

## ROAD TO SOLUTION OF KASHMIR PROBLEM

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### ABSTRACT

*Kashmir is bone of contention between Pakistan and India but it has global repercussions. Both the countries have fought two full fledged wars and one skirmish, but still it is unresolved. The international organizations including the United Nations, various countries, individuals and different quarters have put forward the proposals for the solution of the problem, but due to obduracy of India and interests of the global powers all proposals have failed to give tangible result in establishing peace and tranquility particularly in this region of South Asia. This paper is essentially an overview of the formulae presented for the settlement of Kashmir dispute, and critically appraises the formulae in the changed political and regional strategic environment where the concerned parties appear keen on exploring pragmatic and more workable solution(s) of the problem.*

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### INTRODUCTION

Problem of Kashmir is a constant threat to peace in south Asia. Since its appearance in 1947, numerous efforts/initiatives (by the United Nations, different countries, individuals and groups) were launched for the peaceful resolution of the issue but the problem still lingers on. It remains unresolved even after sixty five years. While different reasons/excuses have been forwarded and individuals, groups, countries and international organizations may be blamed for not letting the problem to be resolved, the need for the earliest possible and peaceful resolutions of the problem cannot be over-emphasized. Likewise any initiative from any quarter showed the welcome quest for a possible and quicker resolution of the issue, yet these could not be pursued for a variety of reasons. In this regard, it is important to review the formulae offered from time to time for the settlement, identifying the obstacles and looking for a formula acceptable to India, Pakistan and the people of Jammu and Kashmir.

This paper is divided into four parts. The first provides a brief background of the problem, the second covers solutions and

initiatives of international organizations and few very important countries, in the third portion Indian suggestions are highlighted, and finally the fourth part discusses Pakistan's initiatives.

### **BACKGROUND OF KASHMIR PROBLEM**

The trouble in Kashmir started in July, 1947 when the ruler of the state ordered his subjects to surrender their arms to the police. The Muslims responded by organizing themselves as guerillas in the hills of pooch. Mean while, the Muslims in Jammu province, where Hindus formed a considerable portion of the population and where the Sikhs and other militants had infiltrated from India, were slaughtered by thousand. According to Ian Stephens, the entire Muslims population of 500,000 was slaughtered by thousand and some 200,000 were killed and rest of the population fled to Pakistan( Stephens, 1963).

The killing and displacement of Muslims on such a large scale inflamed the feelings of the tribesmen who lost their patience. On 24<sup>th</sup> October, 1947, the tribesmen crossed the border of Kashmir and threatened Srinagar. On the advice of the then acting Governor General of India, Lord Mountbatten, Government of India decided that the Indian troops should be sent to Kashmir only if the Maharaja acceded to India. It was also decided that since Kashmir had a Muslim majority, accession should be conditional on the will of the people to be ascertained by a plebiscite after the raiders had been expelled (Korbel, 1966).

The ruler of Kashmir sent a letter as well as Instrument of Accession to the Governor General. Mountbatten in his reply to the Ruler stated that India had accepted accession in special circumstances and said:

"In consistence with their policy that in the case of any state where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the state, it is my Government's wish that as soon as law and order have been restored in Kashmir and its soil cleared of the state's accession should be settled by a reference to the people" (Korbel, 1966).

In the meanwhile, India decided to refer the problem of Kashmir to the United Nations and filed a formal complaint on 1 January, 1948 against Pakistan in the Security Council under

Section 35 of chapter VI of the Charter which relates to pacific settlement of disputes and not under chapter VII which deals with acts of aggression. Such reference under Section 35 clearly indicates that India did not hold Pakistan as aggressor. In the complaint, India prayed that Pakistan be called upon immediately to cease assisting the raiders, otherwise India might be compelled to enter Pakistan's territory to take action against the invaders.

On the other hand, India began long awaited spring offensive in Jammu and Kashmir (*The Times*, 14 April 1948). India left no option for Pakistan except to order units of its army to move into Kashmir and hold offensive position.

On the complaint of India, the Security Council passed a Resolution at its 229<sup>th</sup> meeting held on 17 January, 1948 and decided that the President of the Council should invite the representatives of India and Pakistan to take part in direct talks under his guidance in an effort to find some common ground on which the structure of the settlement might be built (UN Document No.S/651). The Resolution called upon the Government of India and Government of Pakistan to take immediately all measures within their power to improve the situation and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation.

The Security Council adopted another Resolution at its meeting held on 20 January, 1948 which established a Commission consisting of 3 members- one each from India and Pakistan and third to be designated by the two so selected. The Commission was to investigate the facts pursuant to Article 34 of the Charter of the United Nations to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties; to carry out the directions given to it by Security Council and to report how far the advice and directions, if any, of the Security Council have been carried out (UN Document No.654).

The number of members of the Commission was increased from three to five under the Resolution adopted by the Security Council on 21 April, 1948 (UN Document No.726). The Resolution recommended to the Governments of India and Pakistan to take appropriate measures to bring about a cessation of the fighting and to create proper conditions for a free and impartial

plebiscite to decide whether the state of Jammu and Kashmir is to accede to India or Pakistan.

The Commission was called United Nations Commission on India and Pakistan (UNCIP). It passed a Resolution on 13 August, 1948 providing for (1) ceasefire, (2) withdrawal of Pakistani troops and tribesmen to be followed by the withdrawal of Indian troops and (3) holding of Plebiscite.

On June 9, 1948-under the auspices of the UNCIP-Ceasefire Line Agreement was signed by military representatives of India and Pakistan along with representative of the Commission in Karachi. However, the provision of the Resolution passed by UNCIP on 13 August 1948 regarding holding of plebiscite to ascertain the wishes of the people of Kashmir for their accession to India or Pakistan was not implemented due to Indian obduracy.

The Prime Minister of India, Jawaharlal Nehru refused to hold the plebiscite and called it outdated on the following grounds (Syed, 1996:47-48):

- i. American military aid to Pakistan;
- ii. Economic development of the state;
- iii. Creation of the constituent assembly in the occupied Kashmir;
- iv. Pakistan's membership of SEATO and CENTO.

#### **SOLUTIONS SUGGESTED BY INTERNATIONAL ORGANIZATIONS AND COUNTRIES**

The UN representative Dr. Frank.P.Graham presented the following five proposals in his 13 pages interim report (*Dawn*, 4 April 1958):

- (a) If progress is to be made in the settlement of Kashmir issue there is a need for early agreement between Pakistan and Bharat on the representation that should be placed on part 3 of 5<sup>th</sup> January, 1949 Resolution of the UNCIP which provides for a plebiscite;
- (b) A conference of Prime Ministers of the two countries be held under Dr. Graham's auspices in early spring;
- (c) With a view to increasing the security of the area to be evacuated by Pakistan forces in term of Part Two of the UNCIP Resolution of August 13, 1948, consideration be given to the possibility of stationing of UN forces on the



Pakistan side of the Pakistan Kashmir border following withdrawal of Pakistan Army from the state;

- (d) Two governments should consider possibility of renewed declaration in line with 17<sup>th</sup> January, 1948 Resolution under which they appeal to their respective peoples to assist in creating and maintaining an atmosphere favorable to further negotiations and in which they themselves undertake to refrain from statements and actions which would aggravate the situation;
- (e) That they reaffirm that they will respect the integrity of the ceasefire line and that they will not cross or seek to cross the ceasefire line on the ground or in air, thus further assisting in creating a more favorable atmosphere for negotiation.

Emphasizing upon the need to deal firmly with any party obstructing the resolution of the problem, the Australian Commander Col J.M. Prentice said that every possible pressure including sanctions should be brought to bear on Bharat to enforce the will of the UN for the resolution of the Kashmir dispute (*Dawn*, 20 October 1957). Furthermore, Sweden placed a proposal before the UN Security Council for eliciting the International Court's advisory opinion on the legality of state's assassination (*The Times of India*, 16 November 1957). And King Hussain of Jordan proposed that the issue should be resolved through self-determination by the people of Kashmir (*Dawn*, 4 April 1960).

The meeting of the Kashmiri leaders held on the occasion of Martyrs day held on 6<sup>th</sup> November 1960 proposed following six points plan (*Dawn*, 7 November 1960):

- (a) Round Table Conference with Pakistan President, Indian Prime Minister, Shaikh Muhammad Abdullah and Chaudhry Ghulam Abbas as an immediate step to devise ways and means to implement the UN resolutions on Kashmir for holding plebiscite in the state;
- (b) Declare India as an aggressor in Kashmir;
- (c) Stop economic and military aid to India;
- (d) Aid Kashmir refugees form UN funds;
- (e) Hold probe into Indian atrocities;

- (f) Fix date for appointment of a plebiscite administrator and drop case against Shaikh Abdullah or transfer it to the World Court.

A yet another initiative to resolve the Kashmir problem was taken by the President of the United States, John. F. Kennedy who asked to India and Pakistan to indicate whether they would be agreeable to a mutually acceptable person exercising his good offices for a satisfactory resolution of the Kashmir problem (*The Pakistan Times*, 20 January 1963).

The Economist London suggested that India and Pakistan abandon their absolute claim to sovereignty over the Kashmir and agree that the valley become an autonomous area governed by both governments (*Dawn*, 27 May 1963). At the meeting of Common Wealth Prime Minister in London, the Prime Minister of Ceylon, Mrs Bandranake came out with a new idea and suggested some form of conciliation machinery to settle inert-common wealth disputes including Indo-Pakistan dispute over Kashmir (*The Pakistan Times*, 11 July 1964).

The Emperor of Iran, for example, offered his good offices to mediate between India and Pakistan if both sides requested him and wanted a settlement (*The Pakistan Times*, 5 January 1969). Likewise, the British Secretary for Foreign and Common Wealth Affairs expressed willingness of his government to extend its good offices in bringing about a settlement between Pakistan and India on the Kashmir issue if contending parties agreed to (*The Morning News*, 29 November 1968). China is another important country which exhibited its desire to help resolve the issue. The Prime Minister of China, Li Peng expressed his country's willingness to assist the two countries in settling the issue through peaceful means (*Dawn*, 17 February 1990). Equally important the Leader of Palestine Liberation Organization, Yasser Arafat offered his good offices to help sort out problems between India and Pakistan. He said solution to the Kashmir problem had to be found on the basis of international law and agreements signed between the two states especially Simla Agreement (*The Pakistan Times*, 29 March 1990).

In addition to the solutions referred above, an important proposal was offered by Stephen Cohen, a leading American scholar on South Asian issues. He suggested a regional solution for Kashmir with Pakistan, China and India reaching a tripartite

agreement and China giving concession to India and India conceding to Pakistan (*The Nation*, 24 March 1990).

Again, the Foreign Minister of Japan offered on 2 June, 1998 to host an international conference involving India and Pakistan to help to resolve their dispute on Kashmir.

An important proposal for the solution of Kashmir problem is known as Andorra Solution. It contains the following:

- (a) Kashmir valley become principality with foreign policy, defense and financial support shared by India and Pakistan;
- (b) The Kashmir valley will have its own parliament;
- (c) India and Pakistan will nominate representatives;
- (d) It will have open borders;
- (e) It will involve the tripartite partition of Jammu and Kashmir.

Chairman, Hurriyat Conference, Syed Ali Shah Gilani in an interview with BBC London proposed tripartite dialogue among India, Pakistan and Kashmiri representative to resolve the core issue of Kashmir (*The Nation*, 19 September 2004).

## INDIAN SUGGESTIONS

Here one may refer to the proposals offered by Prof. Balraj Medhok, former Member of Indian Parliament. He made the following proposals in his book published in entitled, *Kashmir, Centre of New Alignments*:

- (a) Confirmation of ceasefire line as de jure boundary: or
- (b) Rationalization of ceasefire line that would give about 2,000 square miles in the Tithwal-uri-Poonch area to Pakistan; or
- (c) Partition of the valley along a line roughly drawn through Gulmirag-sopore-Bandipure with provision of free access from one side to the other.

Mean while, a prominent Indian politician Chairman, India-Pakistan Conciliation Group, Jaya Parkash Narayan suggested that the Kashmir problem should be kept in abeyance for at least two years to emphasize the immediate need of developing mutual understanding and cooperation between India and Pakistan on matters of common interest (*Dawn*, 18 August 1964). He further suggested that the valley be neutralized and demilitarized both

India and Pakistan and called for constitutional arrangements to serve this solution (*The Pakistan Times*, 20 November 1964).

The former Foreign Minister of India, Natwar Singh suggested that regional autonomy could be a solution to Kashmir issue (*The Nation*, 26 November 2004). The Australian jurist, Sir Owen Dixon suggested that the disputed territory be divided into following three zones and plebiscites be conducted separately for the zones:

- (a) Kashmir valley plus the Muslim areas of Jammu-Poonch, Rajori and Doda. Kargil would form part of the valley.
- (b) Jammu with the remaining district of Ladakh;
- (c) POK plus the Northern areas.

Jagat Mehta, former Foreign Secretary of India proposed the following steps to solve the Kashmir issue:

- (a) Pacification of the valley;
- (b) Restoration of an autonomous Kashmiriyat;
- (c) Immediate demilitarization of LOC to a depth of five to ten miles with agreed metHoDs of verifying compliance;
- (d) Conversion of LOC into a soft-border permitting free movement and facilitating economic changes;
- (e) Conduct of parallel democratic elections in both parts of Kashmir. The government elected there could facilitate more and more exchanges;
- (f) Pending final settlement, there should be no internationalization of Kashmir issues or demands for plebiscites.

## PAKISTAN'S INITIATIVES

So far Pakistan is concerned, it has always supported the resolution of Kashmir problem on the basis of the right of self determination of Kashmiri people and on UN resolutions over the years, it also put forward suggestions for distancing away from extreme position of India and Pakistan on the issue. In this context, one may refer to the channab formula offered by Niaz Naik, Pakistan's former foreign secretary and former President Pervez Musharraf. Niaz Naik's proposal is as under:



- (a) divide the Indian state of Jammu and Kashmir on communal lines along the Chenab river and cede the western side to Pakistan;
- (b) India would retain majority areas of Jammu and Ladakh;
- (c) Northern areas, POK, Kashmir valley and districts of Muslim majority in Jammu and Kargil regions to join Pakistan.

Offering a different formula, Maulvi Tamizuddin Khan, former Speaker of National Assembly of Pakistan proposed that Kashmir dispute between India and Pakistan be settled by the World Court (*The Times of India*, 6 October 1963).

The other important solution was offered by General Pervez Musharraf. In an interview with NDTV suggested following four stage proposal (*The News*, 6 November 2004):

- (a) Kashmir will have the same borders but people will be allowed to move back and forth in the region;
- (b) The region will have self-governance or autonomy, but not independence;
- (c) Troops will be withdrawn from the region in a staged manner;
- (d) A joint supervision mechanism will be setup, with India, Pakistan and Kashmir representative on it.

The former President of Pakistan, General Pervez Musharraf also suggested following proposal:

- (a) The State of Jammu and Kashmir could be divided into seven zones instead of treating it as one whole political unit for the purpose of eliciting the views of the Kashmiris;
- (b) These zones should be demilitarized;
- (c) Their status should be changed;
- (d) The valley may be controlled jointly by India and Pakistan.

Former Prime Minister of Pakistan, Benazir Bhutto suggested in 1990 three proposals to the Government of India (*Dawn*, 3 May 1990):

- (a) Redeployment of troops by both the governments to their peace-time location;

- (b) Setting up a neutral international mechanism to check upon allegations and counter allegations in regard to the present Kashmir situation made by the two countries;
- (c) Open a dialogue under the Simla Agreement in the spirit of the United Nations Resolutions.

## LITERATURE REVIEW

Abundance of literature has been written on the problem in question by local and foreign authors and scholars but a few have touched the possible avenues for its resolution.

Niloufer Mehdi has written in her book entitled *Pakistan's Foreign Policy 1971-1981, A Search for Security* that "he [Zulfiqar Ali Bhutto] could use the agreement to minimize the friction between the two countries and forestall the possibility of an Indian attack" (Neloufer, 1999:82-83). The Simla Agreement was signed after 1971 war. It provided for peaceful solution of the issues through bilateral talks. But both the countries could not achieve the desired results due to mistrust, self interest and global designs.

Regarding third option for deciding Kashmir issue, Syed Salahuddin writes "the Government of Pakistan is willing to accept the mediation offer by any third party for the solution of this problem but India has always refused to accept the mediation of the third party" (Syed, 1996:54).

Neither India seems ready to solve the issue through neither bilateral nor willing to accept third party mediation. Different countries including Japan have offered their good offices to get both the countries rid of this sixty four years old problem but Indian reluctance has rendered all the endeavors fruit less. India considers third party mediation as interference in its internal affairs.

## LIMITATIONS OF THE STUDY

The different quarters have put forwarded the proposals/suggestions for the solution of the problem of Kashmir. But consolidated efforts have been not made to collect all such suggestions and compile in a book or article form. This article will help the researchers to conduct further study and research in this regard.

## CONCLUSION

Due to row on Kashmir between Pakistan and India their bilateral relations have not moved with a desired pace. Both the countries have made efforts for resolving the outstanding issue and signed Simla Agreement and Lahore Declaration but no tangible result has been achieved so far. Moreover, due to peculiar nature of the problem, world bodies, heads of governments of various countries, scholars and researchers gave the suggestions which failed to bring two belligerent countries on the table and solve the problem. The issue is still vulnerable for peace of the region and world in general. The situation has further aggravated after achieving nuclear might by India and Pakistan. It included Japan in the list of the countries who expressed their apprehension for peace.

## RECOMMENDATIONS

Pakistan formally welcomed the Japanese proposal to host a meeting between India and Pakistan on Kashmir issue. Such an offer came from Japan after the nuclear tests conducted by India and Pakistan in May 1998. The Japanese Foreign Minister, one may note, had said in Japanese Parliament, diet that Kashmir problem is behind the nuclear tests (APP, 4 June 1999).

The world's concern for quicker resolution of Kashmir problem is understandable. The continued confirmation between nuclear- armed India and Pakistan is a serious threat to regional and global security. Likewise, Japan's concern is understandable. It was victim of atomic bombing during the Second World War and a leading campaigner of global movement for total solution. It can impress upon both India and Pakistan to creatively approach the Kashmir issue and especially call upon India to play a pro-active and peaceful role in this connection.

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