

CHAPTER II

In this Chapter, the writer will explain about the history of Jammu-Kashmir conflict, the origin of conflict from The British Raj era to the Partition of India, and also the resolutions that have been made before in order to resolve this conflict.

A. The History of Jammu – Kashmir Conflict

Kashmir is a country located between Central Asia (India Pakistan) South Asia (Afghanistan) and also East Asia (China) with an area of approximately 222,226 km². The conflict in the Kashmir region began when Britain left India in August 1947 and divided the Indian subcontinent beyond Kashmir into two regions: India and Pakistan (Briney, 2017). After India and Pakistan became independent states, Kashmir as a no man's territory was eventually claimed by India and Pakistan as part of their country.

The strategic position of the Kashmir region bordering with other countries is also the reason for India and Pakistan to take over Kashmir territory. With an area which has a range of Himalaya mountains, Kashmir is considered to be very good for strengthening the defense of the Indian state, especially the defense of Pakistan and China. Similarly, Pakistan, which sees Kashmiri's position as the entrance to other border countries,

wants to make Kashmir a military defense force of Pakistan.

Nowadays Kashmir divided by three countries which Pakistan control Northwest portion (Northern Areas and Kashmir), India controls the central and southern portion (Jammu and Kashmir) and Ladakh, and the People's Republic of China controls the northeastern portion (Aksai Chin and the Trans-Karakoram Tract). India controls 101,338 km² (39,127 sq mi) of the disputed territory, Pakistan controls 85,846 km² (33,145 sq mi), and the People's Republic of China controls the remaining 37,555 km² (14,500 sq mi). (BBC, 2016).

The conflict began when the Indian subcontinent was still in the colonial British Raj. In 1846 Kashmir was sold including its population, through a deed of sale called the Treaty of Amritsar, to Gulab Singh a Hindu warlord who had no roots in the area by British colonial ruler of India. This warlord began calling himself the Maharajah of Jammu and Kashmir (Punjab Government Record Office Museum, 2015). In his regime was a particularly brutal regime, the memories of which persist to this day. The slaughtering of a cow was declared a crime punishable by death and several mosques were occupied and shut down by his forces.

After Jammu–Kashmir has been owned by Maharaja Gulab Singh, his descendants Maharaja Hari Singh still continue the brutal and

discrimination policy from his predecessor against the majority of Kashmiri which is Muslim with approximately 72.41% of the population (SHAIKH, 2016). Therefore in 1931 under his regime, the people of Kashmir hold their first organized protest against Maharajah Hari Singh's cruelty. They hold protest which is known as "Quit Kashmir" campaign against the Maharajah in 1946 and eventually to the Azad Kashmir movement which gained momentum a year later (Iqbal, 2011).

The Partition of India was the process of separation of the subcontinent in the sectarian lines, the separation took place in 1947 when India achieved their independence from British Raj. The Muslim section in the north of India create a nation known as Pakistan, meanwhile, the southern and the majority of Hindu create the Republic of India. In 1885, the Indian National Congress (INC) held the first meeting. When the British try to separate the state of Bengal, the INC establish a protest towards the plan. This event triggered an establishment of Muslim League, which guarantee the Muslim's right.

The Muslim League was established as the opposition of the INC. However, they usually cooperated for their mutual interest of making Britain withdraw from India even though the British able to use both INC and Muslim League. In World War I the INC and Muslim League sent Indian troops to fight with Britain. As a reward of the help people, India expected a political

concession and also independence (Dalrymple, 2015). However, Britain didn't give it. To stop the pro-independence, the British Army went over to Amritsar in Punjab in April 1999.

An open fire happened when the army commander ordered the army to attack the protester and killing more 1000 of them. The Amritsar Massacre conflict was spread around India, many apolitical people become the supporters of Muslim League and INC. Mohandas Gandhi was the leading figure of the INC, which promoted unification between Hindu and Muslim in India (History.com Staff, 2010). He promoted equal rights for both parties, some of the INC members were less interest to join with Muslim to against British. Therefore, the Muslim League decides to make a separate Muslim state plan.

B. AFTER WORLD WAR II: INDEPENDENCE AND PARTITION

The relations between the British, INC, and Muslim League were getting worst after the World War II. The British want India to provide some army and material of war for their war, but INC didn't back the British and died in Britain's war instead. The INC thought that there was no any benefit to India for doing a sacrifice. Meanwhile, the Muslim League backed up Britain's need of the volunteer of manpower for the army, in here they demand British to support the Muslim nation for the post-independence northern India.

The public opinion in Britain had changed against the distraction and cost of empire when the war not ended yet. This happened because at that time Winston Churchill's party decided to leave the office when the Labor Party who pro-independence was voted in 1945. They offered for an independence for India and also a more constant freedom for Britain's other colonial (Pochhammer, 1981).

Muhammad Ali Jinnah who was the Muslim League's leader create a campaign to establish a separate Muslim state, meanwhile, Jawaharlal Nehru from the INC want for the unification of India. When the independence comes to realization, the country began to descend towards a sectarian civil war (AHMED, 1997). Although Gandhi begged the Indian people to unite in a more peaceful way to British rule, the Muslim League create a "Direct Action Day" on August 16, 1946, which caused in the death of more than 4,000 Hindus and Sikh in Calcutta (Kolkata).

Later, the British government announces that British will gives India independence in June 1948. Lord Louis Mountbatten who act as the Viceroy for India pleaded the Hindu and Muslim to agree to form a united country but failed. Only Gandhi agrees with that. Because of the condition getting further into chaos, Mountbatten agreed to create two separate states and moved the independence to August 15, 1947. With the decision of the partition, the parties faced an

almost impossible task of recreating a border between the new states. The Muslims obtained two main regions in the northern area, separated by the Hindus majority. Most of the members were mixed together such as Sikhs, Christians, and other minority faiths (Ahmed, 2014). The Sikhs demand his own country, but it was denied.

Punjab, which is a wealthy and fertile region brings a problem to both sides. This happens due to the nearly-even mixture of Hindus and Muslims. Neither side wanted to lose this valuable land, bring a sectarian ran high. The border of this area was between Lahore and Amritsar. Both sides scrambled to get onto the right side of the border. At least 10 million of people fled north or south, depends on their faith, more than 500,000 of people were killed (The Past and Present Society, 2016). On August 14, 1947, the Islamic Republic of Pakistan was founded. Afterward, the Republic of India was established to the south.

1. THE CONSEQUENCES OF PARTITION

Since August of 1947, India and Pakistan have fought in three major wars and one minor war for claiming their territorial (Cambridge University Press, 2005). The border in Jammu and Kashmir is still in a problem. These regions were not officially part of the British Raj in India, they were quasi-independent princely states; the ruler of Kashmir agreed to join India even though they

have a Muslim in the territory, this causing a tension and warfare until this day.

This can be seen from India's first try to test a nuclear test in 1974, which followed by Pakistan in 1998. Therefore, any form of vexation of the post-Partition tensions that still happen till today seems chaotic.

C. Resolutions which have been made to resolve Jammu-Kashmir conflict

In this section will explain about resolutions, or any efforts which have been made before to resolving the conflict but considered as less effective or not yet to succeed. In order to make it easier to explain the writer will classify it into two sub-units, first sub-unit will explain about the resolutions and any efforts that have been made bilaterally between India and Pakistan since the bloody partition of them, until modern era which they tend to used soft diplomacy to resolve this conflict. Second sub-unit will explain about the resolutions or efforts that have been made multilaterally or have any intervention from the third party.

1. Bilateral relations between India – Pakistan in order to resolve Jammu-Kashmir Conflict

a. In War and Hopes

In the formative phase, Pakistan stated that its foreign policy was solidarity with the Islamic world and peaceful relations with its neighbors (Rizvi 1993:1214). However, before Pakistan established good relations with their neighbor, in October 1947, India and Pakistan engaged each other militarily toward Kashmir. The Kashmir war enable to reinforce an anti India rhetoric at state and societal level (Haqqani 2005:28). On April 8, 1950, Liaquat-Nehru Pact was signed for more than one reason. The pact emphasized on the creation of an atmosphere in which the two countries could resolve the differences both between countries.

Although the Pact was signed, rhetoric prevailed as Karachi started tilting towards the Western bloc whereas Delhi was emerging as a nod aligned state. Because of that Pakistan signed a Mutual Defence Assistance Treaty with the US in May 1954 and joint into SEATO and CENTO (Cheema 2002:58-60). Pakistan did not face any security threat during the early Cold War period. In that time, Pakistan also has interacted with India and both of states signed the Indus Water Treaty in 1960.

However, after the military de-escalation, in August 1965, Pakistan decided for military operations in Gibraltar and Grand Slam in Kashmir with an explicit objective to annex the India-led Kashmir. But, Pakistan failed in this attempt because of Pakistan non-response of Kashmiris, the Indian retaliation, a change of command at a critical juncture, poor organization, lack of coordination, and poor planning. In that time, the war happened for 17 days. Strangely, India did not cross the East Pakistan border (Khan 1993:234).

Peacemaking proved temporary happened when both of countries entered in military conflict in East Pakistan in early 1971. In that time, Pakistan has seen the Indian influence in its East problem because of on March 1971 India plane hijack in Pakistan. India also banned the Pakistani planes, both civil and military from using India airspace. India also involved in the war on 22 November in East Pakistan between the two states, India rescue Mukti Bahini to struggling against the military operation for the past six months. The result of the war, the Pakistan which not have any support from its allies, had no choice than to accept a de facto independent state of Bangladesh, because of that, the interaction between India and Pakistan is left unexplained.

b. Cooperation to Mend Conflict

In the following decade, Pakistan and India try to avoid warfare. Though the Kashmir issue was invoked forcefully by the end of the Cold

War, India and Pakistan thought it rational not to transform Siachin (1984) and Brasstacks (1987) into an all-out war. However, General Zia, the self-acclaimed defender of Islam, chose to watch a cricket match in India than to declare war against the 'Hindu' enemy. This also showed the weaknesses in the applicability of realism on the Pakistan-India foreign relations (Hussain, 2013).

Based on the data, it showed that though Pakistan continued to project India as its enemy and vice versa, but in reality, the two states never fought any war during the Bhutto Government and the Zia-led military regime (1977-88); it also applies in Benazir Bhutto governments (1988-90, 1993-1996) and Nawaz Sharif government (1990-1993). Interestingly, during the analyzed period, one can cite cases of cooperation such as the Simla Agreement, 'Cricket Diplomacy', and the Benazir-Rajiv talks that both of states marked cooperation than a conflict.

c. From Bloody War to Cricket Diplomacy

After the elections in 1997, Nawaz Sharif formed a government with his vision of Pakistan foreign relations which based on economic relations with other countries including India. In February 1999, India's Prime Minister visited Pakistan and signed the Lahore Declaration. But, in the middle 1999, the clandestine operation transformed into India-Pakistan war. In that time, Pakistan tried to see a way out by using the US

mediation. Because of that, Pakistan and India took the international suggestion and try to implementation de-escalation and ended the war. Nevertheless, the Kashmir's status quo still remained (Nawaz, 2008).

Under Musharraf control, India and Pakistan cannot resolve the mutual issues because both of countries suspicion each other. Moreover, SAARC also considered as a peripheral concern. Although Indian get the pressure from the rightist media and political parties to attack Pakistan, nevertheless Indian still took responsibility and rationally for considered the nuclear capability of the two states. Because of that, the political and strategic elite India and Pakistan utilize a regional and international forum to talk and discuss together.

The relations between India during their previous governments, also ever have a cooperation. During previous governments, India and Pakistan agreed to ease their visa regime. Especially at the Wagha-Atari border, mutual direct trading activity between India and Pakistan happened, though at a low scale condition. However, Nawaz Sharif as a leader of Pakistani government also viewed India as a larger market. In December 2013, Shahbaz Sharif's visit to India to watch the *Kabbadi* (a team sport from South Asia which similar with Gobak Sodor in Indonesia) final between Pakistan and Indian which has a sign as it offered an opportunity to talk peace and trade (Khanna, 2013).

2. United Nations and Third Party Involvement

The United Nations as an International organization has four purposes, it is to maintain international peace and security. to develop friendly relations among nations, to cooperate in solving international problems and in promoting respect for human rights, and also to be a centre for harmonizing the actions of nations (United Nations Department of Public Information, 2008).

One of the main purposes of the United Nations is the maintenance of international peace and security. United Nations has called to resolve disputes from escalating into war, to persuade using the conference table than using the force of arms, or to gain the peace when armed conflict cannot resolve the problems. Until now, the United Nations has helped to end several conflicts, even though by the actions of the Security Council and the primary organ to get a resolution of international peace and security.

United Nations as an international organization does not make a law but United Nations tried to help resolve the international conflicts and formulate policies on a matter affecting the international world. Because of that, United Nations also seeking to contribute in order helping India and Pakistan to resolve the Kashmir conflict between both of them with various resolutions and policies.

To gain international peace and security, United Nations also make peacekeeping operations at the disposal of the international community to advance peace and security. In 1988, the role of United Nations peacekeeping was recognized, in that time United Nations peacekeeping forces received the Nobel Peace Prize. Based on data which published by the United Nations Department of Public Information (2008), to gain international peace and security, United Nations observer group in India and Pakistan (UNMOGIP, 1949) (Military 44, civilian 73).

There are UN Resolution or decision about the Kashmir Issue On 30 April 1951. Which asked state's assembly to not taking any decisions regarding Kashmir against the desire of the people. However, Pakistan still sent a large military in the region of Kashmir and raised many exceptions to the resolution, because of that the resolution is an impossibility. After several efforts, India and Pakistan agreed to a ceasefire which was drawn on January 1, 1949. In that time, the agreement give India control of two-thirds of the region and the remaining to Pakistan (Kaul, 2016, p.6).

The United Nations In approaches by sending its representatives to India and Pakistan in order to find solutions that both India and Pakistan can agree on. At first, the United Nations was suggested that India and Pakistan to demilitarize Kashmir to make the referendum process smoothly but it was rejected by the Indian state. The first

United Nations representative in India and Pakistan (UNRIP) was Sir Owen Dixon an Australian jurist. Sir Owen Dixon gave suggest to hold a plebiscite regionally rather than on a state, Where the implementation of the referendum takes place in the conflicting region or Valley of Kashmir, and other areas have their own right to decide whether to join India or Pakistan. However, the proposal known as the Dixon Plan is also rejected by India and Pakistan.

After Sir Owen Dixon, an American Diplomat Frank Graham took Dixon place. On December 23, 1952, The United Nation Security Council suggestion a reduction in military existence by both parties which was accepted by Pakistan but rejected by India. After that, the mediation attempts continued by the United Nations but that international attempts were failed. United Nation itself used mediation to resolve the conflict until 24 resolution until 1965 but still not find suitable resolution (Kaul, 2016, p.7).

In 1971 the war between India and Pakistan also happened. In that time, the war ended with Indian victory and the United Nation did not directly involve during that war. Because Pakistan's Permanent Representative to the UN writing to the Security Council that if sending Indian troops to Pakistan, it means that the ceasefire agreement had been infringed. (Kaul, 2016, p.9)

After all, in December 1971 the United Nation was involved, UN passed resolution 307 by which it demanded that a durable ceasefire in all areas of conflict still implemented until all armed forces had withdrawn to their territories. The ceasefire line in Jammu and Kashmir in that time also be under control by UNMOGIP. (Kaul, 2016, p.10)

Besides that, the South Asian Association of Regional Cooperation (SAARC) also play a crucial role in providing the Kashmir conflict. The establishment of SAARC in South Asia aimed to bring stability to South Asia by enhancing regional cooperation. SAARC as the first formal initiative that seeks to bring the countries of South Asia to the same platform with the aim of promoting the welfare and quality of life of its people through accelerated economic growth, social progress and cultural development in the region. SAARC which formed in 1985 has member states including India, Pakistan, Sri Lanka, Nepal, Bangladesh, Bhutan and Maldives and has a purpose :

“To promote the well-being of the populations of [sub-continental] South Asia and improve their standard of living; to speed up economic growth, social progress and cultural development; to reinforce links between the countries of this area; and, lastly, to promote mutual collaboration and assistance in the economic, social, cultural, technical and scientific fields its member states”.

SAARC also suggest that third party in international peacekeeping, including UN forces, must be deployed at the Line of Control between India and Pakistan. These troops are needed to assure that India and Pakistan can take draw their troops and not be worried about a potential invasion, as occurred in 1999 when General Musharraf of Pakistan led an invasion. SAARC also asked that the world community must also committed to providing economic resources to trigger the economic of Kashmir. As Mallika Paulraj noted in her proposal, Japan has to provide vital funds toward the infrastructure development and this must be continued with the JBIC and other international financial institutions such as the World Bank who must give financial aids towards the Kashmir effort (Sethi, 2012).

Pakistan and India also have made several efforts to initiate a peace process geared towards settling their disputes. Major initiatives were undertaken after the Kargil War in 1999 when India and Pakistan signed the "Lahore Declaration", and in 2001 when the Pakistani President Parvez Musharraf made an unsuccessful attempt at initiating a peace bid (Bose 2001). (Shaheen Rafi Khan, 2007)

In the conflict of Kashmir, The All Parties Hurriyat Conference (APHC) given a significant role. APHC was formed on March 9, 1993, as an organizational alliance of political parties and also religious organizations. APHC as a political party which supports the Kasmir separatism. However,

before the APHC was established, there was another political platform also, it is the Tehreek-i-Hurriyat Kashmir (THK). THK was headed by the advocate Mian Abdul Qayoom and has 10 groups, including the Jamat-e-Islami, JKLF, Muslim Conference, Islamic Students' League, Mahaz-e-Azadi, Muslim Khawateen Markaz, Kashmir Bar Association, Ittehadul Muslimeen, Dukhtaran-e-Millat and Jamiat-e-Ahle Hadees, but THK did not give much influence (Jaleel, 2015).

Firstly APHC established, Umar Farooq as its first chairman. APHC as platform Kashmir separatism has 21 member working committee which included 7 members of the executive council plus 2 members in each, from the seven parties. APHC also has a general council with more than 23 members, including traders' bodies, employee unions, and social organizations (Muzamil, 2015). The APHC which has the alliance of 26 organizations, definitely has support from the people of Kashmir, APHC want Kashmir to be declared as a humanitarian crisis which would mean a possible UN intervention and a separate state (Bhatnagar, 2014)

Based on the publishing of the Quora.com (2014), The APHC which describes it as a union of political, social and religious parties of the state of Jammu and Kashmir, has a purpose to:

- Wage a peaceful struggle to secure for the people of Jammu and Kashmir in accordance with the UN charter and the

resolutions adopted by the UN Security Council, the exercise of the right to self-determination, which shall include the right to independence.

- Make endeavours for an alternative negotiated settlement of the Kashmir dispute amongst all the three parties to the dispute India, Pakistan and people of the Jammu and Kashmir under the auspices of the UN or any other friendly country, provided that such settlement reflects the will of the people.
- Project the ongoing struggle in the state before nations and governments of the world in its proper perspective, as being a “struggle directed against the forcible and fraudulent occupation of the state by India”.

Mirwaiz Umar Farooq said that a solution of the Kashmir conflict cannot be found on the regional or cultural basis. According Umar Farooq that The Kashmir movement needs to be presented in a new background and have to look to the future. Umar Farooq also added that Pakistan and India also should negotiate with a new perspective. In that time, APHC's search for a consensus would include the militant groups which fighting India's rule in Kashmir, and APHC supported their inclusion in the dialogue that India has begun with the moderate Kashmiri parties (DAWN, 2006).

In another side, Pakistan has interest in the Hurriyat functioning. Because of the idea of

Kashmir's separation, will give the benefit towards Pakistan within Kashmir. After that, if the APHC can give influence the brains of people in Kashmir, that gives a direct advantage to Pakistan in any negotiations (DAWN, 2006). But on January 20, 1995, India stated that they don't want third-party involvement in Kashmir. India ignored the possibility of third-party involvement in the resolution of the Kashmir dispute. But it says it is prepared to hear from Pakistan directly about how much "elbow room" is necessary to commence talks between the two countries.

On December 23, 1995, The APHC has intervention of the United Nations, Organization of the Islamic Conference, Amnesty International and other worldwide human rights bodies to help stop India's destruction of occupied Kashmir. The APHC also rejects the Indian government's offer of greater the autonomy towards occupied Kashmir. According to APHC, the problem cannot be resolved by remaining in India (Sound Vision Staff Writer, 2016).