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Self-determination and international law in the Kashmir conflict: Legal challenges and the quest for peaceful resolution

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Abstract

Self-determination has been the central issue of the Kashmir conflict, where it presents complicated questions with regard to international law. This paper will concentrate on the place in law of the right to self-determination and its relevance to the people of Jammu and Kashmir. It analyzes the relevant resolutions put in place by the United Nations, the practice of the state, and the position of India and Pakistan with respect to international law norms. The paper also examines whether the Kashmiri people can be a people that deserve to have self-determination, and the debate on the issue of conflict of territorial integrity and the right to self-determination. The article unveils inconsistencies between the implication and implementation of international law in Kashmir through a doctrinal approach to law. It is adamant that since it became clear that self-determination is a fundamental right, politics has worked against the actualization of the same in Kashmir. The paper concludes by reaffirming that there is a need to have a peaceful and legal solution that is in accordance with international laws.

Keywords: human rights, India, Kashmir, Pakistan, peace

Introduction

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One of the most debatable and old conflicts in international law, based on the development after the division of British India in 1947, is the Jammu and Kashmir conflict. Self-determination that is an essential right and is proclaimed in the context of the international legal system and is widely discussed in modern literature. Also include the fact that the Kashmir case, however, serves as the manifestation of the deficit in the legal commitments, in relation to self-determination. The intervention of the United Nations, specifically the plebiscite request, Rehman and Nabi (2023) point to the fact that there has been an expectation that has not been fulfilled in terms of the law. The conflict remains directly analyzed in modern academia, especially in the context of revolving around the issue of post-colonial territorial conflicts and the dynamic nature of international law.

New literature claims that the notion of self-determination is no longer limited to classical decolonization but extends in some circumstances to people who are politically marginalized or where a particular state exercises its sovereignty over others. According to Hashmi et al. (2025), the Kashmir issue is presented as the unfulfilled legal obligations and the unabated applicability of international principles. Rehman and Nabi (2023) further point out that the presence of the United Nations provided a legal expectation of self-determination, especially through the offer of a plebiscite. The vagueness of the enforcement of these commitments has contributed to the conflict (Majeed & Hameed, 2023). Conversely, Ibrahim (2025) challenges the modern enforceability of such legal duties, based on changing geopolitical realities.

The other line of literature involves the conflict between self-determination and territorial integrity, especially in the disputed areas such as Kashmir. Zaidi and Khan (2025) argue that international law usually considers the sovereignty of the state except when there are exceptional circumstances that warrant a deviation. Similarly, Mohsin et al. (2025) note that the legal approach of India is based on the concept of territorial integrity, whereas Pakistan still refers to the principle of self-determination. As Hashmat and Tang (2025) point out, the imperative to consider human rights has become increasingly significant, implying that any long-term deprivation of political rights can enhance legal actions.

Moreover, Shamim et al. (2024) observe that the lack of uniform enforcement mechanisms restrains the practical implementation of these rights. The literature, in general, is a fragmented but developing legal discourse as influenced by legal principles and geopolitical constraints. This loss in respecting the initial promises helps to keep the legality of Kashmir as an unresolved and controversial issue.

The Kashmir problem is a confusion of law on hitting the correct to self-determination and the concept of territorial integrity. This tension argument is that it is one of the symptoms of the bigger issues of the use of international law over disputed territories (Majeed & Hameed, 2023). The introduction of sovereignty has constrained the practice of self-determination in practice as stated by Zaidi and Khan (2025). Rather, Mohsin et al. (2025) point out the greater importance of human rights and internal self-

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determination as alternative means. Shamim et al. (2024) also state that Geopolitical factors are still continuing to influence the application of legal norms.

Research Justification

The significance of the research lies in the fact that one of the most lasting and unresolved conflicts in international law is at stake, where the laws and the reality of politics are in strong contradiction. Kashmir crisis continues to raise a few burning questions about the scope and applicability of the right to self-determination. This right has been known to have many international applications, but its applicability in Kashmir remains unclear and subject to debate. Such a work is therefore justified to explore the possibility of a uniform application of the rules of international law, or a discriminatory application of geopolitical interest. The study will contribute to the understanding of how international law works in more protracted territorial disputes by filling this gap.

Moreover, the study has significance in assessing the conflict between self-determination and concept of territorial integrity, especially with changing legal principles like remedial secession. UNSC Resolution 47 is still referred to and the significance of bilateral agreements, including the Simla Agreement, highlight the need to conduct a comprehensive legal analysis. The paper aims to offer a critical and balanced discussion that will not only add to the academic discussion but will also offer conclusions to policymakers and legal professionals. Lastly, the research is meant to bridge a gap between the political practice and legal theory in relation to Kashmir.

Literature Review

The matter of self-determination in Kashmir has been a popular topic of modern scholarship, especially when it comes to post-colonial territorial conflicts and the development of international legal norms. Recent studies argue that self-determination should not be limited to the classical understanding of decolonization but can, in certain instances, be extended to politically marginalized people or the sovereignty of whom is challenged. Hashmi et al. (2025) emphasized the fact that the Kashmir conflict is a reflection of the unrealized legal obligation and the continuation of the international principles. On the same note, Rehman and Nabi (2023) point out that the involvement of the UN established legal anticipation with regards to self-determination, especially by presenting a plebiscite. Majeed and Hameed (2023) also claim that the conflict has persisted because of the ambiguity about how these commitments are to be fulfilled. But Ibrahim (2025) is skeptical that these legal requirements can be enforced in the present day, referring to the evolving geopolitical circumstances.

Zaidi and Khan (2025) assume that the principle of state sovereignty is generally respected by international law unless in extraordinary circumstances, which justify otherwise. Mohsin et al. (2025) emphasize that the legal stance of India is set based on the assumption of territorial integrity, as compared to Pakistan, which continues to apply the principle of self-determination. Hashmat and Tang (2025) underline the greater role of human rights considerations, which presupposes that the deprivation of political say could be supported by legal claims longer. Furthermore, the absence of enforcing

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mechanisms that are standard, as noted by Shamim et al. (2024), inhibits the practical application of these rights. In general, the literature approaches provide a disjointed but dynamic legal discourse that is conditioned by the legal principles as well as geopolitical restrictions.

Historical Context of the Kashmir Conflict

The Kashmir conflict has its historical background that dates back to the partitioning of British India in 1947, whereby the princely states had an option of joining either India or Pakistan. Being a Muslim-majority state, Jammu and Kashmir originally pursued independence but subsequently became a part of India under controversial conditions due to domestic turmoil and foreign pressure. Haider (2025) describes that the accession precipitated direct war between India and Pakistan, internationalizing the conflict. Hashmi et al. (2025) note that intervention by the United Nations resulted in a call for a ceasefire and a plebiscite to determine the will of the Kashmiri people.

Waqas and Rehman (2023) point out that such an early intervention instilled the value of self-determination into the conflict. The author also includes that the failure to fulfill these promises has only served to contribute to the conflict (Rehman & Nabi, 2023). Since then, the legal and political dimension of the conflict has evolved as the greater international law has been influenced by self-determination. It is stressed that decolonization led to the recognition of the right of self-determination as a juridical right. This right is based at the center and is controversial in Kashmir due to the claims of sovereignty.

According to Mohsin et al. (2025), the rise in the significance of territorial integrity has restricted its use. According to Hashmat and Tang (2025), the Kashmir war is a symptom of an old discrepancy between the legal requirements and the political facts, and it is not solved under international law.

Theoretical Context of Self-Determination and the Kashmir Conflict

The right is attributed to decolonization by classical theory, but to cases of foreign occupation or systematic denial of political participation by modern interpretations, as proceeded by scholars like Antonio Cassese. It brings about a theoretical dilemma in Kashmir whether or not the people of Kashmir are a definite people who need outside self-determination, or whether the problem is internal to the sovereign state.

According to a statement made in the UN General Assembly Resolution 2625, international law is aimed at finding a balance between the aspirations of peoples and the stability of the existing states. Unilateral secession, according to such scholars as James Crawford, is not normally permissible, except in exceptional cases, to justify a remedial secession such as a history of human rights abuses. This theoretical contradiction is yet to be solved in the case of Kashmir, with conflicting accounts of the conflict being described as either an act of struggle for self-determination or a question of legal sovereignty. Thus, the dilemma shows the constraints of the legal theory in the face of complicated geopolitical realities.

Laws Regarding Self-Determination and the Kashmir Conflict

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The international law governing the Kashmir conflict is multi-layered and interwoven depending on several sources of international law, including treaties, customary principles, and United Nations resolutions. The conflict between the principle of territorial integrity and the right to self-determination is at the core of this framework. Even though the right of people to determine their own political future is established obviously in international law, in reality, it can be based on the political reality and consent of states. In the case of Kashmir,

1. **Right to Self-Determination under the United Nations Charter:** The concept of right to self-determination was enshrined in the Charter of the United Nations, particularly in Articles 1(2) and 55, which recognized the concept as a key to good relations among nations. The right is also supported by the UN General Assembly Resolution 1514, which states that all peoples should enjoy the right to decide on political status freely. The legal basis of these claims is these provisions in the background of Kashmir, which demand a plebiscite to know the will of the Kashmiri people.
2. **United Nations Security Council Resolutions on Kashmir:** The United Nations Security Council resolved the Kashmir issue in several resolutions, the most notable one being UN Security Council Resolution 47. This resolution required that hostilities be stopped, troops withdrawn, and a free and fair plebiscite be conducted under the watch of the UN. Despite the importance of these resolutions in the development of the legal discourse, their application has not been fully accomplished, and it thus casts doubt on their binding force and enforceability under international law.
3. **International Human Rights Law:** The right to self-determination is not only established in the major human rights documents, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Both covenants in article 1 of article 1 state that every person has the right to self-determination. Such tools take the principle beyond the decolonization principle of the significance of political involvement, independence, and safeguarding of fundamental rights, which all apply to the Kashmir situation.
4. **Principle of Territorial Integrity:** There is a counter-legal principle of territorial integrity that safeguards the sovereignty and integrity of states. It is codified in the UN General Assembly Resolution 2625, which states that self-determination should not come in the way of the territorial integrity of sovereign states. India has been applying this principle to Jammu and Kashmir, claiming that foreign powers are infringing upon its sovereignty, and this should not occur within its sovereignty.
5. **Simla Agreement and Bilateral Legal Framework**: The Simla Agreement between India and Pakistan has been of great importance in the region. It lays stress on the settlement of conflicts by bilateral negotiations and peaceful means. India perceives this agreement to limit the intervention of third parties, and this includes the United Nations, but Pakistan considers that this does not override previous UN obligations. The two-fold meaning is also what complicates the Kashmir conflict even more in the legal domain.

Challenges for Self-Determination in the Kashmir Conflict

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The misuse of the right to self-determination in Kashmir has been severely questioned by both law and politics, primarily due to the conflict between the right and the state sovereignty principle. Even though self-determination is a concept that is recognized under the United Nations Charter and the International Covenant on Civil and Political Rights, its application is greatly dependent on the will and approval of the state as well as the international political will. It is, however, not the same in the case of Kashmir, where India insists that it is a region of its sovereign state and therefore the issue is seen as an in-house problem. This position limits the real practice of external self-determination and curtails international intervention, despite this being promised in the past through UN Security Council Resolution 47.

Demilitarization as a pre-requisite to the plebiscite has not been achieved, and both India and Pakistan have divergent interpretations of their duties. This impasse has been a real paralysis towards the fulfillment of the Kashmiri people's right to choose their political destiny. Also, there is the doctrine of territorial integrity, which is embodied in the UN General Assembly Resolution 2625, and this is a limitation to self-determination claims. The only extraordinary reasons that secession is promoted by international law are severe human rights violations. But the fact that people are not unanimous about what such circumstances are complicates the situation even more. As a result, the Kashmir conflict can be used as an example of the more general issue of universal legal applicability in politically charged and controversial areas, where geopolitics and the law are most closely interwoven.

Opportunities for Self-Determination in the Kashmir Conflict

However, the historical challenges notwithstanding, some legal and political developments have provided an opportunity to advance the right to self-determination in the Kashmir conflict. The direction that is critical is the one that is in the context of international law itself, as it still recognizes self-determination as a fundamental right in the United Nations Charter and in the International Covenant on Civil and Political Rights. These instruments provide a sustainability of law over which claims of political participation and autonomy can be advanced.

Even though the notion of external self-determination at all times may be a contentious issue, the concept of internal self-determination and also a sense of meaningful political representation, autonomy, and the protection of civil liberties offers a more straightforward path through the status quo. Another opportunity is the potential of the applicability of international interaction and diplomatic processes. The involvement of the United Nations and the frequent attention of the international community to the human rights situation in Kashmir make the issue remain in the international legal discourse. Though the UN Security Council Resolution 47 is yet to be fully realized, it serves as a point of reference to promote a peaceful settlement. Furthermore, the evolving norms in international law, particularly concerning the protection of human rights and minorities, may strengthen the arguments for a greater

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level of autonomy or more negotiated solutions because it must be pegged on the will of the people.

Moreover, bilateral and regional mechanisms also offer possible opportunities to move forward. The Simla Agreement stresses peaceful agreement through dialogue that, when properly implemented, would enable space to build confidence and gradual solutions. In this case, law can be employed to mediate the negotiation process to enable a compromise between sovereignty and the desires of the Kashmiri people. Overall, although a holistic solution will never be easy, these legal and diplomatic avenues will offer viable opportunities to advance the perspective of self-determination in a gradual and non-violent manner.

Conclusion

The Kashmir conflict can be considered one of the most complicated and unsolved cases in international law, in which the concept of self-determination is at the center but still not met. The right of peoples to decide their political status is a well-known legal instrument, like the United Nations Charter and the International Covenant on Civil and Political Rights, which have, however, been limited in their application in Kashmir due to the conflicting nature of sovereignty and the principle of territorial integrity. It is also supplied to indicate the continuation of relevance of international obligations, even though they have not been put in place, by the fact that even the reference to UN Security Council Resolution 47 remains.

Lastly, the paper has illustrated that the effectiveness of international law in providing a sound normative framework cannot be effective without political goodwill and cooperation among the parties involved. A peaceful and legal resolution should be based on legal values and realities, and this resolution should be based on the wishes of the Kashmiri people in a way that is consistent with international law.

Recommendations

To find a meaningful solution to the Kashmir conflict, there must be a balance between the legal principle and the practical reality. To start with, there is a need to revive the diplomatic relations between India and Pakistan. The framework presented by the Simla Agreement must be proactively employed to facilitate lasting dialogue, confidence-building initiatives, and peaceful dispute resolution. The development of an environment based on constructive bilateral negotiations with the help of back-channel diplomacy can facilitate the resolution of old legal and political issues.

Second, more focus should be on the actualization of internal self-determination. A viable way to achieve stability can be achieved by ensuring political participation, civil liberties, and human rights in line with the International Covenant on Civil and Political Rights. Enhancing local governance and accountability systems would assist in meeting the aspirations of the Kashmiri people within a prevailing legal framework.

Third, the United Nations should be re-energized to enable dialogue and surveillance of the state of human rights. Although enforcement has not been implemented on a broad basis, a regular international focus can promote adherence to accepted standards. Finally,

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everyone in the area must be ready to utilize peaceful tools and ensure no further growth since finding a reasonable solution must consider the law and the will of the people.

Research Limitations

This research has a number of limitations that may impact the coverage and severity of the research. Firstly, the secondary sources of information, including books, journal articles, and international law, are largely utilized in the research, and they can be influenced by various interpretations and biases based on the perspective that the author assumes. The lack of primary sources, like eyewitnesses or governmental reports, restricts a more in-depth empirical understanding of the Kashmir War.

Secondly, the information that is most neutral and universally accepted is limited because of the political sensitivity of the issue. As the stories being compared are those of India and Pakistan, the challenge is to maintain objectivity to the maximum level. Moreover, even the most powerful legal instruments are addressed, such as the Charter of the United Nations and the UN Security Council Resolution 47; however, their implementation into practice is still influenced by the political factors which cannot be analyzed in the context of this paper. Finally, the evolving factor in international law and the dynamics of the region is that any decisions taken can be subjected to revisions as time goes by.

Research Implications

The implications of the study on both the study of law and policy-making with regard to the Kashmir conflict are immeasurable. Through the examination of the right to self-determination and the principle of territorial integrity, the research points out the difficulties and opportunities of implementing the international legal standards in prolonged conflicts. The study reminds policymakers of the significance of considering both internal and external elements of self-determination by promoting the solutions to be based on human rights, political participation, and local autonomy. The study assists in the academic world in the deliberation of the inadequacies and outlooks of international law in war zones. It offers data that may be utilized to direct prospective research on the war zones in other regions of the globe.

Future Research Directions

The research on self-determination and the Kashmir conflict can develop in a number of significant ways in the future. To begin with, field research and primary data gathering with the Kashmiri people may help to gain a better understanding of their aspirations, views, and experiences, which should be complemented by the doctrinal legal analysis. Such a type of research would help bridge the gap between the theory of law and social realities on the ground. Second, an analogy of other long-standing territorial conflicts, such as in Palestine, Western Sahara, or even Kosovo, may serve as a lesson to be learned and applied to Kashmir in terms of the effectiveness of the international legal system and peace-building practices.

Third, the interdisciplinary approaches based on the combination of international law, human rights, political science, & literature on conflict resolution might provide a

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more comprehensive view of legal, political, and socioeconomic pertinent aspects. Lastly, the changing norms regarding internal self-determination, autonomy arrangements, and remedial secession might be critically evaluated in the future, and practical structures of providing sustainable peace and justice in Kashmir could be explored.

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