

Kashmir Conflict and Indus Water Treaty: An Analysis

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Abstract

The state of Jammu and Kashmir is witnessing the control and influence of armed conflict from last three decades. The conflict not only impacted the liberty and security of the people, but there has been a considerable loss in terms of economy. Due to lack of industrial sector, the state is facing with tremendous problem of unemployment. However, tourism and other resources like agriculture, horticulture, and handicraft are the means livelihood to both individuals as well to the state. However, from one decade, all such means are trapped in civic violence. The state is having the capacity to bout against all odds in terms of development through natural resources. The water resources of the J&K State have enormous economic potential that can generate electricity, irrigation to enhance the agriculture, artificial lakes and pounds for healthy growth of tourism. Unfortunately, these rivers water has not been adequately harnessed and utilized because of inadequacy of funds, political instability and lack of the will power from the State. Due to restrictions of Indus Water Treaty 1960, the state of Jammu and Kashmir has been unable to grow to the optimum potential of its agriculture and electricity sectors. However, taking together all these factors have resulted in an economic backwardness of the state. The state produces 20,000 MW of electricity and shares only 12% and rest is taken away. It is noteworthy that scholars argued that Indus Water Treaty is the problem that made Kashmir downtrodden because of being disputed territory, preventing the state of Jammu and Kashmir from utilizing the water's full potential for hydel power. The main aim of this paper is to examine the impact of Indus Water Treaty in consideration with the nature of conflict within the state of Jammu and Kashmir. Besides that, it would examine, that how state could harness the water resources for the residual benefit of agriculture.

Keywords: India, Pakistan, Kashmir Conflict, Indus Water Treaty, its Impacts and Economic Backwardness

Introduction

Water is considered one of the basic human right, as it essential for human survival. However, water is having link with inter-state and intra-state conflicts. The main focus of this paper is to analyse the Indus Water Treaty (hereafter IWT) that emerged between India and Pakistan. Both countries are having conflict over the Kashmir territory and IWT resolved the conflict to a greater extend. It is also notable that, from past few years, there comes intensity of disputes between both of the countries in terms of terrorism.

In the year 2014, there was a deadly attack in Uri (Kashmir) in which more than twenty Indian soldiers were killed. In retaliation, India had gone beyond the borders and conducted surgical strike. However, the apathy between two nations were increased and India decided to cut down the water that flows downstream to Pakistan. The decision to build a dam on river Ravi that adds extra source of conflict between two nuclear nations that have repeatedly clashed over the disputed Kashmir territory (Johnson, 2019). India threatened to block the water to Pakistan so many times. The construction of dams like Kishan Ganga, Ratla Dam and Baglehar dams on the river Jhelum and Chenab respectively had impacted the relations among the countries adverse.

1.1 The Nature of Kashmir Conflict

Around the global world, there are so many ongoing conflicts. The Palestine-Israel, Saudi-Yemen, Russia-Ukraine, Kashmir conflict and so on. The base of these conflicts varies from each other. In South Asia, there are four major sources of conflict: First, some conflicts have their roots in the British Colonial policies such as divide and rule. Second, some conflicts have arisen due to the modernization process in the subcontinent which benefits some and marginalizes and excludes others. Third, conflicts are due to the intervention of external country like Soviet Intervention in Afghanistan in early 1980s and the last one is that some conflicts arise because of limited resources and the struggle for these resources. While as Kashmir conflict is more complex and complicated and comes under the first category. (Ganguly, 1990).

The conflict of Kashmir is having roots in the colonial history of the sub-continent (Ganguly 1990: 57). The clash of Kashmir between India and Pakistan comes into existence during partition and independence from Britain in 1947 (Bose 2003). Josef Korbel, Chairman of UN Commission for India and Pakistan until 1949 states that “the real cause of all the bitterness and bloodshed, all the venom speech, recalcitrance and the

suspicion that have characterised the Kashmir dispute is the uncompromising and perhaps uncompromisable struggle of two ways of life, two concepts of political organisations, two scales of values, two spiritual attitudes, that find themselves locked in a deadly conflict, a conflict in which Kashmir has become both symbol and battleground” (Korbel, 1954).

The political and territorial status of the state of Jammu and Kashmir can be traced to the politics of borders, territories and identities that emerged in the colonial regime and in South Asian Sub-continent region after the postcolonial period. In the year of 1846, the administration of British India signed the Treaty of Amritsar¹ with the chieftains from Punjab after the second Anglo-Sikh war. With the treaty, the Punjab administration transferred the land of three Himalayan provinces Jammu, Kashmir and Ladakh to the Dogra dynasty, who ruled it under the British paramountcy as an independent princely state of Jammu and Kashmir (Duschinski & Ghosh, 2017: 316).

Thus, the valley of Kashmir witnessed the Dogra rule from 1846- 1947. During the period, people led a miserable life and were treated as slaves. The imposition of heavy taxes, capital punishment and the constant terror was created by the Dogra’s against Kashmiri Muslims (Ahmad, 2010). However, under the Dogra regime, there comes political mobilization in the year 1920s and 1930s led to the series of constitutional reforms, including the employment rights of state subjects, recognition of special land, political formation under Sheikh Abdullah and the enactment of Jammu and Kashmir Constituent Act 1939 (Duschinski & Ghosh, 2017: 316).

The roots of the conflict of Kashmir lies in the subcontinent's Partition in 1947, after the creation of independent states (India and Pakistan). There were five hundred and sixty-five princely states² in the colonial rule and these states were given choice to merge either with Pakistan or India (Dewan, 2011). Kashmir was one of the largest princely states and its Dogra ruler Maharaja Hari Singh of Kashmir wants to remain independent and refused to accede to either nation. According to the Indian Independence Act, 1947 adopted by British parliament concluded four points formula of the division of Indian sub-continent. The fourth point’s reads out that princely states have the right to decide their fate by keeping in view the aspiration, geographical and other factors while taking such decisions (Bhat, 1981:15). According to such conditions, Kashmir was a Muslim majority state ruled by a Hindu administrator. Both India and Pakistan wanted to grasp Kashmir because of its strategic location and geopolitical

importance. However, geographically, economically and demographically, Kashmir was touching the aspirations of Pakistan. (Bhat, 2017: 285).

The newly emerged leader Sheikh Abdullah was having huge influence among people belonging to various religions in the Valley. Sheikh was keenly willing to join multicultural secular India to protect the identity and plural Kashmiri culture. For him, Pakistan would provide a homeland to Muslims, but it is dominated by feudalistic power politics. So, he forced the Maharaja to join India to utilize the democratic space and to protect the Kashmiri identity (Bose, 2003). On the side, Lord Mountbatten was doing his best to accede Kashmir to India. Taking the proposal before Maharaja with the option to join India or Pakistan, the viceroy of free India conducted his first meeting with the ruler of Kashmir. Maharaja Hari Singh refused the proposal and said, "I do not want to accede to Pakistan or either India, I want to remain independent" (Ibid).

In 1947, the maharaja faced the armed revolt by Muslims from Poonch. The revolt then spread in other parts of Jammu and Kashmir. In order to stabilize the situation, the maharaja signed a still stand agreement with Pakistan. In August/September 1947, the situation deteriorated, and Kashmiri Muslims revolted openly. The tribesmen from Pakistan's North West frontier province also joined in the armed insurrection. By the October 1947, the tribesmen capture the several towns and massacred a large number of civilians and advanced to capture the capital of valley (Husain 2009: 1008).

To crush the rebels from the state the maharaja to seek assistance of India's Prime Minister Jawaharlal Nehru, who agreed to send troops only if Kashmir formally acceded to India. On October 27, 1947 the Maharaja agreed to sign the instrument of accession to India on the condition that Kashmir should be permitted to retain its own constitution (Human Rights Watch 1993: 20).

In the same year, both India and Pakistan fought their first war on Kashmir dispute and India took the matter before United Nations (UN). With the intervention of UN, a cease-fire agreement was signed on January 1, 1949 (Hussain 2009:1008). In 1965, once again both the countries went to war over Kashmir and divided the old line of control (LOC) of Jammu and Kashmir into four political units.

- Jammu and Kashmir, ladakh (Indian occupied Kashmir).
- Azad Kashmir (Pakistan occupied Kashmir).
- The northern area administered by Pakistan.
- Aksai- Chin, controlled by China (Ibid 2009: 1009).

In January 1966, Tashkent Agreement was signed between India and Pakistan and both countries decided to solve the Kashmir dispute through peaceful negotiations. In 1972, another agreement was signed after the war and both countries decided to end their conflict and resolved to settle their differences through bilateral negotiations and this agreement came to be known as Shimla Agreement (Singh, 2011: 12).

After Shimla Agreement, both countries accepted to solve the Kashmir dispute bilaterally. However, this was not an end. Both countries made allegations on each other for border skirmishes and terrorism. Presently, both countries are focusing Kashmir issue again. India, one side abrogated the article 370 and integrated Kashmir into Indian territory. On the other side, Pakistan raised global voice against the India's move in Kashmir and highlights the human rights violation (Haq, 2019). Pakistan closed air space, trade and stopped Samjuta Express train service to India, which made India economically weak. On the side, India threatened to stop water flowing to Pakistan. The next section will examine the water conflict between both the countries and how this water conflict also impacts the Kashmir valley, which both countries claimed as their own territory.

2 Indus Water Treaty: An Introduction

The Indus Water Treaty (IWT) was signed in Karachi on September 19, 1960 and government ratifications were exchanged in Delhi in January 1961. The Indus System of Rivers comprises three Western Rivers the Indus, the Jhelum and Chenab and three Eastern Rivers - the Sutlej, the Beas and the Ravi; and with minor exceptions, the treaty gives India exclusive use of all the waters of the Eastern Rivers and their tributaries before the point where the rivers enter Pakistan. Similarly, Pakistan has exclusive use of the Western Rivers. Pakistan also received one-time financial compensation for the loss of water from the Eastern Rivers. Since then the Indus basin of Pakistan has been serving as a premier laboratory for water resources research and management during the second half of the 20th century but the scope of J&K over western rivers is guided by IWT (Wani, S. A and Khan, S. U, 2015).

According to this treaty, the rivers were divided between the two countries. The treaty gives right to waters of three western rivers like Chenab, Beas and Sutlej, while India has got rights to the waters of the three eastern rivers of the Ravi, Beas and Sutlej (Siyad, 2005). Under IWT India got 33 MAF (million-acre feet) of annual flow from the eastern rivers and Pakistan got 135 MAF were allocated to Pakistan except for specified

domestic, non-consumptive and agricultural use from the western rivers (India Today, 2019).

The origin of the Indus River originates from Tibet, flowing through three countries of South Asia like India, Pakistan and Afghanistan carrying glacial waters and eventually emptying into the Arabian Sea. Pakistan accounts for 60 percent of the catchment area of the Indus basin, India about 20 percent, Tibet about 15 percent and Afghanistan about 5 percent (Kalair, et:al, 2019).

First, the Indus River is flowing through the Indian Territory and then into Pakistan, thus making India the upper riparian country and Pakistan, the lower riparian country. The trans boundary waters of the Indus and its tributaries are shared by India and Pakistan regulated by the Indus water treaty (IWT) that was signed in 1960 (Kaushik, 2017:11).

After more than eight years of negotiations to resolve the dispute over the usage for irrigation and hydel power of the waters of the Indus water system, has been publicly denounced by the Jammu and Kashmir government for being “discriminatory” to the state by using its resources and are being deprived from its access (Wariko, K, 2005).

At the time of the signing of IWT nobody had taken care of this forgotten disputed land and people. Subsequently the State of Jammu and Kashmir, which is mainly affected at the benefits of the two countries, could utilize through residual benefits of its resources to the optimum and deficits caused by the two agreeing parties.

Before Shimla agreement, the IWT was a first bilateral approached to begin the relation between two countries. Though IWT was cordially welcomed in both countries and protected all water rights of both parties. Subsequently the Pakistan has built Mangla and Tarbela dams and several storage facilities on Indus, Jhelum and Chenab rivers and India also has built various Dams and Barrages on Sutlej, Beas and Ravi Rivers with each other’s consultation.

It is unfortunate that Srinagar, Muzaffarabad and Gilgit governments have failed to defend the manner and extent to which the people of Jammu and Kashmir are entitled to have a role in the use of their water resources at Mangla (Pakistan administrative Kashmir), Salal, Dulhasti, Uri, (Indian administrative Kashmir) and Diamir Basha Dam in Gilgit (Pakistan has illegally made her province). Yet, India and Pakistan are not acceding to the water and electricity requirements in both sides of Kashmir. Kashmir, which is having water resources are being used by both countries, made the people of Kashmir helpless and haven taken their

legitimate rights of water from their own benefits ((Wani, S. A and Khan, S. U, 2015).

The State of Jammu and Kashmir is mostly hilly state and nature has endowed unending supply of water resources in the state which are the backbone of J&K State's economy. The Water bodies of State of the J&K have enormous economic potential in the shape of hydro power generation, irrigation to enhance the agriculture, artificial lakes and pounds for healthy growth of tourism. Unfortunately, these water bodies have not been adequately harnessed because of inadequacy of funds, political instability and lack of the will are the main factors for utilization of water resources in the state (Ibid, 2015)

However, taking together all these factors have resulted in an economic backwardness of the state. In the past five decades none of the work has done in J&K state to quantify the impact of IWT, neither from power department nor from agriculture department. From last couple of years by the thought-provoking efforts of some economists (like Haseeb Drabu, Effat Yasmin) of J&K state, this issue was raised at state level. Now there have been growing concern and anger in the state over the negative consequences of IWT on state economy. Both official and public circle in the J&K state are pleading the review of IWT, according to the requirements of the J&K state immediately (R. Nazakat and A. Nengroo, 2012).

The treaty which was carried out in the best interest of both nations has, however, deprived the Jammu and Kashmir state to use its own water resources and thereby severely affected the developmental process of the state. Conforming to the treaty criteria, State cannot fully exploit the water potentialities of the Indus, Jhelum and Chenab rivers (Ibid).

3 Water and Human Rights

History had witnessed numerous conflicts over water resources and new ones may occur in the future, especially given the new arising challenges human beings are facing during this century. State as well as non-state actors enhancing violence and conflicts and using water as a weapon in order to make enemies suffer and to force entire communities to be displaced (Rochefoucauld & Marengi, 2010). The ongoing threats that India is giving to the Pakistan from time to time is the deprivation of this basic right to the people of Pakistan. India which is having a worlds wide image in human rights violation in Kashmir and feels no harm on repeating the same methodology to the people of Pakistan by depriving them of adequate water supply. The water conflict between the two

countries is related to human rights to access water. the construction of dams on the rivers allocated to Pakistan could lower the quantity of water in the western rivers, which will affect the access to water to the people, who are dependent on such rivers. The most impact would be on the Pakistani agriculture, which would cause negative impact on the lives of the people, well-being, standards of living (Qureshi, 2017).

The economy of Pakistan is based mostly on agriculture, as forty-five percent of the people are associated with agriculture. The water used for cultivating crops comes mainly from the western rivers mostly from Ravi and Indus. The hindrance from the side of India on these rivers will be harmful for the economy of Pakistan (Blood, 1996).

There are numerous international declarations, conventions and resolutions that shed light on the importance of the access of water for every human being irrespective of region or state. The United Nations provided a platform to the international community for issuing conventions regarding water as human right. The most notable declaration regarding it is the United Nations Charter, which states in Article 55 (a) “that higher standard of living, full employment and conditions of economic and social progress and development”. The need is to that all required conditions for realizing the goals of human development and these conditions must entail the right to water as basic right, because water is not only required for survival but also for human development (Wheeler & Beatley, 2014). The international Covenant on Civil and Political Rights (ICCPR) affirms that right to life is the basic right of a human being, which can be interpreted that no human being should be deprived from the basic rights than guarantee the right to life. This statement also includes the notion that no state can create circumstances that may harm individual’s life through any means. In narrow interpretation, right to life is related to water which is inherent right to life for all human beings (Qureshi, 2017). Meanwhile, the United Nations Watercourse Convention (1997) recognizes in Article 10 that right to access drinking water is more important than the right to access water for agriculture. Considering this convention, any country cannot deprive another country from water (United Nations, 2014). All conventions states that water is a basic right and if it is being deprived in any form, it is a direct violation of human rights.

4 Impact of Indus Water Treaty

Kashmir being the leading upstream riparian of the Indus, there is a sense of objection in Jammu and Kashmir that the treaty has rundown the

state of its huge hydroelectric potential. Following the Indus Water treaty (IWT) between India and Pakistan, the Kashmiris are claiming that the treaty has deprived them from using the water flowing through their own land. The people of Kashmir are against the IWT treaty, as Kashmir loses 60 billion Indian rupees (US\$1.3 billion) annually because of the prohibitions of IWT by virtue of which Kashmir cannot store water for generating electricity or for irrigation purposes (Romshoo, 2012).

There is growing anger amongst the people of Jammu and Kashmir over the state government's failure to harness the enormous hydroelectric power potential. The regional parties in Jammu and Kashmir continue to raise concerns that the treaty is unfair. The state government and some individuals have been seeking even the abrogation of Indus Water Treaty (Din, 2009).

The Jammu and Kashmir Assembly passed a Resolution on 3 March 2003 asking New Delhi to reconsider Indus Water Treaty to safeguard the interests of the state. According to this report, Pakistan's opposition to the development of hydropower under the Baglihar project amounts to playing with aspirations of the Kashmiri people. It states that average annual flow of water in the eastern rivers allocated to India is around 33 MAF and in the western rivers given to Pakistan is 135MAF (Romshoo, 2012).

With the construction of Baglihar and Kishanganga hydroelectric power projects by India, the issue of Kashmir has been brought at the center stage of the Indus water issue. In both power projects, local pressure from the people and political parties of Jammu and Kashmir is an important factor. The Indus Water Treaty has ill-effects on the Jammu and Kashmir's energy harnessing potential, and it creates challenges for the setting up of new power projects in the state. Jammu and Kashmir are facing acute problem on harnessing its hydropower potential due to the restrictions of the IWT. People of Jammu and Kashmir complain that for every hydropower project, a clearance from Pakistan needs to be sought and despite fulfillment of all formalities, objections from the other side never end. There is a recurring loss of Rs. 265.00000 million annually in Baglihar due to IWT and the total losses are over Rs. 3325.0000 million on Chenab basin. India surrendered rivers originating from the Kashmir to Pakistan at the cost of J&K's interests. The eastern states are progressing at the cost of Jammu and Kashmir (Ali, 2010).

It is analyzed that the state has an identified hydropower potential of approximately 20,000 MW and out of which only 2365 MW stands

harnessed. Bulk of this hydropower, about 1560 MW is generated by NHPC providing a royalty of 12% to the state. The people feel that in the absence of the required finances for harnessing the hydropower potential, the central government is exploiting their financial backwardness and encourages NHPC as the major hydropower producer of the state (Romshoo, 2012).

The IWT permits Jammu and Kashmir to use the waters of the rivers covered under the treaty to irrigate only 17.03 lakh acres of land. Along with the running water irrigation potential of 13.43 lakh acres, IWT also permits J&K to irrigate 3.6 lakh acres through storage of water. However, the state is utilizing the waters of three rivers- Chenab, Jhelum and Sindh to irrigate just 8 lakh acres. There is a huge gap of unutilized water exceeding 9.00 lakh acres, which J&K has over all these years allowed to flow down for its failure to utilize the same the areas under irrigated agriculture are consistently decreasing in the state due to the rampant land system changes from water intensive paddy culture to horticulture (Azad, 2012).

5 Conclusion

In 1960's, the two countries signed on Indus water treaty and the water bodies of the state of the Jammu and Kashmir were divided. Both countries got benefit with this treaty, however, it impacted on the resource utilization as well agriculture including horticulture of the state. The Hydro-Power is mostly impacted due to this treaty. Kashmir, that remains disputed territory were also impacted not only through armed conflict but economically through water conflict. The IWT divided the shares of water of Jammu and Kashmir between India and Pakistan. However, when the situation of both countries' changes, its impact comes on Kashmir territory. India always threatens Pakistan with stopping of water. But without knowing that stoppage of water will not impact the agriculture of Pakistan only, but Kashmir too. Besides that, if the water is being stopped, the valley will be drowned into floods. There is the need that both the countries should revive the treaty in such a way that the resources including agriculture, horticulture as well as tourism of the Jammu and Kashmir should be boosted.

Notes and References

- ¹ The treaty of Amritsar was signed on March 16, 1846 between the British and Gulab Singh Dogra. Under this treaty, Kashmir came under the direct control of Dogra's. The Maharaja Gulab Singh gained the possession of the land to the west of the Indus including Hazara (Bali 2014). The Britishers sold it to Hindu Maharaja Gulab Singh (Dogra) for seventy-five lakh rupees (Shahi Nanak) (Kaul 2010:43).
- ² These states were self-governing units, smaller in size, ruled by Hindu, Muslim and Sikh ruler with pretensions to royal states. These states collectively covered 45% of the land mass of Indian Sub-continent and constituted a major pillar of British rule in India (Wani & Suwirta, 2013:183).

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