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**THE UNRESOLVED KASHMIR**

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**I. BACKGROUND:**

Kashmir ceases to remain the bilateral conflict between India and Pakistan and is a pressing international issue demanding international legal questions of peace, humanitarianism, self-determination and territorial sovereignty. Understanding of this issue will require the understanding of the history, events, religion and politics of the land which has eventually taken shape of the present-day scenario. This valley holds an age-old story which needs to be comprehended and taken account of while leading towards any possible elucidation. The valley of Kashmir emerged more than a hundred million years ago from a lake and volcanic eruptions in the Himalayan ranges.<sup>1</sup> Beautiful and resourceful, this valley has witnessed numerous transitions occurring due to a variety of rulers, traditions and religion residing on it. The transitions of various rulers and their respective religious beliefs brought in a lot of implications in the lives of common people which is stretched till date. Originally a Hindu populated state, living in harmony with Buddhists got trapped into this unending disarray upon being forcibly converted to Islam, questioning the present-day claims of Kashmir being an absolute Muslim state with minor Hindu and Buddhist population. The religious line of argument is deep-rooted and has been one of the reasons for Kashmir's ongoing tragedy.

**II. INDEPENDENCE – 1947:**

After the last Viceroy of British India, Viceroy Lord Mountbatten of Burma, the British theory of Divide and Rule was dominant and Jinnah had proposed his "Two Nation Theory", based on dividing the territory into India (being predominantly Hindu states) and Pakistan (being predominantly Muslim state which was reflective of the map drawn by Viceroy Mountbatten. Political ease and religious chaos led to the acceptance of this partition leading to the wretched massacre of that time. The majority Hindu occupied land was mostly the central part of the continent designated as India and Muslim-dominant areas were Punjab, Sindh and Bengal which were designated as East Pakistan and West Pakistan based on their respective positions. Indian subcontinent had 391 million people at that time, 15 million

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<sup>1</sup> Saeed Asad *Book of Knowledge* (National Institute of Kashmir Studies, Mirpur, 1997) at 14.

people had to flee across the borders of the newly made countries and 500,000 people lost their lives in the violence.<sup>2</sup> In 1947 India was left with 565 princely states<sup>3</sup>. All these states enjoyed assured legitimate prominence obliquely under the British Rule upon onuses to the crown. Although they had the choice to remain independent, the political drive required them to accept either of the states. But Jammu and Kashmir, then ruled by Maharaja Hari Singh requested for an independent status and persistence of being a princely state.

Pakistan adopted itself into an Islamic state, religion being the foundation of its creation, shaped expectations about Jammu and Kashmir joining them. But the Maharaja was not ready and proposed to sign a “Standstill Agreement” with both the countries where Kashmir will sustain its position. Pakistan government signed the agreement but the Indian government called for the Maharaja to negotiate the terms of the agreement and never actually signed it.<sup>4</sup> In a legal perspective, this clarifies that India never gave the status of an Independent state to Kashmir but Pakistan did. However, India never interfered in their affair unless, Kashmir was accessed to India whereas, Pakistan even after signing the standstill, went ahead to attack Kashmir and occupy it by force. Jammu and Kashmir remained independent until October 1947.<sup>5</sup>

### **III. THE DISPUTE:**

There were armed uprisings in parts of Kashmir against the then king with the support of Pakistani government, as they expected Kashmir to be a part of their land and attacked the local police and the army of the king and reached outskirts of Srinagar. The Maharaja acceded to the Indian government on 27 October 1947, to save them from the atrocities and violence caused by the Pakistani force.<sup>6</sup> Maharaja Hari Singh in presence of the head of National Conference Party, Sheikh Abdullah signed the instrument of accession<sup>7</sup>. The Indian government then airlifted the Indian army into the valley and by early November, Pakistani

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<sup>2</sup> The Economist “Videographic: India, Pakistan and Kashmir” (online video, 17 November 2009) YouTube <<https://www.youtube.com/watch?v=8rmUiLwy7kI>> at 0:20 minute.

<sup>3</sup> Victoria Schofield *Kashmir in Conflict: India, Pakistan and The Unending War* (IB Tauris, 2000) at 28 [3].

<sup>4</sup> *Max Planck Encyclopedia of Public International Law* (January 2011, online ed) Kashmir at [4] at [6].

<sup>5</sup> *Max Planck Encyclopedia of Public International Law* (January 2011, online ed) Kashmir at [4] at [8].

<sup>6</sup> Pitman Potter “The Principal Legal and Political Problems Involved in the Kashmir Case” (1950) 44 AJIL 361 at 361 [3].

<sup>7</sup> Instrument of Accession of Jammu and Kashmir State, India-Kashmir (signed 26 October 1947), <<https://thewire.in/76079/public-first-time-jammu-kashmirs-instrument-accession-india/>>.

tribes were pushed back and Indian army gained control over the area on 8 November 1947<sup>8</sup> and a line of a ceasefire was formed in Baramullah. The Pakistani army was pushed into the valley again and they gained control over the West part of Kashmir. This instrument made Kashmir a part of India but as a state with special autonomous powers. The Kashmir government could decide everything for Kashmiris except for the four matters of currency, external affairs, security and communication, which was to be taken care of by the Central Government of India<sup>9</sup>. It was also decided that Kashmir will have its own head of state and constitution to self-govern.<sup>10</sup> The instrument of accession is immensely important with its various legal implications as it raises the query of International Legitimacy of Kashmir being a part of India or not.

Indian claim holds that the Maharaja was the legal head of the state and has rightfully given Kashmir to India; it is recognised internationally that it is the right of Head of the State to decide and act as the signatory. As stated by Judge Anzilotti, "International Law imputes to a State all the manifestations of will and the acts which the head of the State acting in that capacity accomplishes in the domain of international relations.", which highlights the principle of *jus representationis omnimoda*.<sup>11</sup>

Legally analysing, the partition of India was based on the two British local acts, namely "The Government of India Act 1935"<sup>12</sup> and "The Indian Independence Act 1947"<sup>13</sup> and these acts have no mentioning of the need for the common of the state to decide through plebiscite but gives power to the head of the state to decide for the state as a whole as the legal authority. Also, it gives the final power to the Governor General of India to have the last say in deciding whether the accession was legitimate or not. And accordingly, this instrument was signed by the Governor General testifying Kashmir's accession to India. Pakistan claims that this treaty was signed under coercion and threat and thereby, does not hold itself as a valid treaty under Article 52 Vienna Convention and has been incorporated likewise in the Charter of the

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<sup>8</sup> Rajat Ganguly "India, Pakistan and the Kashmir Dispute" (Thesis, Asian Studies Institute & Centre for Strategic Studies, Victoria University of Wellington, 1998) at [7] - [8].

<sup>9</sup> *Article 370 of the Constitution of India.*

<sup>10</sup> Instrument of Accession of Jammu and Kashmir State, India-Kashmir (signed 26 October 1947), Th<<https://thewire.in/76079/public-first-time-jammu-kashmirs-instrument-accession-india/>>.

<sup>11</sup> Gururaj Rao *Legal Aspects of the Kashmir Problem* (Asia Publishing House, Bombay, 1967) at 340.

<sup>12</sup> Government of India Act 1935 (India) Geo V c 2, s 6.

<sup>13</sup> Indian Independence Act 1947 (India) Geo VI c 30, s 5.

United Nations ('UN Charter').<sup>14</sup> They also claim under Article 102 of the UN Charter that every member of the UN must register their treaty for being able to invoke it before UN.<sup>15</sup> They fiercely argue the validity of India's claim over the valley.

This argument was then taken to the United Nations where India claimed that Pakistan was interfering with the sovereignty of Indian territory forcefully and it is not legal under the present modern International Law as identified in Article 2.4 of the UN Charter, which restricts the interference with provincial integrity or diplomatic intrusion of any member state.<sup>16</sup> It is furthered in 1970 by the General Assembly under Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States stating that any acquisition by force will not be held legal.<sup>17</sup> Pakistan had dual claims with making either Kashmir a part of Pakistan because of its majority Muslim as an unfinished business of partition or holds a free plebiscite in Kashmir.

So, this struggle of India claiming on basis of territorial sovereignty and Pakistan on basis of two-nation theory and the right to self-determination was ultimately put at peace temporarily by the UN through a ceasefire and creating a border with the claim of both the countries. This outcome emphasises that this border, created 50 years ago, was and remains to be the only point of peaceful settlement.

#### **IV. THE U.N. RESOLUTION:**

India took up the Kashmir matter to United Nation ('UN') on 1 January 1948 and approached United Nation Security Council ('UNSC') under Article 34<sup>18</sup> and 35<sup>19</sup> of UN Charter claiming that Pakistan was meddling with their sovereignty and to help and ensure International Peace and Security against the uprisings in Kashmir, which might lead to a full-fledged war between India and Pakistan. Pakistan on the other hand absolutely disregarded Indian claims on Kashmir and asked the UN to decide the Kashmir issue. UN declared a

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<sup>14</sup> Vienna Convention on the Law of Treaties 1155 UNTS 331 (opened for signature 23 May 1969, entered into force 27 January 1980), art 52.

<sup>15</sup> Charter of the United Nations, art 102.

<sup>16</sup> At art 2[4].

<sup>17</sup> *Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations* GA Res 2625, XXV, A/8028 (1970) at 121.

<sup>18</sup> Charter of the United Nations, art 34.

<sup>19</sup> At art 35.

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ceasefire between the Indian and Pakistani troops and on 17 January 1948, in its Resolution 38<sup>20</sup>, which was duly accepted and followed by both the states. This was followed by another, Resolution 39<sup>21</sup> on 6 January 1948, which marked the disposition of the United Nations Commission for India and Pakistan ('UNCIP') with the primary responsibility to achieve peace and security in the area by acting as a buffer and mediator between the parties. It was also responsible for finding the ground facts, send reports of such to UNSC and to verify the grounds of the matter to fit into the requirements of Article 34 of the UN Charter.

On 21 April 1948, by UNSC Res 47<sup>22</sup>, there were three consequential non-binding steps<sup>23</sup> required to be taken by the two states which would ultimately lead to a plebiscite in Kashmir and allow an independent decision of the Kashmiris regarding their governance. These steps were sequential in the form that first Pakistan will withdraw their troops from the valley of Kashmir, then India will reduce their army base, keeping the minimum for the safety and security purpose and finally UN guided plebiscite will be held where the Kashmiris will decide for themselves whether they want to join India, Pakistan or be an independent state. This resolution clearly stated the International legal theory of self-governance and was duly accepted by both the countries. India blamed Pakistan for not taking the initial step and due to political strangle and absence of trust, neither of the countries left Kashmir completely and thereby plebiscite as per the UN mandate never took place.

By 1<sup>st</sup> January 1949, the ceasefire border formed out of the war of 1948 was duly negotiated and under "Karachi Agreement", a cease-fire line ('CFL'), as the de facto border line, was established on 27 July 1949.<sup>24</sup> This disputed area was not marked a part of either of the territories but after this agreement, the UN also changed their map status and took the Ceasefire Border as the new territorial border and established the United Nation Military Observer Group of India and Pakistan ('UNMOGIP') to stroll and maintain ceasefire over the border.<sup>25</sup> Though UN has not given any official recognition to the border but it is being perceived as the one since January 1948. The territory of Kashmir got divided into Pakistan occupied Kashmir ('PoK') or "Azad Kashmir" under the Pakistani control and State of

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<sup>20</sup> *The India-Pakistan Question* SC Res 38, S/651 (1948).

<sup>21</sup> *The India-Pakistan Question* SC Res 39, S/654 (1948).

<sup>22</sup> *The India-Pakistan Question* SC Res 47, S/726 (1948).

<sup>23</sup> At, above n 8, at 10:38 minute.

<sup>24</sup> At, above n 15, at [13].

<sup>25</sup> At, above n 15, at [14].

Jammu and Kashmir (J&K) under the Indian government. PoK being the northern and western part and J&K being the eastern and southern part of Kashmir, gave almost a third of Kashmir to Pakistan and the rest of India.

## **V. THE STATE OF JAMMU AND KASHMIR:**

The Indian Constituent Assembly adopted Article 370 of the Constitution<sup>26</sup>, ensuring a special status and internal semi-autonomy for Jammu and Kashmir, with Indian jurisdiction in Kashmir limited to the four areas as per the instrument of accession on 17 October 1949. India became the Republic of India on 26 January 1950 and the Constitution of India was adopted. The first elections for the J&K were held and Sheikh Abdullah was the clear winner and appointed the Prime Minister of J&K. He went ahead and signed the Delhi Agreement and established the Centre-State relationship of J&K and India under Article 370 of the Constitution of India.<sup>27</sup> J&K was a part of Union of India and was enjoying special powers of unique constitution and flag. Under this Article, which was temporary, the arrangement is so made that every decision made by the Indian parliament will have to be approved by the state parliament before it can be applied to J&K and thus this Indian state enjoyed its own autonomy with the protection and security of the country. J&K enjoys the status of a special state which no other state in India does<sup>28</sup>.

In 1953, Bakshi Ghulam Mohammed resided over the position of Sheikh Abdullah and gets the accession formally ratified and on 30 October 1956, the state Constituent Assembly adopts a constitution for the state declaring it an integral part of the Indian Union. In 1959, entry to J&K is eradicated and modifications are done to the Constitution of J&K to encompass authority of Union Election Commission to J&K and establish the authority of its High Court peer to Indian High courts in other states.<sup>29</sup>

This legislative act of India accentuated the prominence of the border further as the Constitution of India incorporated J&K as part of its territory, which is not the entire Kashmir valley but parts within Indian control, as demarcated by the CFL. Pakistan has its

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<sup>26</sup> Constitution of India 1950, art 370.

<sup>27</sup> "Kashmir - Chronology of Major Events" Peace Kashmir <<http://www.peacekashmir.org/jammu-kashmir/jk-chronology-of-major-events.htm>>.

<sup>28</sup> At, above n 44.

<sup>29</sup> At, above n 45.

administration in the Azad Kashmir and other areas demarcated by the CFL as under Pakistani control. Knowingly or unknowingly, both the countries were functioning in their own manner within their respective boundaries giving rise to the ideology of International Customary Rights. Even the population of J&K claim their rights and justice from the government of India and the people in PoK have their respective claims from the state of Pakistan. This points out that everyone had already accepted the CFL in its grey form and is just trying to remodel or negotiate on those fronts but not really get rid of it. This is further established when China gains control over Aksai Chin.

## **VI. THE THIRD CLAIMANT:**

In 1962, there was another stakeholder added in the already chaotic territorial mess, when the People's Republic of China invaded the eastern parts of Kashmir, which were scarcely populated and not under strict military control. They wanted to take over the north-east part of Kashmir to feed the link between Xinjiang and Tibet. So, by the end of the war, China had captured the northeast part of Kashmir and some parts of Ladakh and this part was called the Aksai Chin. This war was ended by a treaty between China and India establishing the Line of Actual Control ('LoAC').<sup>30</sup>

The Trans-Karakorum tract, of significant strategic importance, was given away by Pakistan to China voluntarily.<sup>31</sup> Pakistan took this step to oblige China and destabilise the Indian hold on Kashmir with this peculiar decision. This brought three contesting countries over Kashmir issue. According to my observation, this political decision of territorial sacrifice was made to strengthen Pakistan's Position over Kashmir by gaining support from China and jeopardising India. Analysing, the step of Pakistan to give away a part of Kashmir, establishes the understanding that Pakistan does not really want to support Kashmir Plebiscite, rather acts intensively on its authority over PoK and gives away a piece of itself to China.

This piece of land given over to China was a part of Kashmir, which was on the Pakistani side of the CFL. Also, China signed a treaty with the Government of India while establishing the boundary of Aksai Chin. Therefore, both India and Pakistan acknowledge their respective claims over Kashmir in their own boundaries separated by and making the CFL the actual

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<sup>30</sup> Wang Hongyu "Sino-Indian Relations: Present and Future" (1995) 35 JSTOR 546 at 547 [3], [4].

<sup>31</sup> At, above n 15, at [19].

point of settlement. Repeatedly, it is established through various agreements that this boundary is the only point of the settlement but unfortunately has never been negotiated by the international bodies.

## **VII. THE AGREEMENTS:**

Pakistan launched a military plan to seize J&K called “Operation Gibraltar”, involved sending Pakistani troops dressed as common and then the army. But the locals gave these people up to the Indian army and to their astonishment; the Indian army fought them backcrossing their own border on 23 September 1965. The U.N. superpowers were startled and even appointed armed impediment resulting in a ceasefire. Finally, under the Russian Mediation, the “Tashkent Declaration” to effect ceasefire and return within their respective boundaries as per the CFL.<sup>32</sup>

Thereafter, “The Simla Agreement” was signed by the Indian and Pakistani Prime Ministers in 1972, reestablishing the agenda of Tashkent Agreement and promising a democratic, peaceful and bilateral solution to the Kashmir issue.<sup>33</sup> The cease-fire line in Kashmir becomes the 'Line of Control'(LOC).<sup>34</sup>

As stated by the Ministry of External Affairs of India<sup>35</sup>:

*“The Simla Agreement contains a set of guiding principles, mutually agreed to by India and Pakistan, which both sides would adhere to while managing relations with each other. These emphasise respect for each other's territorial integrity and sovereignty; non-interference in each other's internal affairs; respect for each other's unity, political independence; sovereign equality; and abjuring hostile propaganda.”*

Like or dislike, International Law and these international bodies are majorly influenced by the international politics and apart from other reasons, plebiscite will never be possible due to numerous political constraints caused by the nations involved; India and China will not let

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<sup>32</sup> The essence of the entire paragraph is taken from:  
Schofield, above n 17, at 114-116.

<sup>33</sup> “A Brief History of the Kashmir Conflict” *The Telegraph* (online ed, UK, 24 September 2001).

<sup>34</sup> Alastair Lamb *Kashmir A Disputed Legacy* (Roxford, 1991) at 295.

<sup>35</sup> Simla Agreement India-Pakistan (signed 2 July 1972) < <http://mea.gov.in/in-focus-article.htm?19005/Simla+Agreement+July+2+1972>>.

plebiscite take place and reason behind Pakistan's interest in plebiscite is because, after years of insurgencies and running pro-Pak agendas, Kashmiris are quite convinced now. Pakistan could have let plebiscite take place in the 1950s by withdrawing its armed militants but refused at that point of time, delaying the very first step towards a successful internationally controlled plebiscite. Henceforth, instead of chanting the age-old failed path of the plebiscite and delaying the resolution further, it is better to incorporate the hidden solution, which practically has been the only source of peacekeeping of any form. If these borders would not have been established, numerous attacks by China and Pakistan would have continued and the Indian army would have kept attacking back as self-defense, giving rise to the Holocaust.

The borders are essential as it assigns responsibility and liability upon different states and allows the international community to interfere. If these borders were diminished it would have become a disaster with no one to hold responsible for the violation of Human Rights, initiating and supporting Terrorist activities, causing the economic crisis and environmental damage. Hence, the borders that have been made and is being followed religiously till date is the only source of hope against all the International Law violations.

### **VIII. PRESENT POLITICAL- LEGAL STATUS:**

The Indian occupied Kashmir is the state of J&K with the capital city of Srinagar under the Union of India but enjoys a special status of semi-autonomy; any decision taken by the central government must be accepted and passed by the state legislature to be applicable to J&K and the people of J&K can be prosecuted only in the courts of J&K and no other State High Court. In 2015, a coalition government between Bharatiya Janata Party ('BJP') and the People's Democratic Party ('PDP') was formed but the death of the Chief Minister created an uproar and his daughter, Mehbooba Mufti, the first lady Chief Minister of J&K, was sworn on 4 April 2016.<sup>36</sup>

Despite all the measures taken by the Indian government, peace is still lacking, there is the existence of constantly armed rebellions, sudden attacks and bombarding from the other side of the LoC. Recently, there was an attack on the Indian army base camp at Uri by militants killing 19 army men on 18 September 2016 and is one of the worst of its kind.<sup>37</sup> As a

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<sup>36</sup> "Kashmir Fast Facts" (29 March 2017) *CNN* <<http://edition.cnn.com/2013/11/08/world/kashmir-fast-facts/>>.

<sup>37</sup> "Kashmir Fast Facts" (29 March 2017) *CNN* <<http://edition.cnn.com/2013/11/08/world/kashmir-fast-facts/>>.

measure to ensure the safety of Kashmiris, other Indian states keeps taking refugees and recently in October 2016 took over 10,000 people. Also, there was an indefinite curfew till August 2016 in most parts of J&K, after the killing of popular militant Burhan Wani, the top commander of the Hizb, causing violent protests on the streets of J&K, burning down schools, houses, shops and other administrative buildings. Death reports of a minimum of 68 civilians, 2 officials are made along with the injury to more than 9,000 people in a period of about 50 days of violence.<sup>38</sup> Indian government keeps blaming Pakistan for all this terrorist and unethical attacks and Pakistani government keeps denying them. The Pakistan occupied Kashmir is under the Pakistan government like its other states with Muzaffarabad as the capital town with minimal political recognition and pitiful social infrastructure. Aksai Chin is absolutely under Chinese control and governed by the Chinese government with requisite freedom and rights as that of a Chinese citizen.

### **IX. POSSIBLE SOLUTION – RECOMMENDATION:**

According to me, the best solution lies with adhering to the Status Quo as compared to conducting Plebiscite which was recommended by the UN. Official recognition of the present LOC as the legit international boundary through paperwork by the international bodies is appropriate for safeguarding every stakeholder's interest and bringing peace and prosperity in Kashmir. This solution is the middle ground for everyone with requisite compromise and therefore curtails the possibility of political partiality.

Additionally, being politically and legally acceptable<sup>39</sup> for more than 50 years, it qualifies the international legal standards of a boundary. Though never explicitly and officially stated as the international boundary, it has always served the very purpose and been recognised<sup>40</sup>, escalating its status to International Customary Law. The rules around the boundary have been followed as custom and are recognised by every international body, the states involved in dispute and Kashmiris. International Court of Justice defines and establishes International Customary law as a source of International Law as "a general practice accepted as law" under

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<sup>38</sup> <sup>38</sup> "Kashmir profile – Timeline" *BBC News* (online ed, South Asia, 1 March 2017).

<sup>39</sup> As it is adopted and documented in several bilateral treaties, international documents and UN resolutions, directly or indirectly.

<sup>40</sup> It was being used in every appropriate peace-making agreement, treaty, international judgment and every other practical purpose for more than 60 years.

Article 38 (1) (b) of its Statute<sup>41</sup>. The elements of the Customary law are furthered by North Sea Continental Shelf Case<sup>42</sup> bringing about two essential elements; first being the continuation of acts or omissions by the state to back the practice and secondly, legal obligation felt by the State i.e. “Opinio Juris;”. The Status Quo abides by the essential elements and is thus an International Customary Law.

India and Pakistan have designated the LoC as the shared boundary in all their Bilateral Treaties, like Simla Agreement, creating a legal obligation for themselves. This is also acknowledged by the International community as they shamed Pakistan for interfering with Indian sovereignty upon its act in Kargil. The UNMOGIP, being an agency of the U.N., patrolling on the boundary till date ensuring peace across the borders highlight that the LoC is internationally accepted. This makes it clear that the boundary is present but lacks the status of the legitimate international boundary, which needs to be designated by the international bodies. The international interference is required because this matter from its very beginning has been an issue at the U.N. and UNMOGIP<sup>43</sup> still patrols on the boundary. Apart from that this matter poses a lot of international legal issues around International Peace and Security, Human Rights Violation, Economic Stability and Terrorism which are matters and concern of the International legal society<sup>44</sup>.

Therefore, I think the need of the hour is to bring the Status Quo on the Mediation table by the International organisations and finally affirm a solution to Kashmir. International recognition of Status Quo will help resolve almost all the international legal and social issues.

## **X. CONCLUSION:**

Kashmir exemplifies how religious drives, cultural baggage, historical incidents and present international politics overpower the implementation of basic international legal obligations. Kashmir has been witnessing bloodbath, grave Human Rights violation, poor living condition, unemployment, insecurity and continuous communal atrocities. This is not a

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<sup>41</sup> The Statute of the International Court of Justice, art 38(1)(b).

<sup>42</sup> *Analysis of North Sea Continental Shelf Cases (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands) (Merits)* [1969] ICJ Rep 9.

<sup>43</sup> The agency of United Nations.

<sup>44</sup> The essence is taken from the discussions in the following lecture:

Treasa Dunworth “LAWPUBL 752: Special Topic: Contemporary Issues in International Law” (Room G 326, Building 810, Faculty of Law, University of Auckland, Auckland, 3 April 2017).

regular dispute because the stakeholders involved are all nuclear powers and any wrong step can lead to superior destruction than ever perceived. Just the bilateral negotiations are not sufficient but international negotiation and mediation are the ways to solve the dispute and the best argument of mediation is establishing the Status Quo as the international set-up.

U.N. plays an imperative role in the entire dispute as it was involved from early times and have its troops still deployed at the boundaries maintain ceasefire and reporting breach to the UNSC. Apart from U.N., another international body, SAARC plays a very substantial role as it is the diplomatically influential operating body in the South of Asia, which is responsible for the welfare, living conditions, commercial development, conjoint cooperation and succor to each of its member states in South Asia.<sup>45</sup>

Sadly, enforceability of International Law is muddled up with international politics and power game, making International Law framework weak. Shaming countries through a proper mechanism, following a proper channel under an international organisation, will cause some robust impact. The world has does not understand the severity of the oldest unresolved issue between nuclear powers on the UN table. Kashmir deserves peace and security; Kashmiris deserve education, healthcare and livelihood. More importantly, Kashmir poses international legal obligations of Maintaining International Peace and Security, abiding by Human Rights, encountering Terrorism and Promoting Economic Welfare. Therefore, this is not a call to only India, Pakistan or China but to the entire nation as a single community bound by the string of same legal obligations of the international legal system, responsible for each of our fellow human beings at any other part of the world.

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<sup>45</sup> The extent of SAARC; s contribution and ability to hold a positive position in this dispute is well elaborated in this paper:

Vivek Sankaran and Ramit Sethi “India, Pakistan, and the Kashmir Conflict: Towards a Lasting Solution with Policy Recommendations and Conflict-Negotiation Models” (Ethics of Development in a Global Environment Term Paper, 2003).