Chapter II

Indian Intervention in East Pakistan: 1971
Source: Texas University, United States, 1998.
This chapter is an attempt to explore and analyse the Indian intervention in East Pakistan from the point of view of the Just War Theory. The purpose behind this engagement with a normative paradigm is to explore the extent to which it could inform states’ policy in the real world, which are primarily, if not solely, influenced by calculations of power and interest. Given its unilateral nature, the Indian intervention raised questions with regard to its legality and intent. In placing it within the Just War framework, the researcher’s aim is to explain that the theory’s principles provided legitimacy to the Indian intervention in East Pakistan.

Three main arguments are advanced in this chapter. First, the scale of human rights abuse in East Pakistan by the West Pakistan army and the 10 million or more East Pakistani refugees that entered the Indian states of West Bengal and the Northeast, especially Tripura and Assam. This refugee inflow provided the rationale for an Indian intervention. Second, mixed motives informed the Indian establishment in its decision to intervene in East Pakistan, but these did not undermine a positive humanitarian outcome, that was the result of the intervention. Third, notwithstanding the scepticism prevalent in the UN and international community towards the Indian intervention, the single dominant factor that stood out was the singularity of purpose between India and the Bengalis: to restore political and social rights to the Bengalis within Pakistan. The level of human rights abuses was at a scale of 10:1 and should have motivated the United Nations to declare it as a case of supreme humanitarian emergency, which threatened international peace and security, covered under Chapter VII of the UN Charter. However, the structured confines of the cold war period, dominated by the rivalry between the US and the USSR rendered the UN inactive, especially when it came to taking decisions on an issue that did not directly affect either of the two super powers.

2.1. Background to the Intervention:
The causes of the India-Pakistan war of 1971 could be traced to the circumstances that led to the alienation of East Pakistan from the mainstream of Pakistani politics. In 1947, when India was partitioned, East Pakistan became one of the provinces of Pakistan. Both the provinces were geographically divided by 1,500 kilometres of Indian landmass. This
geographic separation provided phenomenal structural difficulties to the fledgling Pakistan state, as communication between both sides had to be conducted across a hostile Indian state. Maulana Abul Kalam Azad in his autobiography stated, “these two regions (West and East Pakistan) have no point of physical contact. People in these two areas are completely different from one another in every respect, except only in religion. It is one of the greatest frauds on the people to suggest that religious affinity can unite areas that are geographically, economically, linguistically and culturally different....”¹ In West Pakistan, fifty five million people spoke the official language-Urdu, compared to two percent in East Pakistan. The dominant linguistic pattern in East Pakistan was Bengali, spoken by seventy five million people.² In addition, East Bengal comprised of a Hindu population, numbering ten to twelve million that naturally continued its cultural and commercial connections with India. To weave a mix of communities that were physically separate proved an uphill task for a new leadership. The political structure of Pakistan also did not possess the maturity and astuteness to absorb in various regional and sectarian interests. From the beginning, the Pakistani political leadership had a tendency to be drawn from a narrow social base, especially the Punjab and the Muslim Indian refugees.

Significantly, the geographic division did not come in the way of capital flow from one wing to the other, though it prevented labour mobility. A glaring aspect of West Pakistani behaviour was to treat East Pakistan as inferior both in human and resource capital. The West Pakistani establishment propagated an attitude of cultural and religious superiority over the Eastern wing. Even President Ayub Khan gave vent to this perception, publicly stating in his political autobiography that the East Bengalis “who constitute the bulk of the population, probably belong to the very original Indian races. It would be no exaggeration to say that up to the creation of Pakistan, they had not known any real freedom or sovereignty. They had always been ruled either by caste Hindus, Mughals, Pathans or the British. In addition, they have been under considerable Hindu cultural and

linguistic influence. As such, they have all the inhibitions of the down trodden races". 3
This created a feeling of alienation among the Bengali Muslims who had taken active part in the Muslim league activities before 1947, and were instrumental in giving a clear verdict in favour of the formation of Pakistan. The Muslim league also saw the light of the day in Dacca in 1906. The marginalization of East Pakistan in the cadres of the league was the result of the gradual ascendancy of the influence of Muslims from the Punjab and also from Bombay, who had migrated to Pakistan after India, was partitioned. The East Pakistanis at the time of the partition in 1947 had voted in favour of Pakistan, especially due to the deep rooted economic discrimination in United Bengal, where their Hindu counterparts dominated the landowners and affluent class. Hence, East Bengal’s commitment to the new Pakistani state was more political and economic and less religious, in contradiction to West Pakistan that was uprooted by religious frenzy at the time of partition.

2.1.1. Political Organisation:
The organization of the Muslim League had a strong spill over effect on the political disenchantment of the East Bengalis. The predominance of the Urdu speaking Zamindari elites from the Indian states of Uttar Pradesh and Bihar was striking. This urbanized Muslim elites of Pakistan, the like of Liaquat Ali Khan, Nawab Dismail Khan and M. A. Jinnah, who himself was from Bombay had little understanding of either the East Bengalis’ peasant background, or their cultural affinity to the Indian Bengal. The feudal variable of Pakistan was evident in its formation, especially in independent Pakistan. The feudal families of the Punjab entered the higher circles of the league. Even when it came to membership from East Pakistan, Khwaja Nazimuddin, the Urdu speaking aristocrat from the Nawab of Dacca’s family was Jinnah’s most trusted Bengali, whereas both A.K. Fazlul Haq and H.S. Suhrawardy, representing the Bengali middle class were not in the best of terms with Jinnah. A study of the history of Muslim League politics since Pakistan’s inception reflected the influence of a small coterie of bureaucrats and West Pakistani politicians, for whom the aspirations of East Bengal were of peripheral

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importance. After the assassination of Liaquat Ali Khan in 1951, the political dominance of the Punjab and the military-bureaucratic elite ascendancy further strangulated East Pakistan.\(^4\) Despite the fact that H.S. Suhrawardy of the United Front as Prime Minister of United Bengal, should have been appointed the first Chief Minister of East Pakistan, Muhammad Ali Jinnah, the then president of Pakistan appointed Khwaja Nazimuddin to the post. The political heartland of Pakistan was shifted to Karachi and Lahore in West Pakistan due to the preponderance of the Punjabi-Sindh ethnic group in the league. The political path of Pakistan was dominated by a small coterie of West Pakistani elite, obsessed with the image of India as a threat to the existence of Pakistan, and nurturing an intense emotional engagement with Kashmir. This group looked upon the East Pakistanis with suspicion because they did not harbour similar sentiments concerning India. Politically influential groups in the West perceived the Bengalis as later day converts still corrupted by Hindu practices, in league with their Indian counterparts across the border. The military aligned itself with the West Pakistan leadership and shared the opinion that India was a threat and Kashmir a possible vital possession to further the prestige of Pakistan in the strategic landscape of South Asia.\(^5\)

So long as Liaquat Ali Khan remained Prime Minister, the Urdu speaking elite that were distant from both East Bengal and Punjab maintained a degree of impartiality in administration and sustained the unity of Pakistan. Despite that, in terms of socialization, language and political culture, the Urdu speaking Zamindar elite that had migrated from India found much more in common with the landed aristocracy of West Pakistan, than the peasant middle class of East Pakistan. Moreover, this class had migrated to West Pakistan mostly from Indian Punjab, and their policies were peppered with a strong Punjabi tilt. The growth of Punjabi influence in the helm of administration created a sharp wedge between the two wings of the country and the East Bengali, with a greater consciousness of political rights and social equity felt a simmering sense of disillusionment at the current state of affairs. One could safely hypothesize that, had Pakistan political system

\(^5\) See S.M. Burke, Mainspring of India and Pakistan Foreign Policies (Minneapolis: University of Minnesota Press, 1974), pp. 177-83. Also see Ayoob, n.3, pp. 15-23.
been more accommodative and representative in character, it was possible that the East Pakistani feelings of alienation could have been addressed effectively.

2.1.2. Levels of Economic Growth:

Around the middle of the 1960s, international opinion, particularly in the West, reflected a positive perception about the economic condition in Pakistan. In an editorial in *The New York Times*, it was stated that “Pakistan may well be on its way towards an economic milestone that so far has been reached by only one other populous country, the US”.

The second five-year plan showed a growth rate of 5.3 percent, yet at closer scrutiny, it was clear that the apparent economic prosperity did not trickle down to East Pakistan. During this period, the per capita income of West Pakistan was 30 percent more than East Pakistan. Arjun Sengupta had termed the economic situation in Pakistan as well as the government policies as “planning for disparity”. Despite such a high growth rate in GNP terms, the west wing did not invest in the poorer eastern sector. At the time of partition; the per capita income of the west exceeded the east by 10 per cent. By the year 1969, the difference increased to 61 percent. East Pakistan’s per capita income, which was 86.6 percent of its West Pakistani counterpart in the pre-planned period, declined to 76.6 percent during the second plan period. The five-year plans were explicitly tilted in favour of West Pakistan. During the second plan period, when Pakistan presented a buoyant economy to the world, the development assistance to East Pakistan was only 35.4 percent. As far as non-plan expenditure was concerned, almost 90 percent of defence expenditure as well as the bulk of the expenditure on civil administration was concentrated in West Pakistan. The government encouraged the concentration of wealth and business transactions in the hands of around 22 West Pakistani families. These families controlled 66 percent of industrial assets, 70 percent of insurance funds and 80 percent of non-plan expenditure.

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percent of bank assets. This policy laid in the way of development of an indigenous business class in East Pakistan that might have laid their stocks in a united Pakistan. In the realm of agricultural policy, the allocation of tractors, seeds, fertilizers, insecticides were tilted heavily in favour of West Pakistan, especially Punjab. This led to Punjab accounting for 80 percent of wheat production, 70 percent of cotton and sugar products and 50 percent of rice produce. East Pakistan, once boasting of high rice production witnessed a steady decline and with the fall of world jute prices, the jute trade was severely affected.

2.1.3. Administrative Discrepancies:

In the administrative domains, the Urdu speaking Punjabi population filled up the civil services. This had historical connotation as amongst the 83 Muslim officers of the Indian Civil Service (ICS), who had opted for Pakistan in 1947, only 2 were from East Pakistan. The state of affairs was the result of educational backwardness of East Bengal under British India. On the other hand, the social landscape of West Pakistan reflected a greater social and economic discrepancy than East Pakistan. But the existence of a strong upper middle class, especially in the Punjab, created a Muslim intelligentsia, coupled with the migration of the Urdu speaking class from UP and Bihar in India to West Pakistan, provided a distinct advantage to this wing to dominate the administrative structures of Pakistan. In the higher seats of civil service posts, the members of the old ICS cadres dominated heads of departments in the Central Government, and as Bengalis numbered only 2, their presence was negligible. The Bengalis were given clerical jobs. The percentage of Bengalis in the civil services was just 36 percent. It was only during the Yahya Khan Administration that the number of Bengalis inducted into higher posts in the civil services was increased, and he even appointed a Bengali to the post of Chief Secretary of East Bengal. However, no Bengali had ever been appointed in any meaningful post in the ministry of home, finance and defence. The situation in the army reflected similar bias. 90 percent of the recruits came from four districts of northern

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13 Ibid.
Punjab- Rawalpindi, Campbellpur, Jhelum and Gujrat and two districts of North West frontier province-Peshawar and Kohat. There were no Bengali representations at the higher officer level.\textsuperscript{14}

2.1.4. Seeds of Discontent:
In this scenario, the Bengalis began to lose faith in the system and the seeds of autonomy were shown. The first bone of contention arose over the question of language. On 25 February 1948, a Bengali member, Dhirendra Nath Dutta moved a resolution in the Constituent Assembly that Bengali along with Urdu should be used in the proceedings of the assembly. In reply, Prime Minister Liaquat Ali Khan stated that “Pakistan is a Muslim state and it must have as its lingua franca the language of the Muslim nation... It is necessary for a nation to have one language and the language can only be Urdu and no other language”.\textsuperscript{15} In the 1951 Census of Pakistan, it was mentioned that Bengali was the language of 54.6 percent of the people of Pakistan, whereas Urdu was the lingua franca of 7.2 percent of the population. For the Bengalis, language was their pride and they vehemently protested against the undermining of their language in the new state. Student demonstrations rocked Dacca and the first mass resistance to policies of the West Pakistani establishment was observed. Against this backdrop, the Awami League was born in Dacca on 23 June 1949. It was the first real opposition party that Pakistan witnessed since its creation, and it took a leading part in the language movement. In the 21-point programme of the Awami League that was incorporated into the election manifesto of the United Front in 1954, the demand for recognition of Bengali as a state language, as well as the demand for regional autonomy for East Pakistan was laid down. The demand for the naval headquarters to be shifted from Karachi to East Bengal was also incorporated. In the elections of 1954 in East Pakistan, the Muslim league was defeated and the populace voted overwhelmingly for the United Front that captured 223 of the 237 Muslim seats. The Muslim league managed only 10 seats. However, the new Chief Minister, A.K. Fazlul Huq was dismissed by the West Pakistani regime due to certain statements he had made in Calcutta that had pointed out the cultural

\textsuperscript{14} Sisson and Rose, n.2, pp. 91-107.
\textsuperscript{15} Quoted in Mizanur Rehman Shelly, \textit{Emergence of a New Nation in Multipolar World} (Dacca: University Press, 1979), originally appearing in \textit{Dawn} (Karachi), 16 December 1947.
affinity of both Bengali. This was interpreted as amounting to treason against the Pakistani state at Karachi.

2.1.5. Demand for Autonomy:
The 21-point programme had planted the first seeds of autonomy. However, the ruling junta at Karachi refused to consider the request for such, leading to increasing alienation of the East Pakistanis. After the death of H.S.Suhrawardy in 1963, Sheikh Mujibur Rehman became the unchallenged leader of the Awami League. It was he who caught the imagination of the Bengalis in their struggle for autonomy. The language movement symbolized the cultural distinctiveness of the Bengalis and expressed grave concern at the lack of sensitivity on the part of the West Pakistani elite to Bengali cultural aspirations. In the presidential elections of 1965, Field Marshal Ayub khan defeated the candidate Miss Fatima Jinnah put up by the Combined Opposition Parties (COP) by a narrow margin, especially in East Pakistan, despite rigged elections. While in West Pakistan, he bagged 73 percent of the votes; in East Pakistan he was able to garner less than 53 percent of the votes.

The 1965 war with India reinforced the feeling of vulnerability as East Pakistan was left defenceless against any forthcoming Indian attack. The Bengalis began to question the decision taken at Islamabad (the capital had been shifted from Karachi) that left the entire population of East Pakistan at the mercy of India, for the sake of Kashmir. Adding insult to the Bengali sentiments that were already at tenterhooks, the Foreign Minister, Mr.Z.A. Bhutto stated at Islamabad that Pakistan had an understanding with Peking that, if India attacked East Pakistan during the war, China would come to its rescue. The Bengalis also began to dislike the obsession that the West Pakistani establishment nurtured for Kashmir and its willingness to squander the defence capital on military engagements with India in a futile war. Kashmir was strategically not important to East Bengal and the 1965 war also hurt the trade between India and East Bengal, resulting in East Bengal having to import cement and coal from far away places at twice the price. Moreover, East Bengal's

fish trade that was mostly with Assam and West Bengal suffered the most. The India-
Pakistan war reinforced the strong feeling among the East Pakistanis that autonomy was
the only solution to all the problems that plagued the region. In reaction to the situation
in 1965, in February 1966, Sheikh Mujibur Rehman put forth his six-point programme
that epitomized greater political and economic autonomy for the province. The six-point
demand included:

i) The constitution should provide for a federation of Pakistan in the true sense on the
basis of the Lahore declaration and for a parliamentary form of government based on the
supremacy of a directly elected legislature on the basis of universal adult franchise. The
representation in the federal legislature shall be on the basis of population.

ii) The federal government shall be responsible only for defence and foreign affairs.

iii) There shall be two separate currencies mutually or freely convertible in each wing for
each region, or in the alternative, a single currency, subject to the establishment of a
federal reserve system in which there will be regional federal reserve banks which shall
devise measures to prevent the transfer of resources and flight of capital from one region
to another.

iv) Fiscal policy will be the responsibility of the federating units; state resources
especially for meeting defence and foreign affairs expenditure would finance the centre.

v) Constitutional provisions shall be made for separate accounts to be maintained for the
foreign exchange earnings of each of the federating units, under the control of the
respective governments of the federating units.

vi) The government of the federating units shall be empowered to maintain a militia or
para-military force in order to contribute effectively towards national security. 17

With the publication of the six-point programme, the autonomy movement gathered
momentum and despite threats from the Ayub khan regime of strong action against the
autonomists, the mass support increased. In order to suppress the growing autonomy
programme, in 1966, Sheikh Mujibur Rehman was charged along with three members of
the Bengali civil service and twenty-four Bengali junior officers in the armed forces, for

collaborating with India in Agartala, in order to engineer the secession of East Pakistan. Meanwhile, in West Pakistan, a new political situation was brewing, spearheaded by Zulfiqar Ali Bhutto of the Pakistan People's Party (PPP). Under pressure from oppositional forces, Ayub Khan agreed to return to parliamentary democracy at the round table conference (RTC) in 1969, based on adult universal franchise, but he refused to agree on the break-up of West Pakistan into constituent "provincial units", or to the severe decentralization of federal power. This created undue resentment in East Bengal and the situation turned volatile as people in huge numbers took to mass demonstrations against the Ayub Khan regime. By mid March, 1969, President Ayub called upon the Commander in Chief, General Yahya Khan, who informed him that the situation in Pakistan was getting out of hand and the army had to be called out of the barracks to assist the civil administration to mitigate the crisis. Gen. Yahya Khan argued that the imposition of martial law was the only solution and on 25 March 1969, martial law was imposed and Yahya Khan as Commander-in-Chief assumed the post of President and Chief Martial Law Administrator. Soon after assumption of power, Yahya Khan decided upon three issues:

i) All contentious issues have to be removed from the process of constitution making.

ii) The new constitution as well as any political activity had to honour the Islamic nature and integrative character of the state.

iii) The final authority over constitution making until martial law continued would be in the hands of the President until the elected National Assembly had drafted a constitution.

After discussions with major political parties, it was decided that a parliamentary form of government would be established with the President as Head of State, but the Prime Minister would yield real power. On 29 March 1970, Yahya Khan issued a legal

20 Ibid.
framework order (LFO) that called for national general elections as well as set guidelines for the framing of the new constitution.21

2.1.6. Elections of 1970:
In the elections held on 7 December 1970, the Awami League won 160 out of 162 seats in East Pakistan. It had a total of 169 seats out of 313 seats in the National Assembly. Zulfika Ali Bhutto's Pakistan People's Party won 81 seats out of 138 seats in West Pakistan, with as many as 64 from Punjab and Sindh. This victory gave the Awami League a clear majority (53 percent) in the assembly. In all fairness, the league should have assumed power with Mujibur Rehman as Prime Minister of Pakistan, but that would have threatened the entire political structure of Pakistan that was premised on three fundamental assumptions:

i) The supremacy of the executive over the representative institutions.
ii) The dominance of West Pakistan, especially Punjab, over East Pakistan.
iii) The financial autonomy of the army.22

The election results of 1970 took everyone by surprise, including the West Pakistani establishment. While it was expected that the Awami League would secure a majority, such a clean sweep of the polls was not expected at all. After the clear mandate that the Awami League received at the elections, it was a logical conclusion that they should form the government. The military was willing to transfer power to a civilian government but they wanted certain understandings and compromises to be clear. The military had two questions in mind:

i) The integrity of Pakistan was a central question.
ii) The autonomy of military functioning and budget.23

23 Interview with J.N. Dixit, Former Foreign Secretary and National Security Advisor to the Government of India, India International Centre, 27 January 2004.
Shortly after the elections result, the Awami League declared that the people had given them an overwhelming mandate based primarily on the six-point programme and thus the constitution had to be based on it. Pressure also mounted from within and outside the party that the six-point programme was sacrosanct and any compromise on them would be a betrayal to the East Pakistani population.  

Though, Mujibur Rehman might have taken a more conciliatory approach towards negotiations with the military with regard to the formation of the National Assembly, the radical element of the Awami League by terming the six-point programme as non-negotiable made matters difficult. Giving in to public demand, Mujibur Rehman in his post election speech on 9 December 1970 declared, “I warmly thank the people for having given a historic verdict in favour of the six point programme. We pledge to implement that verdict. There can be no constitution except one based on the six point programme”.

In the meantime, Zulfikar Ali Bhutto of the Pakistan People’s Party (PPP) declared that the PPP would not sit in the opposition. He nurtured a raw desire for power and firmly believed himself as “rightful heir to the throne”. He also played into the fear psychosis of the army with regard to the potential Indian threat stating that the ascendancy of the Awami League to power would give leverage to an Indian inroad into Pakistan territory. Bhutto also realised early that conceding power to Mujibur Rehman on the basis of a democratic verdict would neither be acceptable to the Pakistan military, nor to West Pakistanis. Bhutto remained in touch with the army’s middle and top ranks and made sure that he in grilled into the army the disastrous consequences of an Awami League government for Pakistan. Moreover, the Awami League’s autonomy programme threatened to defuse the India-Pakistan situation as well as cut the financial base of the army by transferring resources to the provinces. To reach a common position, Mujibur Rehman and Bhutto met in the last week of January 1971 in Dacca, but the meetings

ended in deadlock. Bhutto agreed to accept the first and sixth point of the Awami League's six-point programme, but not the other four. Throughout the early months of 1971, the negotiations between the Yahya Khan administration, the PPP and the Awami League continued without any substantial solution to the political catharsis that threatened the Pakistani landscape. On 18 February 1971, after a meeting with Yahya Khan at Rawalpindi, Bhutto declared to the press that a crisis so fraught with un-stability for Pakistan could not be taken lightly. He also emphasized the magnitude of the India-Pakistan tensions. Mujibur Rehman stated in Dacca that the Awami League could not negotiate with the PPP and the six-point programme was the most important mainstay of the league.

The same day, Yahya Khan in a meeting with the martial law administrators from both Rawalpindi and Dacca discussed three possible solutions to the crisis:

i) An immediate show of military force.

ii) The National Assembly could be installed and if the situation got out of hand, then the West Pakistani establishment could call upon the military to act.

iii) Allow Mujib to assume power and then undermine him. 27

On 22 February 1971, the PPP assembly members pledged to Bhutto that they would boycott en bloc, if the National Assembly was convened with the Awami League at the helm of affairs. On 25 February 1971, the Awami League met in Dacca and at that meeting; Mujib declared that representatives must come to Dacca to discuss the constitution and maintained that autonomy would not come in the way of basic unity and integrity of Pakistan. He went on to say that provincial autonomy for Bangladesh might not hold true for the other provinces of Pakistan. Foreign trade and aid would not be dealt autonomously, but administered in the larger interest of foreign policy. The military leadership and the PPP did not take cognizance of Mujib's conciliatory efforts. 28

The Awami League as late as 28 February believed that the National Assembly would be convened on 1 March 1971. In Lahore the same day, Bhutto in a famous speech attended


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by a massive crowd threatened to do harm to himself, if he was denied control of the political situation. If the National Assembly was convened without the demands of the PPP being met, he promised to call a general strike from Khyber to Karachi.²⁹ Amidst all these, Yahya Khan postponed the 1 March session of the National Assembly, and this gave a clear indication to the Awami League that the PPP along with Bhutto had a strong influence on the decisions that was emanating from Islamabad. (See Appendix 3.1.1) In a way, Yahya Khan and the PPP, the strongest advocates of the concepts of unity and integrity of Pakistan by refusing to compromise with the Awami League, set the path for the disintegration of the country.

The Awami League called for a strike against the decision on 3 March 1971 and declared it as a “day of mourning”. All government offices, courts, autonomous corporations, airlines, railways and other public and private transports were closed. The strike received a resounding response. On 7 March, at a mass rally in Ramna racecourse, Mujib cited out all instances of the past few months in front of a massive crowd, but did not call for independence for Bangladesh. He only wanted greater autonomy. A parallel event that was taking place was the build up of West Pakistani regiments in and around Dacca and on 7 March 1971, Mujib demanded immediate cessation of military activity in East Bengal. On 14 March 1971, Bhutto stated in Karachi that if power was to be transferred to elected representatives, it had to be transferred to the single largest parties in East and West Pakistan. He said that the geographical peculiarity of Pakistan called for such a move.³⁰ In a telegram to Mujib on 10 March 1971, Bhutto had said, “we have come to a stage when two wings of Pakistan must immediately reach a common understanding if the country is to be saved and it must be saved at whatever the cost”. ³¹

2.1.7. The Final Effort at Negotiation:
President Yahya Khan flew to Dacca on 15 March 1971 in a final bid to resolve the political crisis. Negotiations between the government and the Awami League begun on 16 March 1971. The talks continued till 25 March 1971. Yahya Khan indicated that he

²⁹ Sisson and Rose, n. 2, pp. 88-89.
³⁰ Dawn (Karachi), 14 March 1971.
³¹ Dawn (Karachi), 10 March 1971.
was committed to transfer of power and end martial law. He pointed out that the future
government had to reflect representation from both wings of Pakistan. He also agreed to
hold a quick inquiry into the firings by the army within East Bengal. On 18 March,
General Tikka Khan appointed a commission of inquiry into the firings, which Mujib
rejected outright, as he felt that the findings of such an enquiry would be definitely
biased, as the perpetrators of violence were given strong representation, whereas the
victims were not given a place there. This outright rejection of the commission of enquiry
had a negative effect on Yahya Khan. Talks, however, continued and both leaders
discussed the possibility of forming an interim government. Both sides also held talks on
the organization of power structures at the centre as well as its distribution to the
provinces. The provinces were also granted a reserve bank. The negotiations also
included talks on the granting of full legislative powers to the civilian governments. The
government team also made provisions for a draft constitution, inclusive of those items
suggested by the Awami League that were not problematique to the government. The
draft constitution focused on the following issues:

i) Martial law would end the moment provincial cabinets were formed.
ii) Yahya would continue as president during the interim period.
iii) A central cabinet would be selected from among the representatives of East and West
Pakistan.
iv) Function of provincial assemblies would be guided by norms of the 1962 constitution.
v) Provincial governors would be appointed by the president in consultation with the
leaders of parliamentary groups of the provinces.
vi) Within seven days of creation of the provincial governments, two constitutional
committees would be established, one at Dhaka and the other at Islamabad, for the
purpose of overseeing that the requirement of each province of Pakistan was incorporated
in the constitution to be framed by the national assembly.33

32 Sobhan Rehman, "Negotiating for Bangladesh: A Participant’s View", South Asian Survey (New Delhi),
33 Sisson and Rose, n. 2. pp. 118-19.
In West Pakistan, the talks between Yahya Khan and Mujib infused a sense of urgency amongst the cadre of the PPP and as such, sensing the cordiality between the two parties in Dacca, Bhutto decided to travel to Dacca. The arrival of Bhutto on 21 March 1971 to take part in the talks electrified the atmosphere in Dacca. Noticing a cordial atmosphere between the Awami League and the presidential *entourage*, Bhutto realized that any understanding between Yahya and Mujib would undermine his position in West Pakistan and set at naught his 1 March speech in Lahore. During the course of that historic speech, Bhutto maintained that the PPP, though opposed to military rule, advocated a strong central government and was committed to the unified strength of the Pakistani state. Moreover, the party was against the transfer of power to the Awami League without due leverage given to the PPP, who had procured most of the seats in West Pakistan. He said that any move to activate the Awami League’s autonomy demand would bring about strong resistance from the PPP. Bhutto also threatened personal and public harm if the National Assembly was convened without meeting his conditions and stated in strong words that he would launch a political agitation from the Khyber to Karachi.\(^{34}\) He also feared a constitution drafted along the terms of the Awami League. In order to appear as an attractive political option to the military, the PPP immediately changed its earlier focus on the six-point program of the Awami League and geared towards the conditions of transfer of power, which chiefly rested on a strong central leadership. In comparison to the Awami League’s six point program that left the central leadership with some vague powers in the field of defence and foreign policy, the PPP’s stand appeared attractive and to the military, in Pakistan’s best interest. In fact, according to Henry Kissinger, then National Security Advisor in the Nixon administration, Bhutto might have adopted such a stand in order to become more acceptable to the military.\(^{35}\)

On 22 March 1971, Bhutto, Mujib and Yahya met for the first time after the December elections. The tête-à-tête did not go well as Mujib was not eager about Bhutto’s presence in the negotiations in Dhaka as that could trigger off misgivings amidst the Awami League. Bhutto was able to impress on Yahya Khan during the course of the meeting


\(^{35}\) Henry Kissinger, *The White House Years* (Delhi: Vikas, 1979), p. 851
that the ascendancy of the Awami League could amount to the fragmentation of Pakistan as a political unit. The incidents of 23 March 1971 further reinstated that view as East Pakistanis commemorated the day as Bangladesh Independence Day with demonstrations, parades and students' protests. The meeting of ex-servicemen led by Major General M.U. Majid and Colonel M.A.G. Osmani deepened suspicions among the Pakistan military about the upsurge of secessionist tendencies in East Pakistan. Though discussions for a negotiated settlement continued till 24 March, the stubbornness of the league to hold on to the six point agenda complicated the process. The hawks in the Pakistan military pressurized Yahya Khan for a military solution to the crisis.

On the night of 25 March 1971, the Pakistan army was called out of the barracks and ordered to root out all dissident voices in the east. Mujib was arrested from his residence that night and flown to Karachi, though most of the Awami League leaders managed to escape across the border to India. Addressing the nation on 26 March 1971 Yahya Khan stated that the military action had been prompted by Mujib’s failure to “see reason and his obstinacy, obduracy, and absolute refusal to talk sense” and led him to conclude that the Awami League wanted East Pakistan to secede and thus were enemies to the notion of Pakistan.36 (See Appendix 3.1.2) He went on to say that the Awami League had insulted Pakistan’s flag and disrespected Jinnah, the father of the nation. The army also feared a mutiny in its Bengali units and thought it prudent to use force before things got out of hand. The rumour doing the rounds in the army headquarters was that the East Bengal regiment would respond to the demands of the Awami League for a liberation struggle and West Pakistan commanding officers insisted on pre-emptive action to flush out such tendencies.37 A military action was seen as the only solution to the brewing political crisis and thought essential to keep intact the territorial integrity of Pakistan.

36 See Bangladesh Documents, vol.2, 1972. Also see the speech of Yahya Khan reproduced in the Government of Pakistan, White Papers on the crisis in East Pakistan, appendix A, pp. 275-77
2.1.8. West Pakistan Military Action in East Pakistan: 25 March to 2 December 1971:

Operation Searchlight was launched at zero hours on 26 March 1971. The objective of the military action was primarily to nullify the political prowess of the Awami League and re-establish order within East Pakistan. Secondly, the armies aimed at removing radical elements from Dhaka University and take into custody student leaders and shut down cultural organizations that fuelled the autonomy movement. Thirdly, the East Bengal regiment and the East Pakistani Rifles had to be disarmed. Lastly, all rebels and infiltrations had to be weeded out from East Pakistani towns and the countryside. Rail, road and water communication were to be monitored and brought under firm control of the West Pakistani army.\(^{38}\) During the course of the operation, the garrisons were given death lists and the killing was systematic. The Pakistan policymakers did not take into account the international response to events in East Pakistan as they felt that it was an internal problem, which merited an internal response. What further complicated matters was the West Pakistani suspicion of Indian designs, perceived to be chiefly motivated in denying Pakistan its status of a state to be reckoned with in South Asia. They feared that the East Pakistanis with their Bengali Muslim ethos analogous with the Indian state of West Bengal would tilt towards India in moments of crisis. The top military brass was confident that India was involved in the events of East Pakistan and Pakistani intelligence reports maintained that India was behind the resistance and secessionist tendencies of the East Pakistanis. They did not question the authenticity of those intelligence reports. Rather, both Yahya Khan and Bhutto created an atmosphere of anti-India rhetoric and portrayed the India-East Pakistani collaboration as one of the major justifications for the military crackdown in East Pakistan.\(^{39}\) Instead of dealing with the crisis in East Pakistan, they launched a strong diplomatic and propaganda campaign against India that reflected the following core issues:

\(^{38}\) For detailed analysis of the genocide in East Pakistan, 1971, see Siddiq Salik, *Witness to Surrender* (Karachi: Oxford University Press, 1977), pp. 59-77. Also see Sisson and Rose, n.2, pp. 154-74 and Ayocb and Subramanyam, n, 8, pp. 55-93.

\(^{39}\) Kissinger, n. 35, p. 853 and Jahan, n. 34, pp. 34-36.
i) India engineered Mujib’s victory in the 1970 elections in order to bring about the disintegration of Pakistan.

ii) The East Pakistani dissidents were mostly financed by India in their struggle against the Pakistan government.

iii) The international community must ensure the unity and territorial integrity of Pakistan and persuade India to resist from breaking up Pakistan.

iv) Refugees fleeing Pakistan to India were described as Indian agents who were escaping from being caught in their clandestine activity. 

The military action was swift and in the first two days, Dacca was brought under effective military control. By 10 May 1971, the provinces in and around Dacca were also captured by the West Pakistani army. The military, however, failed to arrest all the Awami League leaders and most of them escaped to India. This proved the contention that the Awami League was aware of a possible military crackdown; once talks broke down between Yahya Khan and Mujib and had already chalked out escape strategies, once the operation commenced. The abrupt departure of Yahya Khan on 25 March 1971 had also heightened suspicions, especially after Wing Commander Khondkar, a Bengali officer, informed Mujib of the same. The army met unexpected resistance from the Bengali units, but they were brought to book in the consequent military action. By April 1971 the Awami League was isolated as a political force and the East Pakistani countryside had been combed of any dissident voices. The Pakistan army particularly targeted the Bengali Hindu, who was amongst the first to flee to India. A number of Bengal military and paramilitary units also escaped with their arms to India, where they formed the nucleus of the Bengali resistance forces, the Mukti Bahini. On 10 April 1971, the Awami League operating from Mujibnagar at Calcutta issued a declaration of independence of Bangladesh.

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Meanwhile, the number of refugees that fled to India numbered in millions by the end of June 1971. The victims of the Pakistani action that fled to the refugee camps in India bore gruesome tales of violence in East Pakistan. By July, the demographic pattern of refugee flows also comprised the Bengali Muslim. October 1971, witnessed one of the highest displacements of people in the world (except probably Russia under Japanese rule in the early twentieth century). 10 million East Pakistanis were taking refuge in Indian territory.43 Besides this, a million people perished inside East Pakistan due to Pakistan army action. The East Pakistani Staff Study of the International Commission of Jurist wrote in its 1972 report that the killing ‘was done on a scale which was difficult to comprehend and included the additional horror of torture and extermination camps’.44

2.2. Response of the International Community to Events in East Pakistan:
The immediate response of the international community was to equate the crisis in East Pakistan as an internal problem of Pakistan and thus, it fell within the jurisdiction of the Government of Pakistan. In his letter to Yahya Khan on 5 April and 22 April 1971, UN Secretary General. U. Thant accepted the Pakistan government’s position that the conflict inside East Pakistan fell within the domestic jurisdiction of Pakistan under Article 2(7) of the UN Charter that laid down the following criterion:

“Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter, but this principle shall not prejudice the application of enforcement measures under Chapter VII”.45

Given the constraints of the cold war marked by intense competition between the two super powers, the US and the USSR for geo-strategic dominance, the East Pakistani crisis provided an opportunity for both to extend their sphere of influence in South Asia and

45 UN Charter, Article 2, Para. 7.
beyond. The UN Security Council, though taking note of the crisis, could not do anything tangible because the major powers did not even discuss the issue in the Security Council throughout March – December 1971, let alone condemn it. The sentiments doing the rounds in the world capitals were to remonstrate with Rawalpindi, but then to backtrack and paint the events as an internal matter of Pakistan. The UN General Assembly in a resolution stood by the sovereign independence and territorial integrity of states and overruled any external interference in East Pakistan. In August 1971, U. Thant changed his previous stance of terming the crisis in East Pakistan as an internal matter of Pakistan. He argued in the Security Council that the situation in East Pakistan constituted a threat to “international peace and security”, hence enabling action under Chapter VII of the UN charter. This did not evoke any response from the members of the Security Council.

2.3. The US: Realism Vs. Liberalism:
The United States refused to pull up the Yahya Khan administration for perpetrating a major crisis within its borders and sanctioning the use of force against its own people. Though terming the use of force as a reckless decision on the part of Yahya Khan in his book, *The White House Years*, Henry Kissinger, then National Security Advisor in the Nixon administration, defended the US stand, based on calculations of *realpolitik*. He wrote that the incentive behind the US decision to remain aloof, despite India’s attempt to pressurize it to condemn the Pakistan government’s action, was primarily based on the calculation that Pakistan was a gateway to a crucial link with China. On 26 March 1971, at a National Security Council meeting, a day after the start of Pakistan army operation, Kissinger informed his colleagues that President Nixon did not want to do anything in order to avoid being accused of splitting up Pakistan. This was despite the fact that the US Consul General at Dhaka was sending cables to Washington signed by consulate staff, which urged an American stand against the repression going on in the East.

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47 See United Nations General Assembly, Resolution 2793 (A/Res/2793), 7 December 1971, by which the Assembly upheld the sovereignty and territorial integrity of Pakistan. (Appendix 1.1.2) Also see *The Hindu*, 26 June 1974.
48 See Kissinger, n. 35, p. 852.
American Ambassador to India, Kenneth Keating informed Washington that he was “deeply shocked at the massacre and greatly concerned at the United States’ vulnerability of damaging association with a reign of military terror”. He urged the US to publicly deplore ‘this brutality and immediately suspend all military deliveries to Pakistan’.50

The US State Department that boosted a liberal leaning, sanctioned a new arms embargo on Pakistan and suspended the sale of munitions and renewal of expired license, and cut off economic aid. 51 This brought it at loggerheads with the White House that was solely motivated by calculations of interest. Pakistan could not be antagonized at a crucial moment when the channel to Peking had to be preserved. Moreover, Pakistan was an ally and the likely place of departure for Henry Kissinger’s secret visit to China in July, 1971. Though there was a public outcry in the US for action against Pakistan amongst liberal circles, fuelled by world press reports, the Nixon administration did not bow down to those pressures and stuck to its earlier stand of non-interference. Yahya was encouraged to continue on the course of political accommodation and greater East Pakistan autonomy, but the China factor was given more clout. On 28 May 1971, President Nixon sent letters to both Indira Gandhi and Yahya Khan. In his letter to Yahya, Nixon wrote, “I have noticed with satisfaction your public declaration of amnesty for refugees (Yahya had declared in early May that he would provide amnesty to all refugees returning to Pakistan from India) and commitment to transfer of power to elected representatives. I am confident that you will turn these statements into reality”.52 In his letter to Indira Gandhi, he wrote, “We have chosen to work through quiet diplomacy, as we have informed your ambassador and foreign minister. We have been discussing with the government of Pakistan the importance of achieving a peaceful political accommodation and of restoring conditions under which the refugee flow would stop and the refugees would be able to return to their homes”.53 Within the US, the debate raged on about the silence of the Nixon administration. Chester Bowles and Senator Edward Kennedy called for firm action against Pakistan and The New York Times editorial criticized the Nixon

52 Foreign Affairs Record (New Delhi), vol. 17, no.6, June 1971, pp. 107-8
53 Ibid.
administration for refusing to cut off economic aid to Pakistan.\textsuperscript{54} What precipitated the tension between the hawkish administration and the liberal democrats as well as the media was the supply of a small quantity of arms to Pakistan on 21 July 1971, amidst the internal crisis in Pakistan still on the boil. On 22 July 1971, \textit{The New York Times} in a story accused the administration of double standards and carrying out a breach of faith with the American people and Congress as well as India by deviating from the public stand that it had stopped arms aid to Pakistan.\textsuperscript{55} The \textit{Washington Post} wrote “it was an astonishing and shameful record...which must be read in the context of the current controversy over the Pentagon Papers, which turns on the public right to know and the government’s right to conceal. Here we have a classic example of how the system works, hidden from public scrutiny, administration officials have been supplying arms to Pakistan while plainly and persistently telling the public that such supplies have been cut off”.\textsuperscript{56} The Indian Foreign Minister, Swaran Singh in a speech to the lower house of Parliament on 12 July 1971 stated that the US supplies of arms to Pakistan amounted “to condonation of genocide in Bangladesh and support for a military regime against the people of East Pakistan”.\textsuperscript{57} The US, however, had clearly informed New Delhi of the small quantity of aid provided to Pakistan after 25 March 1971 under the US-Pakistan agreement that had taken place before 25 March 1971. The Indian Government in reports to the press did not mention this fact, but publicized a highly exaggerated amount of military equipment amounting to $50 million, when the actual sum was $5 million.\textsuperscript{58}

Throughout October 1971, the Nixon administration had to face a barrage of criticism for refusing to respond to the crisis in East Pakistan. On 5 October 1971, the Senate Foreign Relations Committee voted to suspend all US economic and military aid to Pakistan. \textit{Washington Post} in an editorial on 22 October 1971 came out strongly against the US position on the crisis. It wrote, “The American position remains disgraceful. The other day the State department mustered a feeble call for restraint on both sides. Pakistan is almost entirely responsible for the threat to the peace, and the United States is a partisan

\textsuperscript{57} "India Accuses US of Condoning Genocide", \textit{The Times} (London), 12 July 1971.
\textsuperscript{58} Sisson and Rose, n. 2, pp. 192-93.
arms, supplies, political support, relief and so on of that side. In fact, the danger to peace on the sub-continent does not lie in traditional differences between India and Pakistan but in Pakistan's policy of exporting an internal political problem—in the form of refugees—into India. American leadership in the provision of relief supplies is simply not enough. It must be accompanied by stern political efforts to induce Pakistan to halt the persecution of its own people."

Fearing that Pakistan would move closer to China in the face of US criticism, the Nixon Administration refused to put pressure on Pakistan. Nixon himself believed that understanding rather than pressure would work to lead Pakistan towards political accommodation. The State department on the other hand was pro-India and did not understand why the China rationale should stop the US from taking a strong step against Pakistan. During Indira Gandhi's visit to Washington in November, 1971, President Nixon told her that the US would assume full financial responsibility of the East Pakistani refugees in India, that Yahya had agreed to a cease-fire on 2 November 1971 and unilateral withdrawal of troops from the East Pakistan-India border. Mrs. Gandhi agreed the receipt of US aid for refugees, but refused to comment on the other. India adopted the stand that any political accommodation had to take into account the wishes of the Bengali people and that had not been the contention of the Yahya regime. The US response to the crisis till the outbreak of war reflected a pull between the Congress and the State department, dominated by liberals that reacted to a human tragedy in East Pakistan and the Nixon administration, squarely informed by realpolitik, though accommodating certain concessions by putting pressure on Yahya to end the crisis amicably. The administration was hesitant to condemn the Yahya Khan regime outright.

To sum up, US policy in South Asia in 1971 was premised on the following:

i) Balance of power between India and Pakistan

ii) Propping up Pakistan as an anti-communist base against the Soviet Union and a channel to the newly emerging US-China relationship.

iii) Using Pakistan as a sensitive lever of pressure against India.\footnote{V.P. Dutt, "Shadow of the Big Power", in Pran Chopra, The Challenge of Bangladesh (Bombay: Popular Prakashan, 1971), pp. 102-29.}

2.4. The USSR:
The USSR was the first major country to respond to the crisis in East Pakistan. President Podgorny sent a message to Pakistan President Yahya Khan on 2 April, 1971, in which he made an “insistent appeal to stop the bloodshed and repression and return to the methods of a peaceful political settlement”\footnote{President Nikoloi Podgorny’s letter to President Yahya Khan, Bangladesh Documents, New Delhi, vol.1, 1971, p.150.} He also pointed out to Yahya Khan that he should “correctly interpret the motives by which we are guided in making this appeal that is the generally recognized humanitarian principles recorded in the Universal Declaration of Human Rights”.\footnote{The New York Times (New York), 5 April 1971.} The Soviet Government did not favour a division of Pakistan and made public declarations with regard to the need for an “internal solution to an internal crisis”. In reply, on 6 April 1971, Yahya Khan asserted that no country including the Soviet Union could allow “anti nationals and unpatriotic elements to destroy it or to countenance subversion”. He went on to state that any outside interference would violate provisions of the UN Charter.\footnote{Dawn (Karachi), 6 April 1971.} The USSR did not stop military aid to Pakistan till April, 1971. Though nurturing a desire to move closer to India, it did not want to completely alienate Pakistan and give leverage to a Chinese domination over Pakistan. It was only after India and USSR signed a Treaty of Peace, Friendship and Cooperation on 9 August 1971 that the USSR gave this up this strategy and openly supported India, even at the forum of the UN. Moreover, the axis that was formed between US-China-Pakistan informed USSR’s policy in South Asia—that supporting India and propping it as a challenge to Chinese domination in Asia was in the interest of the Soviet Union.\footnote{Mira Sinha, “A Comparison and Assessment of China’s Attitudes and Comments in 1965 and 1971”, in K. Subramanyam ed., Bangladesh and India’s Security (Delhi: Palit and Dutt, 1972), pp. 113-38.} By October, it was clear that in the event of an Indian intervention in East Pakistan, the Soviets would rally behind India.
2.5. Indian Response:
The immediate Indian response to developments within East Pakistan was to express concern. In the beginning India deliberately toned down its condemnation of Pakistan for three reasons:

i) A condemnation of the West Pakistani military action would be an expression of its aggressive posture and violate the UN Charter.

ii) Any quick action on the part of India would have undermined the intensity of the autonomy movement in East Pakistan and scale down the justification that India had intervened in order to protect the East Pakistanis and stop the flow of refugees.

iii) The Muslim community in India might have been threatened by a hasty action when the first acts of aggression by the Pakistan army were mainly concentrated on the East Pakistani Hindu population.

iv) The international community remained indifferent to the crisis and was against any unilateral intervention.

The results of the December 1970 elections that gave an overwhelming mandate to the Awami League had surprised the Indian Government. The ascendency of the Awami League to the echelons of power excited the then newly elected Indira Gandhi government as that signified an important development in Pakistan. That East Pakistanis were not obsessed with Kashmir as the West Pakistani elite was and an Awami League government meant better relations with India.\(^65\) The Indian government was, however, sceptical about the ability of the Awami League to remain united for long as the party organisation suffered from factional elements. The Indian election campaign that was underway from January to early March 1971 also kept the Indian political leaders busy and explained their lukewarm interest on events within Pakistan at that time. The strategy was also not to complicate matters for Mujib during his negotiations with the military, as any sign of Indian support would derail the negotiating process underway in Dacca. One particular incident complicated matters between both countries during this period. On 30 January 1971, an Indian airlines flight from Srinagar to Jammu was hijacked by two

\(^{65}\) In an interview published in *Dawn* (Karachi) on 20 February 1971, Mujib stated that the Awami League was unhappy with the way the Kashmir dispute had been used in the domestic political scene within Pakistan. He said that "the Kashmir dispute" had been exploited by the "military caste".
Kashmiris and forced to land in Lahore and blown up after the passengers were allowed to disembark. The Pakistan government applauded the two Kashmiris as freedom fighters and Bhutto even met them at the airport.66 In response, the Indian government banned all Pakistan overflights over Indian territory. Distrust between the two governments increased when on 15 April 1971, a commission of inquiry in Pakistan informed Yahya Khan that the hijackers were actually Indian intelligence men and the entire episode had been conspired by India in order to undermine Pakistan.67

Towards the end of March 1971, India made a public stand on the East Pakistan issue. On 27 March 1971, both houses of parliament adopted a resolution describing the situation in Pakistan as “amounting to genocide”.68 (See Appendix 1.1.1) Public opinion in India demanded intervention on the part of the Indian government to avert the tragedy that had befallen the Bengalis. Many opposition parties stated the view that the Pakistan government must transfer power to the legally elected representatives of the people of East Pakistan. During the early phases of Pakistani action, the Indira Gandhi government was cautious in its condemnation of Pakistan. It felt that the situation might improve without outside intervention. It was thought wise not to antagonise the Pakistani government who perceived India to be harbouring the desire of hegemonic tendencies in South Asia. The situation changed toward mid 1971 with an ever-growing number of refugees from East Pakistan that fled to India for safety.

2.5.1. The Refugee Problem:

The influx of refugees into India from 25 March 1971 onwards created a tremendous problem, not only for the Indian exchequer, but also for the demographic composition of the borderlands, especially West Bengal, Assam, Tripura, Meghalaya, Mizoram and Nagaland. The West Bengal borders were infested with naxalite activists and the Communist Party India (CPIM) government in West Bengal passed a resolution in June 1971, condemning any Indian intervention in East Pakistan, as that would designate the

67 Dawn and Pakistan Times (Karachi and Lahore), 16 April 1971.
68 For more details, see Indira Gandhi, India and Bangladesh: Selected Speeches and Statements, March to December 1971 (New Delhi: Orient Longman, 1972), p. 11.
struggle of the East Pakistanis as an India-Pakistan war. On 28 June 1971, in order to facilitate smooth functioning of refugee influx, President’s Rule was declared in the state of West Bengal. The leftist organisations in West Bengal continued their clandestine support to the movement in East Pakistan by providing arms across the border. The refugees also created an economic strain as they were given free rice and nearly three million refugees entered the already overcrowded labour market in West Bengal. By October 1971, 10 million refugees had crossed over into India and this huge influx of a foreign population threatened the tribal- non tribal ratio in the Northeastern states. In fact, the tribal population was at a disadvantage as the population ratio tilted in favour of the East Pakistani refugees.\textsuperscript{69} New Delhi concluded that a peaceful resolution of the crisis consistent of negotiated settlement between the Awami League and the Pakistan government was not possible without international pressure.\textsuperscript{70} Throughout the later months of 1971, India carried out a massive international campaign in order to influence the UN Security Council and major countries to act to stop the military operation. However, despite repeated Indian appeals at the forum of the UN as well across countries of Western Europe and the US, a condemnation of Pakistan military action in East Pakistan was not forthcoming. Despite sympathy for the plight of the East Pakistanis, the international community refused to hold Pakistan responsible for the political crisis that it had started by endorsing a military solution to a political issue. The Nixon administration remained adamant in its effort to support Pakistan in the UNSC as well as in statements made throughout the crisis. To make matters worse, the Chinese premier Chou En-Lai in a letter to Pakistan President Yahya Khan on 12 April 1971, stated that “should the Indian expansionists were to launch aggression against Pakistan, the Chinese government and the people will, as always, firmly support the Pakistan government and people in their just struggle to safeguard its state sovereignty and national independence”.\textsuperscript{71} On the face of a hostile international environment and continual refugee flow into its vulnerable

\textsuperscript{69} Ayoob and Subramanyam, n.8, p. 34-47.
borderlands, the Indian government decided to unilaterally intervene in Pakistan to bring about an end to the crisis.

2.6. The Indian Intervention in East Pakistan, 3 December-16 December 1971:
Military hostilities between India and Pakistan started since November 1971, with the escalation of Indian and Pakistani troop's presence along the India-Pakistan border. The Bangladesh guerrillas under the name Mukti Bahini struck across the border inside East Pakistan several times during the crisis. This increased tension between the two armies as most of the Mukti Bahini had been trained in camps set up by the Border Security Force (BSF) in the Indian states of Tripura, West Bengal and Mizoram. Beginning 21 November 1971, Indian army platoons started moving into strategic locations along the India-East Pakistan border and along with the Mukti Bahini, established operational bases in the east, north and west, for an all out assault on Dacca.\(^72\)

Reacting to the massive army build up in the east, the Yahya Khan administration ordered the Pakistan air force to strike at key Indian air bases across the West Pakistan border on 3 December 1971. Immediately, hostilities commenced on the eastern front. The Indian army launched the Dacca offensive on 5 December 1971 and by the next day, had the capital under their control. When war broke out, it was clear that the Indian army enjoyed the upper hand due to the support of the local population. The Pakistan army not only had to deal with a hostile population, but to top it all, also suffered from insufficient supplies of men, arms and ammunition. Moreover, the army was exhausted physically and morally after a difficult struggle for six months against Bengali rebels. The Pakistan army and air force lacked coordination during pitched battles. The Indian army had established excellent logistics and communication of troops and supplies were kept steady against Pakistani attack. This added to the quick victory that the Indian army achieved in the India-Pakistan war of 1971.

The war lasted for 13 days and towards 16 December 1971; the Indian army had captured 93,000 Pakistani military personnel as prisoners of war. India also captured parts of West

Pakistan territory in Punjab and Sindh. The United States and China tried to pressurise India during the war by threatening military repercussions, if India did not cease its military intervention. The tension in Indo-US relations reached an all time high when the US sent a small detachment of its seventh fleet as well as the aircraft carrier, USS Enterprise towards the later part of the war, to the Indian Ocean. The US justified the action by stating that the US fleet was proceeding towards Chittagong to evacuate American and European citizens from East Pakistan.\textsuperscript{73} The US move might have been motivated by its desire to show its muscle power in order to warn the USSR to be cautious in the South Asian region as well as demonstrate to China its strength.\textsuperscript{74} The fleet passed through the Strait of Malacca into the Bay of Bengal. According to Kissinger, the move was motivated to put pressure on India and the USSR to end the war and ensure the safety of West Pakistan's territorial integrity. According to him, Indira Gandhi declared an unconditional cease-fire on 16 December 1971 mainly due to Soviet pressure, as it did not want a military engagement with the US in the Indian Ocean.\textsuperscript{75}

During the 13-day war, the Indian army consisting of 200,000 troops were easily able to outnumber and outclass the Pakistani army in West Pakistan that numbered around 70,000 troops. The support of the Mukti Bahini, which had good knowledge of the landscape of East Pakistan, helped in the fast movement of Indian troops. The local population also kept a strong vigil of Pakistan troop movement and informed the Indian commanders about enemy positions. The co-ordinated attack by the Indian army and air force gave them an upper hand as early as 6 December. By 9 December 1971, General Niazi of the Pakistan Eastern Command received a message from President Yahya Khan that implied the Pakistani armed forces to surrender. He and Farman Ali immediately prepared plans for surrender and communicated their intentions to the Government of India. General Sam Manekshaw initiated the terms of surrender, and General Niazi of

\textsuperscript{73} Dixit, n. 40, p. 108.
\textsuperscript{74} Tariq Ali, \textit{Sunday Observer} (London), 14 November 1984.
\textsuperscript{75} Kissinger, n.35, pp. 912-13.
Pakistan and General Jasjit Singh Aurora of India signed it at the Ramna racecourse on 16 December 1971.  

2.7. Locating the Indian Intervention within the Normative Paradigm of Just War Theory: Was it a Just Intervention?

The Indian intervention in East Pakistan raised a lot of controversy in Pakistan as well as in the realm of the international community. Pakistan pointed out that India had always wanted to demean "the idea of Pakistan" and reunite the Northwest as well as East Pakistan with the Indian sub-continent. In fact many among the Indian establishment could not come to terms with the existence of Pakistan. Besides that, the unilateral use of force brought the Indian state into conflict with the norms of international order, especially the UN Charter, Article 2(4) that reads as follow:

"All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations."  

The chapter would be a detour of the intervention as it unfolded by situating it within each criterion of the Just War Theory with the objective of analysing if it was justified within this normative paradigm.

2.7.1. *jus ad bellum* (Right Recourse to War):

(1) **Just Cause:** On 25 March 1971, the West Pakistan army launched Operation Searchlight that was primarily targeted at arresting the Awami League leadership as well as removing all elements of dissent in and around the East Pakistani countryside. Due to the Pakistan army action that went on undeterred till the first week of November 1971, a million people lost their lives and 10 million people fled to India for safety. Being the neighbour and a witness to events across the border, and the refugee problem in its


78 UN Charter, Article 2, Para. 4.
border-states, India was obligated to stop the reprisal, if necessary, by force. The nature of this political obligation had its origins in classical political thought. In a statement by Ambrose of Milan, the 4th century theologian and mentor of St. Augustine, the nature of this obligation came out in a poignant manner. He said, "he who does not keep harm off a friend or neighbour, if he can, is as much at fault as he who causes it". The concern here is grounded on a case for justice, which focuses on setting right wrongs done to others, who are not in a position to prevent it on their own. In contrast to that, the UN Charter, Article 2(4) and Article 2(7) include the obligations that the international community must respect the principles of sovereignty and territorial integrity. These twin principles are sacrosanct in the modern concept of international order that amounts to non-intervention in the internal affairs of states. However, interventions to counter extreme violation of human rights by a government against its own people constitute an exception to this rule against intervention. In its justification on the use of force in East Pakistan, India invoked Article 51 of the UN Charter in the United Nations Security Council. Article 51 reads as follows:

"Nothing in the present Charter shall impair the inherent right of individual or collective self defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any given time such action as it deems necessary in order to maintain or restore international peace and security."  

Ambassador Sen opened proceedings in India's defence in the Security Council by referring to this particular article and the concept of 'refugee aggression'. He argued that the meaning of 'aggression' resulted from the 10 million East Pakistani refugees that India was subjected to, especially in the Border States. He said that "If aggression against another foreign country means that it strains its social structure, that it ruins its finances, that it has to give up its territory for sheltering the refugees...what is the difference

80 UN Charter, Article 2, Paras. 4 and 7.
81 UN Charter, Article 51.
between that kind of aggression and the other type, the more classical type, when someone declares war or something of that sort". Reacting to Pakistani accusations that India was deliberately breaking up Pakistan, he stated that it was not India but "Pakistan that is breaking up Pakistan itself and in the process, creating an aggression against us".

He explicitly stated that the ‘military repression in East Pakistan was on a scale that 'shocked the conscience of mankind'. He said, “What has happened to our conventions on genocide, human rights, self determination?” In connection to that statement, Michael Walzer in his book, *Just and Unjust Wars* also points out that “Against the enslavement or massacre of political opponents, national minorities, and religious sects, there may well be no help unless help comes from outside. And when a government turns savagely upon its own people, we must doubt the very existence of a political community to which the idea of self determination might apply.”

Due to the cold war rivalry and an international system tilted in favour of order over justice, India was caught up in a clash of obligations. First, to the preservation of that order. Second, Indian public opinion demanded that the Indian government aid the East Pakistanis in their struggle for self-determination. This was buttressed by the fact that the East Pakistanis had numerous cultural similarities with the Indian state of West Bengal, be it language, food or clothes. Third, an obligation to protect the Bengalis from further brutalities meted out by the Pakistan army. It was also necessary to stop the West Pakistani army action that resulted in Bengali deaths everyday and create a political context within which the human rights of the Bengalis would be protected. The 10 million or more Pakistani citizens seeking refuge on Indian soil against their own government also had to be ensured a safe return to their homes. The Indian intervention did not qualify according to the law of humanitarian intervention as under Article 2(4) of the UN Charter; the intervention did not involve regime change in the target state, nor

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82 Also see SCOR, 1606th meeting, 4 December 1971, p. 15.
83 Ibid.
86 See Johnson, n. 79, pp. 102-18. Also Jahan, n.34, pp. 33-41.
loss of its territory. However, this legal stipulation ignored the political reality that ending crimes against humanity on the scale of the East Pakistani case called for such drastic measures. The Indian intervention, though defying international legal norms, was a justified case, chiefly because in the end, the intervention succeeded in granting self-determination to the East Pakistanis, ending months of army repression and enabled millions of refugees to return to their homes.

The East Pakistani Staff Society in its report pointed out that India should have justified its use of force on the principle of humanitarian intervention, which it did not explicitly state in its defence in the UNSC fora and instead continued referring to "refugee aggression" as cause of the intervention.87 However, this criticism does not take into account the arguments of Ambassador Sen who kept reverting to the concept of human rights. He stated, "We are glad that we have on this particular occasion absolutely nothing but the purest of motives and the purest of intentions; to rescue the people of East Pakistan from what they are suffering. If that is a crime, the Security Council can judge for itself".88 The claim of being motivated by humanitarian norms did sit uneasily with the concept of "refugee aggression" referred to earlier, but there was a public outcry in India to rescue the East Pakistanis from West Pakistan army action. Moreover, the Indian action challenged existing international norms of order wedded to sovereignty and territorial integrity. Franck and Rodley commented that the 'Bangladesh case is an instance, by far the most important in our times, of unilateral use of military force justified inter alia, on human rights ground".89 Given the outcome of the Indian intervention, that was the ability to stop further harm to the East Pakistanis, the case qualified as a just cause for intervening.

88 SCOR, 1606th Meeting, 4 December 1971, p.18.
(2) War is declared by a Competent Authority:

The United Nations as a world body has the mandate under Chapter VII of the UN Charter to declare that a situation threatens peace and security and thus calls for international attention and action. The UN Security Council became involved in the East Pakistani crisis only after the war broke out on 3 December 1971, but the crucial time for collective UN response should have been immediately after the Pakistan army crackdown on 25 March 1971. At that time, the UNSC had come to the inevitable conclusion that the happenings in East Pakistan did not pose a threat to international peace and security and were an internal concern of Pakistan.90 Ambassador Sen in his appeal to the UNSC to take action demanded that the UNSC should take serious note of the crisis and act out a definite course of action in order to put an end to further killings. However, by focusing on the twin principles of sovereignty and territorial integrity, the members of the UNSC shielded away from the justice part of the UN Charter, which endorsed the dignity of the individual and human rights.91 By May 1971, in the face of the non-committal character of UN response, India submitted a proposal to UNESCO, noting that the minimum requirements for a peaceful resolution to the crisis in East Pakistan was the restoration of political order within East Pakistan and the introduction of rehabilitation measures for the million or more refugees.

By June 1971, an intensive Indian diplomatic campaign under Foreign Minister Swaran Singh and Jaya Prakash Narayan was underway, leading missions to key countries in Europe, North America and Asia. The message carried forth was the need to pressurize Pakistan to end the army action and put forth a political solution acceptable to the Awami League. The response to these missions was sympathy for the plight of the Bengalis, but to term the crisis as an internal matter of Pakistan. The Indian government refused the UN’s proposal to plant UNHCR observers on both sides of the border as that did not address the internal crisis in East Pakistan. Critics pointed out that this Indian refusal to

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91 SCOR, 1606th Meeting, 4 December 1971, p. 32 and SCOR, 1608th Meeting, 6 December 1971, p. 27.
allow UNHCR observers in the refugee camps as well as across the border was its fear that the UN surveillance would have a negative impact on India's need to internalise the issue, as well as put a break to India's clandestine help to the East Pakistani guerrillas. In fact, on 15 July 1971, Ambassador Jha, the Indian Ambassador to the US told the US that India would not stop guerrilla activity from its border.\footnote{Kissinger, n. 35, p. 863.} India from the start refused to accept the crisis in Pakistan and henceforth the mounting tension between the two countries as an India-Pakistan dispute. India also insisted that assisting the Mukti Bahini in its struggle against the Pakistan army was a way to safeguard the Bengalis against any attack from the Pakistan army.\footnote{Ayoob and Subramanyam, n.8, p. 43. Also see The Statesman, Editorial Comment (New Delhi), 17 July 1971.} This does not detract from the fact that millions of people fled to India for safety. India believed that the mere posting of UNHCR observers in East Pakistan particularly on the border was not likely to create the feeling of confidence amongst the refugees, who were in India.\footnote{J. Adams and P. Whitehead, The Dynasty: The Nehru Gandhi Story (London: Penguin, 1997), p. 234.} The only solution was a political settlement acceptable to the people of East Pakistan and their leaders.

In November, Prime Minister Indira Gandhi made a trip to Europe and North America in order to build a case of international condemnation of Pakistani policies in the east. When such condemnation was not forthcoming from Washington or any other state, India decided to prepare for the ostensible use of force. The Nixon administration continued to supply Pakistan with arms till July 1971 as part of an earlier arms agreement, prior to 25 March 1971, and refused to condemn the Pakistan army atrocities. China stood by the principle that "Sovereignty and territorial integrity are basic to the maintenance of a peaceful world order, and it is such that no political, economic, strategic, social or ideological considerations may be invoked by one state to justify its interference in the internal affairs of another state".\footnote{SCOR, 1606th Meeting, 4 December 1971, p. 10.} The USSR and Poland were the only countries to side with India in the UN. The Soviet Union argued that the domestic jurisdiction clause in
the UN Charter did not apply to Pakistan as the level of human rights violation had grave international consequences. 96

The Indo-Soviet Treaty of Peace, Friendship and Cooperation signed on 9 August 1971 obligated Moscow to support India in the UN. The USSR argued in the UN that India’s recourse to force was justified and India had the legal authority to act as “ten million East Pakistani who had fled across the borders had undergone ‘unbelievable suffering’ and should not be deprived of an ‘opportunity to speak’. 97 Despite widespread reports of civilian killings in East Pakistan, neither the international community nor the UN endorsed an intervention in the name of human rights. Till the end, the tendency was to term it as an internal crisis that did not call for international action. Thus, due to lack of international support and on the face of a Pakistani attack on Indian air bases on 2 December, India declared war the next day.

According to Michael Walzer, unilateral interventions are justified when they take place to avert a supreme humanitarian disaster. He points out that morality is no bar to unilateral action, so long as ‘there is no immediate alternative available’. 98 The concerned state that violates human rights within its border loses its right to be protected by the norms of international order. The Pakistan government was committing acts of killing and hence guilty of acts against humanity. India was obligated to act since the victims of civil war were taking refuge within its borders. The results of the use of force created tension between India and the international community. But as Paul Ramsey states, “For us to choose political or military intervention is to use power tragically incommensurate with what politically should have been done, while not to intervene means tragically to

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97 Jackson, n. 42, p. 125.

98 Walzer, n. 84, p. 106.
fail to undertake the responsibilities that are there, and are not likely to be accomplished by other political actors" 99

(3) Right Intention:
The most controversial aspect of the Indian intervention was the intent. That India intervened to do away with the sufferings of the Bengali population did not convince most quarters as the real motivating factor behind India’s decision to intervene in East Pakistan. According to many critics of the Indian move, the real motive behind India’s decision to intervene in East Pakistan was taken, keeping in mind its own national interest. The East Pakistani crisis provided India with an opportunity to weaken Pakistan’s stature in South Asia. K. Subramanian, then Director of the Institute of Defence Studies and Analyses (IDSA) argued in articles printed in the National Herald that East Pakistan crisis presented India with an ‘opportunity the like of which will never come again’ 100 According to the Nixon Administration, though Pakistan’s repression in East Bengal had been reckless and without foresight, that millions of refugees imposed enormous strains on the Indian economy, India’s intention right from March, 1971 onwards was to use the crisis as an opportunity to establish its pre-eminence in South Asia. 101

This created an atmosphere of intense insecurity amongst Pakistani elites, the government and intellectuals, as proof that India had decided to intervene as early as April 1971. The Pakistani government and army accused the Indian army of covertly training Bengali recruits of the Mukti Bahini to strengthen their resistance. This tendency in Pakistan to focus on India’s behaviour deviated the Pakistan policy makers from the issue at hand: to address the grievances of the Bengalis and reach a political solution. The moderate voices in India, who publicly counselled against any form of intervention was completely ignored in Pakistan. Prominent among them were C. Rajagopalachari, former Governor-

99 Johnson, n. 79, p. 76.
101 Kissinger, n. 35, p. 885.
General of India from 1947-50, and M. Karunanidhi, the Chief Minister of Tamil Nadu in 1971. M. Karunanidhi had warned the Indian government that secessionist developments in East Pakistan would encourage similar movements in Indian states.\textsuperscript{102} The thrust of his argument was the offshoot of Bengali sentiments in the Indian state of West Bengal. In order to understand the trend of thought that effected Pakistani psyche, vis-à-vis India, one had to locate it in the creation of Pakistan as a separate state for Indian Muslims. From the beginning, India always felt that Pakistan was hatching conspiracy theories to undermine India and a similar view was reflected amongst Pakistani decision makers about India’s design to demolish Pakistan. The separation of Pakistan from India was premised on the assumption that Muslims in India were socially distinct and unique and could not fit into the Indian landscape. Thus, it was essential for them to have a separate identity and homeland. But, such essentialisms were misplaced. Pakistan’s problem from the beginning was the lack of a typical identity in which the entire Muslim population of British India moved on to Pakistan. It was found as a homeland for Muslims yet; there were more Muslims in India after independence than in Pakistan.\textsuperscript{103} Its creation was more of a political gamble that Jinnah and the Muslim League sought, fearing that Nehru and the Congress party would dwarf them, if they remained a part of India. Moreover, the horrors of partition left a strong emotional scar that spilled over into later day India-Pakistan relations. India remained the focus of Pakistan’s foreign policy and the degree of this obsession distorted any rational policy choice, and this affliction was reflected even during the war of 1971.\textsuperscript{104} A book by a noted Pakistani author lucidly encapsulates Pakistan’s obsession with India. He states that “Ever since the emergence of Pakistan, India has been our greatest preoccupation in the context of international relations…and yet what is most often dished up to us as so called scholarly analysis on India’s internal and external policies are all highly subjective…even inaccurate”.\textsuperscript{105}

\textsuperscript{102} The Hindu (Madras), 30 March 1971.
\textsuperscript{104} For a detailed narration of Pakistan’s Foreign Policy, see A. Shahi, Pakistan’s Security and Foreign Policy (Lahore: Minotaur Press, 1988).
There were many among prominent Indians who argued that India was motivated by a desire to divide Pakistan. According to J.N. Dixit, though India did not desire the re-integration of Pakistan with India, it remained firm in its view that religion was not a factor in the formation of a state. It was in India's interest to oversee an independent Bangladesh as that would mean a friendlier neighbour in the East, instead of having to deal with a hostile state in two fronts. Through its eastern sector, Pakistan was also offering assistance to disruptive elements in the Northeast. Critics of the possible humanitarian intent of India's action also pointed out that Indira Gandhi's Congress party was doing badly in the polls as a consequence of the refugee crisis, and solving this would boost the election fortunes of the party in March 1971. However, such arguments failed to account for the contextual specifications of a particular case. The argument that the hidden Indian motives to weaken Pakistan and improving election fortunes loses credibility when one analysed the plight of the Bengali people and the huge overflow of refugees in 1971 to India. Moreover, to expect India to publicly justify its use of force on the basis of weakening an enemy would have amounted to flagrant violation of the UN Charter and contempt for the shared norms and principles that govern international order.

To understand India's intent and positive outcome of its intervention, locating it within the theory of political obligation provides an insight to understand states' adherence to mixed motives in actions for justice. The theory points out that the overlap between order and justice is not only necessary, but also a natural consequence of statecraft. No state can act purely bound by moral principles without taking into account the core values that vindicate national interest. The researcher is of the view that in its decision to intervene, India had to consider three factors:

i) **Obligation to International Order**: International order stresses on the necessity to maintain the inviolability of borders. Originally, it was meant to reject religious and ideological claims to war. Secondly, it established the right of sovereignty, which was not

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106 Dixit, n. 40, p. 103-04.
open to judgments of the sovereign’s character and did not take into account other possible criteria of language and ethnicity, which might question a sovereign’s right to rule over a given population. Hence, multilingual and multiethnic states came into existence. The 1648 Westphalia international system based on sovereignty remained intact for nearly 250 years. But with the end of the World War I in 1919 and the conceptualisation of the Wilsonian principles, the concept of self-determination achieved a strong place in liberal thought. Though its application has been uneven in world order, the concept is strengthening, especially when states and their armies engage in massacres of their own citizens. These acts are also termed illegal under the Nuremberg Code of ‘crimes against humanity’. At such junctures, neighbouring states have to make a choice, that to intervene to stop further killing when the government engaged in the repression of its own citizens, refuses to stop it through negotiation.

During the Bangladesh crisis, India, keeping its obligation to the international community tried to garner an international consensus against the violation of human rights in East Pakistan. At that time, international order was illustrated by the East-West rivalry that paralysed the UNSC and featured the bipolar regime of the two superpowers. International humanitarian law was in its infancy in 1971 and did not enjoy the force to move a world body, to enforce compliance for the sake of justice to the Bengali people. This lead the Indian policy makes to decide on the use of force. Critics had pointed out that India never accepted any of the proposals forwarded to it, to end the crisis. For instance, with regard to the training of the Mukti Bahini, they were recruited in India, trained by Indian military officers and supported by Indian artillery. India, neither acknowledged that it had control over the guerrilla movement, nor refrained from providing relief supplies to these groups. The Soviet Union was interested in the crisis, not out of any humanitarian intention, but because it provided an opportunity to humiliate Pakistan, an US ally and also sent a strong signal to China about the limits of its reach in

Asia. Critics also indicated that the moral pretensions of India were targeted at the liberal West, especially the media. India also kept rejecting any offers of a settlement of the refugee problem as well as the 2 November 1971 offer by Yahya Khan of unilateral troop’s withdrawal from the border areas, as that would not fulfil the Indian motive of dividing Pakistan. Sajjad Hyder, Pakistan’s High Commissioner to India in 1971 noted that “Our perceptions of India are that, beneath a thin veneer, the Indian leadership and a sizeable segment of Indian opinion continue to regard the formation of Pakistan as a historical error and that given the opportunity they would wish in some way to redress the situation”. Despite such sceptics, it was a fact that the refugees crossing the border into India increased and the state of affairs in East Pakistan worsened by November 1971, which ultimately played a dominating hand in India’s decision to intervene in East Pakistan.

ii) Obligation to Political Community of States that Intervene: The Indian policy makers had to take into account the domestic upheaval that the East Pakistan crisis was creating in its border states. The refugee issue was important, but of greater concern to New Delhi was the destabilizing influence of the conflict on strife-ridden West Bengal, as well as on the tribal hill states of the Northeast. The existence of refugees in such huge numbers in these hill states threatened the indigenous communities and internal stability of complex tribal political systems by distorting the tribal-non tribal population ratio. The allocation of resources and Indian money to the refugees was a constant drill on the exchequer of a poor country, where poverty level and unemployment was very high on the human development index. New Delhi, hence, rejected any solution to the Bangladesh crisis that did not include the return of refugees to East Pakistan. What’s more, Indian public opinion pressurized the government to intervene. The argument that India’s national interest called for the strategic significance of undermining Pakistan and ultimately occupying it do not stand on firm ground. Such interpretations fail to take into account the gradual but significant shift in Indian elite attitudes on the partition and the

110 Dawn (Karachi), 3 November 1971. Also see Kissinger, n.35, pp. 877-78.
existence of Pakistan. Though not voiced officially, there were many in the Indian political and intellectual circles in the 1970s, who believed that incorporation of another hundred million Pakistani Muslims would have discredited India’s centralised democratic political system. Moreover, East Pakistan was a liability to West Pakistan, as the province was backward and after 1960, had little to offer in economic terms. Hence, its separation from the west would add to a more focused and disturbing Pakistani obsession with Kashmir, without having to deal with the problems of its eastern front. It was true that Pakistan’s fears of Indian expansionist designs were buttressed by the Indian overt use of force in Junagarh, Hyderabad, Goa, and Kashmir at the time of independence in 1947 despite Nehru’s assurances to do otherwise before independence. Post independence witnessed a shift in Nehru’s earlier acceptance of the newly created state of Pakistan as an inevitable consequence of Hindu-Muslim politics. He argued that the “two nation theory” was a mistake and the future integration of the subcontinent would be a natural process, bound by common history, culture, language and lifestyle. The Pakistani elite, however, failed to notice the shift in Indian strategic thinking after Nehru.113

iii) Obligation to Societies Targeted for Intervention: Considering the overall level of violence and its acceleration in the months after March 1971, the Indian government was obligated to side with the Bengalis. Since, no other state was willing to respond, India had to decide two crucial issues-law enforcement and police work. At the same time, it required the crossing of an international border. Humanitarian intervention, as pointed out by many, especially the realist school, is used to camouflage the real intent of the intervener-that to coerce and dominate their neighbours and nurture the need of self-aggrandisement. However, this depicted a lack of sensitivity to ground realities. The Indian position throughout the crisis was that any settlement of the East Pakistan crisis depended upon respect for the democratic and human rights of the Bengali people. It was an advocacy of self-determination. Mixed motives are a normal course in domestic as well as international politics. “An absolutely singular motivation, a pure goodwill, is a

political illusion”. The intent of the Indian intervention was to prevent injustice and restore justice: the Indian army after a quick and decisive victory quickly got out of East Pakistan, after handing the political power to the Awami League, without trying to influence the course of political events there. India’s national interest was not distinct from the demands of order and justice or of international common good. Statecraft to be effective must be guided by all three. Any state capable of stopping the slaughter of human beings must do so, and in the East Pakistan case, India was primarily dictated by the motive of averting the human disaster in Pakistan.

(4) Force must be the Last Resort:

The Indian intervention in East Pakistan did not take place immediately in the aftermath of 25 March 1971. The Indian government tried to garner international consensus to condemn the atrocities that were prevalent within East Pakistan. Sufficient time was given to the UN as well as the major powers to respond to the crisis. Indian diplomats travelled to world capitals to brief world leaders about the plight of the Bengalis. What was needed was a viable political solution to the crisis. In September 1971, Mrs. Indira Gandhi visited the USSR and Western Europe and in October 1971, she travelled to the US, in order to invoke a greater concern towards the crisis. Yet the international community refused to act. The United Nations exhibited apathy despite witnessing acceleration in the levels of violence due to state action. The UNSC, as late as September 1971, deemed the crisis as an internal matter that fell within the domestic jurisdiction of Pakistan. The appalling situation facing those in the refugee camps and thousands more fleeing to India forced the Indian government to consider intervention. In the beginning, the Indian government was careful not to make provocative statements. Given Pakistan’s deep-rooted fear of India, the Indira Gandhi government despite pressures from the opposition parties, maintained that the East Pakistan crisis could be resolved by

114 Walzer, n. 84, p.xviii-ix. Rounaq Jahan reflected the same line of argument about India’s mixed motives in intervening in East Pakistan in an interview in JNU on the 25 January 2005. (See Appendix 2.1.2).
115 Ayoob and Subramanyam, n. 8, p. 17-21. For detailed analysis, see Surjit Mansingh, India’s Search for Power Indira Gandhi’s Foreign Policy 1966-82 (New Delhi: Sage Publications, 1984), pp. 213-16. Also see East Pakistan Staff Society, n. 87, p. 62.
drawing up a political solution between the Pakistan government and the Awami League. What was crucial at that stage was to transfer power to the elected representative of the people. Instead of pursuing an immediate return to the quest for a constitutional settlement and transfer of power after the military crackdown in the early months, the Pakistan decision makers focused on Indian actions, intentions and capabilities. There were allegations on Pakistan radio and the press about Indian incursions into Pakistani territory within a month of the military action in the east. The Pakistani elite did not try to analyse the truth value behind these accusations. They were adamant that India nursed the desire to subjugate and divide Pakistan and establish “Akhand Bharat” or greater India by incorporating Pakistani territory. Policies in Pakistan during that period were chiefly aimed at constraining India, deny India international support and decrease India’s capacity to influence the character of the political solution in East Pakistan. Pakistan was sure that India would not enjoy support of the international community in addressing the East Pakistan crisis, given the existence of the state system that mandated the integrity of the principles of territorial integrity and sovereignty. So caught up was Pakistan in denying India a say in the helm of East Pakistan affairs, that it failed to chalk out a strategy to reach out to the Bengalis. Instead the violence escalated, leading to more asylum seekers in India. There was a complete break-up of administrative machinery. By December, a million people ceased to exist and 10 million people crossed over into India. By then, India had no other option but to intervene in order to end the crisis.

(5) Proportionality of Ends:

What qualified the Indian intervention as a just case of humanitarian intervention stemmed from the fact that the overall good achieved by the war was not overweighed by the harm done. Pakistan’s killing of a million people constituted a supreme humanitarian emergency and warranted humanitarian action. Notwithstanding the mixed array of motives, what supported the Indian action as one of justice arose due to the positive

humanitarian outcome in the end. The Indian army defeated the Pakistan army and put an end to the crisis. The number of lives saved due to the intervention outweighed the costs of lives to the Indian armed forces and to civilians killed. Had India not intervened, one could not estimate how many more Bengalis would have been massacred. Moreover, Pakistan had not shown any signs that its repression in East Pakistan was over at the time when India intervened. The Indian intervention was successful not only in securing lives, but also bringing about a political solution to the crisis.

(6) Probability of Success:

Strategic calculations played a crucial role in the Indian defence establishment's plan in using force in East Pakistan. Though there was immense pressure upon the Indian government to intervene as early as April, 1971, General Sam Manekshaw pointed out that the Indian army was neither prepared for an offensive operation in East Pakistan, nor in countering a West Pakistani counterthrust around April, 1971. Half-baked inconclusive involvements would have led to disastrous consequences—a prolonged war, huge loss of life and heavy defence spending, which an impoverished country like India could ill afford at that time. Four factors had to be considered by the Indian military to entail a decisive victory in East Pakistan.

i) The necessity of assessing the difference between the intervening state and the target state’s armies was crucial. In order to come to a conclusive pattern of potential successive battle engagements for the Indian army, when pitted against the Pakistan army, required time and knowledge of Pakistan’s armoured division and air force. An aggressive, immediate intervention might have proved disastrous for India and degraded the plight of the Bengalis even more.

ii) Administrative and infrastructural capabilities of the Indian states bordering East Pakistan had to be upgraded in order to facilitate the easy movement of Indian troops and supply lines. It also took time for Indian troops to reach the front and be ready for offence as the borders were far-flung area and lacked good communication.

iii) Climatic conditions of East Pakistan played a decisive role in India’s late response. Had India intervened in April 1971, the risk of getting caught up in the monsoons that lashed East Pakistan from May-October, 1971 was a high probability. Manekshaw had experienced the obstacles monsoons posed to successful military strategy in his Burma days, and hence thought that any army action had to commence in the dry months. East Pakistan was a low lying area and with the monsoons and the melting of snow in the Himalayas around May, the Brahmaputra and other tributaries of the Ganges that flow through East Pakistan flood the plains, leading to paucity of surface communication. The rain swollen river systems create enormous obstacles for easy movement as floods inundate the communication lines. India, in order to achieve a quick victory, had to wait for the rivers to return to their normal course around November.\(^\text{118}\) India also preferred to time the conflict with a period when the main passes of the Himalayas on the China Indian border were closed due to snowfall, around December, 1971. China had openly registered support to Pakistan and the Indian military planners did not want the army and air force to be engaged in fighting both offensive and defensive battles at the same time, in case China was tempted to interfere on behalf of Pakistan.

iv) New Delhi also understood the vitality of local support and intelligence. The cadres of the Awami League had first hand knowledge of the East Pakistani landscape. In order to prepare a local force, the Mukti Bahini, Indian strategic planners recognized that it would take some time to organize and train these units. It was also necessary to analyse the level of support that the Awami League enjoyed among the local population and that the leaders of the Awami League were looked upon as representatives of the people in their quest for self-determination. Moreover, understanding of the landscape was crucial for the easy movement of troops. The cadres of the East Pakistani rifles, the East Bengal


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regiments and the East Pakistani police that escaped to India for refuge were trained by the Border Security Force (BSF) in camps at West Bengal, Tripura and Assam. This was a fundamental backup force to any Indian offensive.\textsuperscript{119} The political base for the intervention had to be sound, so that victory was achieved in a short time. An early Indian intervention around April would have also complicated the basic question of independence and blurred the autonomy movement in East Pakistan and give an appearance of overt Indian aggression to the world.

Waging a successful war in difficult and hostile terrain like East Pakistan was not an easy task. The Indian army, after months of careful planning, achieved a quick and cost effective victory over Pakistan. Criticisms of the Indian army by some top Indian leaders reflected their lack of imagination and sensitivity to the Indian army and to the difficult conditions of warfare.\textsuperscript{120} East Pakistan was a land ideal for defensive warfare. The Indians launched an offensive war and won an impressive victory.

2.7.2. \textit{jus in bello} (Conduct in war)

(1) Proportionality of Means:

The means used by the Indian army and air force divisions in combat did not outdo or overweighed the good achieved. The number of lives saved was higher than the number killed in warfare. Though the Pakistan army assumed an all out offensive in its counterthrust against India, all the three divisions of the Pakistan army were engaged in battle; the Indian army was cautious in forward movement of troops and battle. The locals made strategic locations knowledgeable to Indian intelligence. The means justified the ends, as the final outcome was positive.\textsuperscript{121}

\textsuperscript{119} Adams and Whitehead, n. 94. Also see A. Mark Weisburd, \textit{Use of Force and the Practice of States since World War II} (Pennsylvania: The Pennsylvania State University Press, 1997), p.147.
\textsuperscript{120} For a critique of India's intervention in East Pakistan, see Hewitt, n.109. For the nuances of India-Pakistan relations, see Stephen Cohen, \textit{India Emerging Power} (Washington D.C: Brookings Institution Press, 2001), pp 198-227.
\textsuperscript{121} Walzer, n. 84, pp. 105-107. Wheeler, n. 90, p. 78.
(2) Discrimination and Non-Combatant Immunity:

Pakistani army action in East Pakistani in the months between March-December 1971 and afterwards was termed as one of the worst cases of human rights violation due to complete lack of discretion. Innocent women, children and civilians were tortured, raped and killed. There was a systematic effort to slaughter the supporters of the Awami League and to attack the "spirit of the Bengali people". The Pakistan army was not without direction in its acts of repression. The officers carried "death lists" on which names of political, cultural and intellectual leaders of Bengal were cited to be killed. There was also systematic killing of all followers of these leaders: university students, political activists.\textsuperscript{122}

The Indian army action was careful in its offensive use of force. The population was saved from further attack by the Pakistan army. The purpose of the intervention was to save people from being massacred, that the defeat of the Pakistan army was morally necessary in order to stop their crimes. This was achieved with the least damage done to the local population. Civilians coming within the line of fire were negligible. This was because the Indian troop position and information about battles were made available to the civilian population in order to give them the time to retreat to safe locations.\textsuperscript{123} The Just War criterion of 'double effect' that justified the killing of innocents as an inadvertent consequence of attacks against legitimate military targets was avoided by the Indian military. Thus, the intervention qualified the discrimination criterion.

2.8. In Retrospect:

The Indian intervention in East Pakistan in 1971 was a strong case of humanitarian intervention. This was not due to the fact that the Indian government's decision to intervene was dominated by one single pure motive, but despite the diversity of intentions that might have motivated the Indian decision makers, what stood out was that the Indian intervention was successful in fulfilling the demand for independence set forth by the Bengalis. The Indians were in and out of the country quickly, without trying to influence

\textsuperscript{122} Walzer, n. 84, p. 105.

\textsuperscript{123} Ibid. Also see Haroon Habib, "Homage to a Hero", \textit{Frontline} (Chennai), 1 July 2005, pp. 53-54.
or dominate the political process in East Pakistan. The intent of undermining an old enemy-Pakistan, and not being held responsible for a desperately poor country-Bangladesh, might have influenced the quick exit strategy. But, the intervention qualified as humanitarian because it was a rescue of human lives. It was not a counter intervention because governments that exhibit tendencies and involve in massacres of its own people lost its rights to domestic self-determination. Moreover, an action undertaken by the UN or by a coalition of states need not necessarily reflect a superior moral quality to that of the Indian action. Mixed motives would have influenced even a coalition of governments.

Humanitarian intervention is justified when it is a response to "acts that shock the conscience of mankind". As Frank and Rodley pointed out, 'the answer was that justice was being enforced, at that moment, by Indian troops'. The failure of the Security Council to stop the violence in Pakistan gave India a legal right to act unilaterally. A post hoc rationalization of India's actions was vindicated by the relatively quick and widespread recognition of Bangladesh. The international community was not prepared to dismiss it as an illegitimate entity. Given the position expressed by a majority of states in the UN questioning the legitimacy of India's use of force, it was surprising that UNSC resolution 307 which endorsed a durable ceasefire, withdrawal of armed forces to their own borders, and the voluntary return of refugees to their homes, did not condemn India. (See Appendix 1.1.3). The US, who had opposed the intervention, accorded recognition to Bangladesh as an independent state as early as March 1972.

Finally, it might be said that despite the humanitarian benefits of India's action, criticisms was strong because of the fear of setting a precedent for unilateral interventions that could shake the foundation of international order and become a recurring occurrence: it would provide hegemonic states a leverage to intervene into the internal affairs of a weaker state in order to bring it under their control. Hence, Article 2(4) makes humanitarian intervention unlawful, and that any use of force for purposes other that self-

125 Frank and Rodley, n. 89, pp. 276-77.
126 Kuper, n. 96, p. 84. See Weisburd, n. 119, p. 150.
defence has to be authorized by the UNSC. India’s argument that its use of force was in conformity with the humanitarian purposes of the UN Charter is justified within the criteria of the Just War Theory, though a slight hitch could be due to the intent part of the intervention. But then it would be impossible for a social science theory to account for every single inference of a case. It is the overall conduct and outcome of the Indian intervention that concerns the Just War paradigm and measured on that scale, the Indian intervention is quite justified.

2.9. Readings for a Just Case of Humanitarian Intervention: India’s intervention in East Pakistan is among the few cases that fulfil all the criteria of the Just War Theory.

Table 2.1. Indian Intervention in East Pakistan within the Context of the Just War Theory

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