the fundamental social and political aspirations that led to growing alienation of Kashmiri people and the demand of secession from India by hardliners.^[22] Bhartiya Jana Singh stated that Kashmir is an integral part of India and any reference to the United Nations must be withdrawn. The revocation of the special status of Kashmir impacted the local civilians by cutting the communication and internet.²³ Moreover these actions under the state apparatus might augment the communal tensions and impact the escalation of violence along the Line of Control. The pivotal factor of historical animosity forces the two states to adopt conflictual nature towards each other. The conjoining of historical factors with discursive

practices adopted by political elite further widens the gap of possibilities to achieve sustainable solutions.

After the 2014 general elections in India, the BJP came into power with support for associations that claim India as a Hindu nation. After the Pulwama attack and revocation of Article 370 and 35A, the nationalistic discourse and explicit disregard by India for previous agreements, the policymakers in Pakistan have condemned the move and subsequently called for OIC and UNSC to take up the issue to play a decisive role for peaceful resolution of conflict. On the other hand, the Indian government legitimised its constitutional move for the promotion of governance and commercial interests. The use of political violence by the state to quell the democratic voices and securitise the demands as de-legitimate have further intensified the policies of state repression. In order to ameliorate the Hobbesian culture of anarchy, economic cooperation needs to be enhanced between Pakistan and India in order to augment the prospects of sustainable peace resolution.

Ideational Construction of Kashmir Conflict

Few researchers have investigated the role of ideational framework in the analysis of bilateral conflict. The Kashmir dispute is a perpetual conflict which has mired the two neighbouring states in adversarial relations and failed to actualise the predictions made by Jawaharlal Nehru and Mohammad Ali Jinnah about easing of tensions after partition.²⁴ It is imperative to analyse the norms, hostility and values to understand the driving force of their legitimacy for claim on Kashmir, rather primarily focusses on rational behaviour with prior understanding. Scholarly literature shows that after the Mumbai attacks and ascendance of Modi, the India foreign policy have undergone certain shifts in norms. The surgical strikes and demarches show the norms of non-interference have rescinded from the foreign policy behaviour of India.²⁵

The employment of constructivist framework to explain the Kashmir dispute demands the examination of ideational facts used by India and Pakistan to proclaim their legitimacy. The separate Muslim identity on the basis of religion and cultural factors, advocated by All India Muslim League (AIML), formed the unit-level constructivist lens in contrast with predilections of the Congress party. The behaviour of the states who focused on identity formation primarily utilised three aspects: imagination, communication and constraint. The Indian National Congress (INC) imagined the unified India communicated by Gandhi and Nehru and constraint their ideological position in contrast to the demands of Muslim for separate homeland.²⁶

The regional historiography is imbued with multi-lingual societies, world literature, and adherent of major religions, which can be found in South Asia.²⁷ The division of societies into communitarianism (Hinduism and Muslims) and nationalism had further supported the narrative of independent states. Many follow the conventional version of communalism- “Muslim” Pakistan and “Hindu” India- to explain the bilateral animosities, while discounting the pluralistic cohesion prior to the twentieth century. The two-nation theory provided a legitimate ground to Muslims to create an imagine

community for Muslim to mobilise them against the atrocities of Hindu-dominated party. The Muslims during the pre-partition era created a binary category of themselves as “us” against the Hindus as “others”. Muslims strived to safeguard the political, social and cultural elements with respect to Muslim community. After the partition, Pakistan’s foreign policy is based on affirmative relations with the Muslim countries. The identity of Kashmiri, rooted in their cultural affinity of culture and religion to Pakistan, is important for Pakistan due to its strategic significance and ideological bond.²⁸

Pakistan enclosed its demand for Kashmir on the basis of its ideological appeal. Likewise, Loomba suggested that the state of Pakistan applies the religious Two Nation Theory to Kashmir Valley.²⁹ India, due to its secular constitutional outlook, legitimises its claim on Kashmir while discount the religious and sectarian politics. The Hobbesian nature of South Asian politics traditionally underscores the classical framework to explain the states’ relations.³⁰

Being an Islamic Republic, Pakistan has been a voice for Muslims in Myanmar, Afghanistan, Palestinians and Kashmir. The ideological synchronisation between Kashmiri’s Muslim and Pakistan’s Islamic ideology entrusted the same code of conduct and culture. This ensures the freedom of worship and lifestyle.³¹ India’s manifest secular regime encapsulate the conservative and Hindutva creed such as Bhartiya Janta Party (BJP) and Shiv Sena. Secular India is depriving the Muslims from observance of their religious rights.³² Pakistan claim to Kashmir is based on its Muslim-majority population in accordance with the pre-partition legal norms. Since, Viceroy Lord Mountbatten suggested the following guideline to princely states: “Normally geographically situation and communal interests and so forth will be the factors to be considered.”³³

Pakistan constructs the Kashmir issue under survival threat from India and commonality based on religious identity which legitimise its use of diplomatic efforts to compel the international community about the violations of human rights and UN resolutions by India. In contrast, the Indian state charged Pakistan with aiding and abetting the cross-border terrorism in IIOJK. The ruling-government under BJP undermines the Simla agreement, signed after 1971 War, and according to Article IV on Geneva Convention, “the occupying forces shall not deport of its own civilian population into the territory it occupies”³⁴ For example, the ruling government in India, BJP, decide to settle Hindus in IIOJK, which is a violation of international legal norms.³⁵ From 1990 to 2014, Indian security forces have killed more than 900 individuals which tantamount to violation of human rights.³⁶ Indian state employs political violence in Kashmir to quell the dissenting voices against the state-propagated narrative. After the abrogation of special status of Kashmir, the means of communication and political space have shrunken to force the inhabitants to accept the state policies.³⁷

The ascendance of Bhartiya Janata Party (BJP) in the Indian political landscape is undermining secular status enshrined in the constitution. The construct of Hindu-ness and qualms about the separate status enjoyed by Kashmir, calls for scholarly attention to analyse the Hindutva-based nationalism, term *Hindutva* coined by V.R Savarkar, premised

on golden Vedic age.³⁸ As succinctly iterated by Muhammad Mujeeb that, BJP has “skilfully promoted its agenda of a Hindu nationalist ideology and provided it legitimacy within the body-politic of the country.”³⁹ The revocation of the special status of Kashmir advances the Hindu-nationalist agenda of the Bhartiya Janata Party (BJP) as mentioned in their 2019 election manifesto and lessen the influence of Indian Muslims which are constructed as threat for national security.

The employment of soft and hard power by BJP-led government, based on multi-ethnic society and being a non-aggressive nation, has peddled the India’s cosmopolitan effect in materialistic and non-materialistic aspect. BJP-led government skilfully constructed an identity as a promoter of south Asian integration by delivering “strategic concessions”.⁴⁰

Role of International Society

Constructivist explores the identities in international relations shaped by actors like international organisations (United Nations), states and individuals.⁴¹ The democratic political structure of a state legitimises its domestic and foreign policy, which focuses on international norms and customary traditions. Being a democratic country demands the adherence to international obligations, related to human rights and freedom of speech, to legitimise its policies. Since, India’s employment of conditional support to coerce the Hari Singh to ascertain the future of Kashmir in favour of India went against the pro-Pakistani aspirations of many Kashmir. From 1948 to 1971, the United Nations passed 23 resolutions regarding the Kashmir dispute.⁴² It was India who initiated, and file complain in the UNSC. Pakistan support the UNSC resolutions to hold the free and independent plebiscite. The adherence to the legal obligations and UN resolutions constructs the identity of state as supporter of international order and enhance the strategic, diplomatic and political standing in international arena. The role of mediation by UNCIP was deferring to the norms of state sovereignty rather than engage in a genuine effort to advance the principle of self-determination.⁴³ Resultantly, the international society did not able to successfully resolve the Kashmir dispute which is important owing to geo-strategic and geo-economic interest of the regional states.

Looking into Future

The Kashmir conflict is an unfinished agenda between Pakistan and India despite wars and numerous cross-border skirmishes. The hegemonic design of India creates hindrances in implementing the UN-sponsored resolution. The Kashmir issue is not just an intractable dispute between Pakistan and India, but it also shows the ineffectiveness of the international community in advancing their efforts to resolve the conflict.⁴⁴ Contrary to the positivist nature of analysing international and regional politics, constructivism emphasises normative dimensions and the inclusion of norms, values and culture to understand the nuisances of inter-state conflicts. The geo-strategic and geo-political contention between Pakistan and India is unable to integrate the South Asian countries to develop policies for regional prosperity. The smouldering conflict of Kashmir had periodically impaired the bilateral relations. The economic cooperation and employment

of soft power by Pakistan and India can ameliorate the escalating hostilities between the states owing to security-centric policies. The political determination and political will are equally important to solve the bilateral animosity using confidence building measures.⁴⁵

The role of international community and world powers is pertinent to mediate to facilitate the adherence to global norms of human rights. The South Asian Association for Regional Cooperation (SAARC) is a pivotal platform to improve the intra-regional trade and mobilisation of human resources. The increasing economic relations might pave the way for safeguarding regional stability. Even though the UN had a lacklustre record to mediate between India and Pakistan, the UN resolutions provided legitimacy to the Kashmiris with their distinct political identity. In Kashmir words like Plebiscite Front and Plebiscite became part of political discourse.⁴⁶ So, international mediation would be a preferable way to resolve the Kashmir conflict to maintain the prospects of impartiality and neutrality. The regional and international community must mediate to solve the Kashmir dispute for regional stability and to safeguard the economic interests of the regional states. The right course of action to develop a pragmatic and sustainable approach towards peace resolution is not premised on objective reality, but rather based on social reality through the shared understanding of political and economic models.

At the systemic level, the Shanghai Cooperation Organisation (SCO) needs to augment its political cooperation within and among the regional states by keeping in check the ideological-guided political practices to considerably frame the prospects for sustainable peace and stability in the region. The regional organisations were not able to construct a common identity premised on shared norms and values which overtake the local identity and construct a framework for mutual peace and economic cooperation.

The multi-faceted nature of conflicts needs to be appraised pragmatically to accentuate the fundamental perspective. The Kashmir dispute can also be viewed as a legal issue rather than a political manoeuvring tool to successfully adjudicate the conflict and develop a pro-peace narrative for conflict management. The intractable conflict is focused on more than one dimension, because the underlying factors responsible for the continuation of conflict may have political, cultural, economic and social variables. The Kashmir dispute is a multi-pronged conflict between India-Pakistan and India-religious militants to establish a theocratic state by waging religious war-Jihad.⁴⁷ The conflict resolution must be approached by keeping into account the ground realities. To actualise the peace process, the stakeholders on both sides need to take into account both the endogenous and exogenous factors.

After the abrogation of the special status of Kashmir by the Indian state and to allow outsiders to buy and sell properties, the propensity of structural violence can be seen in Indian policymakers. The constitutional status guaranteed the special rights to the people of Kashmir. The Kashmir conflict required a sustainable peace process based on Problem Solving Decision Making (PSDM), a constructive approach which provides the possible options to actors to ensure the durable peace in the region.⁴⁸ Countries embroiled in intractable conflicts find it difficult to achieve sustainable peace. For both

Pakistan and India to achieve peace, the domestic factors and what concession they can draw from each other are pertinent to start the conflict resolution mechanism. The two states would like to de-escalate the conflict in order to preclude the full fledged war due to the possession of nuclear weapons by both the states.⁴⁹ After the revocation of the special status of Kashmir, as enshrined in the political manifesto of BJP, the dynamic of interaction between the bilateral states has changed and Pakistan needs to put diplomatic and international pressure to re-evaluate their decision in order to give the right of self-determination to Kashmiris.

The media also needs to play a constructive role to improve the prospects of social reality in the region. The media from both sides needs to incorporate the narrative of inclusion rather exclusion and avoid the coverage of a conflict based on exaggeration. Media watchdogs on both sides needs to appraise the hate speech and focusses on constructive debate to outline possible points of engagement.

Conclusion

The article evaluates the Kashmir conflict by applying the constructivist theory to re-approach the dispute by analysing the multi-faceted dimensions. Contrary to the traditional belief regarding balance of power and power maximisation, the constructivist approach emphasises the role of values, norms and culture which might either escalate or de-escalate the political animosities between states. Pakistan and India employ their respective narratives to claim the region of Kashmir. The perceived polarity has trapped both states in political constraints in particular, and uncertainty regarding regional stability in general. Both states need to develop a sustainable approach to achieve peace and likewise augment their political legitimacy in the international arena. The peace in the region is vital for economic and social prospects. The threat of security and prevalence of uncertainty owing to conflict might hamper the inflow of potential investments. The peace in Kashmir is not only beneficial to Pakistan and India, but it provides regional stability and augments intra-regional trade. Moreover, with the changing domestic politics in Afghanistan and the improbability of the power politics in the Asia Pacific, the international community and domestic political elites in Pakistan-India must forge reconciliations and conflict resolution attempts to ensure the safeguards of fundamental rights of Kashmiri people and the legitimacy of UN resolutions.

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