# KASHMIR ISSUE: U.N. RESOLUTIONS, SIMLA ACCORD AND INTERNATIONAL RESPONSE A GENERAL SURVEY

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Even after 47 years of independence, the relations between the two major countries of South Asia remain in a state of flux, there was a long history of hostility, frictions and tensions. Among the several causes of their estrangement there was the vital Kashmir question, to which any solution has not yet been found and from its first day to present time it remains a burning issue of the region, the Kashmir dispute has proved to be the most tenacious issue.

It may be said that the geographically Kashmir would seem to belong to Pakistan than with India.The first Prime Minister of Pakistan Liaquat Ali Khan said in context to the claim over Kashmir:

> Kashmir is . . . like a cap on the head of Pakistan. If I allow India to have this cap off our head, then I am always at the mercy of India.(1)

Kashmir is not of that much asset to India's security and economy as it is to Pakistan. Pakistan has always wrangled strongly for Kashmir's economic and strategic importance for it. Sir Zafarullah once said:

> The possession of Kashmir can add nothing to the economy or to the strategic security of India. On the other hand, it is vital to Pakistan. Should Kashmir accede to India, Pakistan might as well, from both the economic and the strategic point of view, become a feudatory of India, or cease to exist as an independent sovereign state.(2)

The economic and strategic consideration of Kashmir make it imperative for Pakistan to seek just settlement of the Kashmir dispute, till now all attempts for the settlement of Kashmir were deflected. Instead of peaceful settlement Pakistan and India impinged each other at least on two occasions.

The actual trouble in Kashmir began when the unpopular Hindu ruler of Kashmir acceded the state, with a predominated Muslim population, to India without taking into account the wishes of its population. The principle which

brought freedom to Pakistan, applied by India in its favour in Junnagarh but violated it in Kashmir.(3) It was India's foul play that gave birth to the Kashmir issue. In the beginning the Hindu ruler of Kashmir vacillated, whether to join India or Pakistan; a Muslim revolt broke out throughout Kashmir. At this stage in October 1947 a large number of Pathan tribesmen from Pakistan invaded Kashmir. The ruler then asked India to hlep and offered to accede to it. After that India sent its army in the valley. Pakistan condemned the Indian action and decleared that the accession of Kashmir is based on fraud and violence and such action can not be recognised.

Pakistan began to aid the tribesmen and finally entered the field with regular Pakistani forces. Besides the resistence from the Indian forces the Pakistan army and tribesmen advanced and occupied northern and western Kashmir. By the end of 1948 the Indian army was in position to control the greater part of Kashmir.(4)

**FAILURE OF UN RESOLUTIONS ON THE ISSUE OF KASHMIR**

On January 1, 1948, under Article 35 of UN Charter, India took up the case with the Security Council, alleging Pakistan for assisting tribesmen and other "invaders" to violate her sovereignty.(5) The Indian government demanded an immediate withdrawal of Pakistani troops from north western Kashmir, return to a climate of normalcy in the region, and preparation for a plebiscite to ascertain the views of Kashmiris on the question of accession. Pakistan, supporting the plebiscite, refused to withdraw its troops from North Western Kashmir and responded with a relatively more forceful complaint accusing India of organised genocide of the Muslims and securing "accession of Kashmir by fraud and violence".(6)

The Security Council after protracted and difficult negotiations, secured an agreement between India and Pakistan that the future of Jammu and Kashmir would be decided through a free and impartial plebiscite to be held under the auspices of the UN.(7) The principle of all the resolutions adopted by the UN Security Council or the UN Commission

for India and Pakistan (UNCIP) is the right of self-determination, to be exercised by the people of Kashmir through plebiscite. However, the proposed plebiscite entails the option of joining either India or Pakistan.

The 1948 resolution which was passed by the Security Council for an immediate ceasefire, to be followed by a plebiscite generally regarded by Pakistan as diplomatic victory and justified their stand by United Nations. UN failed to enforce its resolutions when the India did not comply and refused to implement the other part of the resolution to which they themselves were a party.

Since 1948 Pakistan approached UN a number of times to get the resolutions implemented. The problem was that neither those were implemented by India nor the UN exerted sufficient pressure on India to get them implemented. Result was that the Kashmir problem is still lingering as such and the people of Kashmir are the sufferers.(8) Apart from these resolutions there were many committees formed by the UN, which after detailed discussions with leaders of Pakistan and India gave some proposals but those proposals were never accepted by India. India refused to abide by the resolutions and has obdurately stood at her illegal ground, inspite of repeated calls to India by the UN to let the Kashmiri people exercise their fundamental rights.

In his recent annual report to the United Nations, which started its current session Secretary General Boutros-Boutros Ghali invited world attention to Kashmir issue as the oldest outstanding item on UN agenda. He has repeated his offer of help in a resolution of the issue.(9)

## THE SIMLA ACCORD

The 1971 Indo-Pak war resulted in the separation of Eastern part of Pakistan and weakened the cause of Kashmir. After the war Pakistan reached on a peace agreement with India, for the latter, it was also an opportunity to extract concessions concerning Kashmir.

Simla Agreement was signed on 2nd July 1972, and according to Indians that under the Simla agreement Pakistan has given up its right to seek UN's help to solve the Kashmir

dispute. Where-as Pakistan has all along maintained that paragraph IV of the Simla Agreement (which India cites in support of its claim) does not preclude it from going to the UN as the line of control in Jammu and Kashmir was recognised by both the sides "without prejudice to the recognised position of either side".(10) Pakistan's recognised position has always been that the Kashmir dispute must be settled by a plebiscite under the United Nations.

The concluding paragraph of Simla Agreement unequivocally mentions "a final settlement of Jammu and Kashmir" amongst the issue to be discussed by the representatives of the two sides prior to meeting between the respective heads of the two government.(11) But uptill now 22 years have passed and India has all along refused to have any meaningful negotiations with Pakistan, for a "final settlement" of the Kashmir dispute.

The most important aspect of the Kashmir question, which is some times ignored is that it is not a bilateral dispute. The people of Kashmir are as much part of it as India and Pakistan. This right of the people of Kashmir has not only been recognised by the UN but also by the governments of India and Pakistan, the right of the people of Kashmir would still remain alive and valid. This third party was not involved in the Simla Agreement and therefore the agreement is not binding upon it.(12)

A US State Department spokesman, Mike McCurry said that:

> "US has been consistently reiterating that the entire area of Jammu and Kashmir was a disputed territory and direct talks between India and Pakistan under the provision of Simla Accord could provide an amicable solution to the issue, by taking the people of Kashmir into consideration".

The emphasis on the role of Kashmiri people while refering to Simla Agreement has reinforced Indian fears about American policy on Kashmir.(13)

## INTERNATIONAL RESPONSE

Kashmir is once again ablaze, the struggle of Kashmiri people for their rights has been accelerated and entered in the

final phase. They have waited for forty seven years and got nothing but promises. Even the United Nations failed to show any results. Kashmiris have now woken up from a deep sleep and inactivity, it is for the first time that the entire valley has risen up to seek freedom and liberation from the Indian occupation. India is now losing its battle and her position on Kashmir issue has weakened. The Kashmir issue is back in world focus. The world community has shown its serious concern over the prevailing situation in Kashmir and accepts this dispute as an international flash point. The US authorities categorically stated that the Kashmiri struggle is an indigenous uprising against the perpetual and unjust occupation of India.

From all indications, it looks like a break through for Pakistan's Foreign Office. With valuable support from friends like the People Republic of China, Iran, the United States and possibly Japan, its efforts met with success in bringing Kashmir dispute back in world focus.

Following are the view points of different countries/ blocs regarding the Kashmir Dispute:

## UNITED STATES

The Washington considers Jammu and Kashmir a disputed territory is not new. After the fall of Soviet Union, the interest and apprehensions of USA in the unipolar world are important to be ascertained. The United States, which is the custodian of human rights and freedom of human race, has not done any thing to solve this dispute. The changing world situation and Pakistan's bitter experience of American friendship are not good at this stage. The American interest in the region now is to dominate the so called Muslim fundamentalist countries and also to check Chinese influence. India seems to be the best suited for the requirement. The nuclear proliferation in Muslim world is another sore point with the United States. In view of these facts, the present policy is already evident from the American attitude, suspension of American aid, Pressler Amendment and refusal to accept Kashmir as an international issue are few examples. However, a very recent development is America's interest to draw

benefits of our improved geostrategic importance in order to use Pakistan as a bridge towards China and Central Asian Republics. Whether such a situation develop or not and what ever the number of irritants that exists between Pakistan and USA, the former must try to maintain friendly relations with the latter without compromising on national issue and should not except any help on Kashmir issue.

During his recent visit to India in January 1995 US Defence Secretary William Perry said that "Washington hoped that by forging close ties with both Pakistan and India it could help the long time foes avoid a fourth, and catastrophic, war". He further urged that, New Delhi and Islamabad to resolve their dispute over Kashmir peacefully. During his talks with Indian leaders he also focused on the human-rights abuses in the occupied Kashmir. Responding the above the Indian Prime Minister has said that India would accept US help in settling a dispute with Pakistan over Kashmir, but the two countries would eventually have to resolve differences themselves.(14)

## UNITED KINGDOM

A multiparty British Parlimentary delegation recently visited the United States to highlight the Kashmir issue and urge the United Nations to once again involve itself in resolving the issue.(15) A memorendum to the United Nations Secretary General said a special representative should be sent to Kashmir to explore ways to securing the release of all political prisioners and "ending the human rights abuses in Indian - occupied Kashmir". The Britishers are seemed to be more vocal and concerned about their self created Kashmir issue which was successfully propagated by the large majority of Muslim Kashmiris in Britain. The British attitude towards the issue, one can easily imagine by the unfairness with which partition of the Sub-continent has been made.

## RUSSIA

Russia no longer enjoys the status of super power. At present she has deminished interest in the region. Her interest however, are likely to come up as soon as she recovers ec-

onomically. Russia at present is not interested to involve herself in any major crisis or a controversial issue but would continue to support India not only due to her old friendship but also at this stage she can not afford to counter the American wishes as they are the principal supporter of Russian economic recovery. The Russian policy at present is and will remain to be one of a moral support to the Indian view point.

## CHINA

China has proved to be the most trusted friend of Pakistan in times of crises, at the same time she wants peaceful relations with India in order to reduce her armed forces. India wants to exploit this desire against Pakistan, but China so far has resisted. China would not tolerate extension of her border with India in the form of complete Kashmir to India. She would rather prefer Kashmir joining Pakistan as it would reduce her worries.

Mr.Li Ruihaun Chairman Chinese Senate said:

> "As a friend of Pakistan and friendly neighbour to India, China on its part is ready to do what it can in its own capacity for a peaceful settlement of this question".(16)

## EUROPEAN COMMUNITY

Though the interest and apprehension of European Community is similar to USA, their understanding on the issue is even less and difficult to gauge. The European case is a case of unity of diversity. Most of the European countries do not have any interest in the region except for peace. The European Community failed to take any concrete policy stand on the issue, but the general feeling has been and remain to be sympathetic for the struggle.

## CENTRAL ASIAN REPUBLIC

The emergence of Central Asian Republics will have positive effects for Kashmiris as far as the moral support of the masses is concerned. The problem faced by these states are the same as that of other Muslim countries, which are dependent upon west, USA and Russia for their economic development. Therefore, their governments would not like to be marked as "Fundamentalist" by supporting the Islamic Free-

dom Movement. They were so far in no shape, having no influence in the world. With new agreement by induction of these states in Economic Co-operation Organisations, hopes of development and permanent support for the Kashmiri freedom struggle can be forecasted.

## OIC AND THE MUSLIM WORLDOIC

So far OIC has never taken a real solid stand against India over Kashmir issue as they took a united stand against Soviet occupation of Afghanistan. It is not likely in future as well that India would be pressurised by OIC on Kashmir. Response of Muslim countries, with a few exception, to the Muslim freedom struggle in Kashmir has also been discouraging. Arab support to Pakistan on Kashmir has never been forthcoming at best it was reluctant, half hearted and delayed. In case Pakistan goes to war with India it would be only Iran, Turkey, Saudi Arabia and Afghanistan which are trust worthy. However, moral support from Muslim countries on international forums can easily be counted upon. The response to Muslim struggles by the Muslim world is very cold except Pakistan, Iran and few other countries.

## RECENT DEVELOPMENT

After a gap of 30 years, the Kashmir dispute is back in the United Nations. However, there is little to suggest that even if the OIC contact group sponsored resolution is tabled in the General Assembly and/or the Security Council, there would be any tangible move towards a settlement. Subsequently the situation which was developed at UN has exposed the clear picture that some elements are not willing to accept the seriousness of the Kashmir dispute.

The OIC contact group on Kashmir had decided to table their draft resolution on Jammu and Kashmir in the First Committee of UN General Assembly which deals with disarmament and international peace and security issues on 9th November 1994. The OIC resolution which invokes threat to peace and security in South Asia, called for "meaningful dialogue" between India and Pakistan on the Kashmiris issue. (17)

This resolution irked India so much that she launched a world wide compaign to defeat Pakistan and OIC's efforts at UN General Assembly. Afterward it was proved when OIC decided not to table the said resolution at the First Committee of UN General Assembly. It is due to pressure from the European Community and other "big powers". Pakistan and OIC contact group on Kashmir, abandoned their quest to table the Kashmir resolution on procedural grounds.(18)

## THE SEVENTH OIC SUMMIT

The seventh OIC summit, which ended on 15th December 1994 at Casabalanca, had brought auspicious development with reference to Kashmir dispute.

The Prime Minister of Pakistan Ms Benazir Bhutto in a press conference soon after her arrival from Casablanca said:

> "The OIC summit emerged as a symbol of Muslim Unity . . . this is a great success of the Kashmiri freedom fighters and a landmark achievement for the people of Pakistan. It is for the first time OIC summit not only passed a resolution on Kashmir condemning Indian human rights violations and asking India to respond positively to Pakistan's peace initiatives but also passed a special declaration in support of Kashmir struggle, which was no mean achievement"(19)

Indeed, the OIC summit's resolution and the special declaration on Kashmir was a major achievement. It is not for the first time that the Kashmiri leaders from Pakistan but also leaders living in Indian held Kashmir were able to address and present their case infront of Muslim Ummah. The latter has shown its solidarity with the demand of the Kashmiri people that India should hold plebiscite in Kashmir as envisaged under UN Security Council resolutions. This itself is a great success of the Kashmiri people.

The Special Declaration on Kashmir which was passed at OIC summit to express its support to Kashmir freedom fighters is in addition to a lengthy resolution on Kashmir passed at the summit which for the first time, called for involving Kashmiri leaders in peace process.

The text of the Special Declaration is as follows:

> "Deeply concerned by the situation in Jammu and Kashmir, specially the suffering of the Kashmiri people and the

consequent tension in the region,

"Having approved a resolution on the Jammu and Kashmir dispute which reflects their consensus,

**Declares:**

*"Its commitment to promote a peaceful political solution to Jammu and Kashmir dispute on the basis of UN resolutions.

*" Its fervent desire to see an immediate end to the suffering of the Kashmiri people and the violence against them so that conditions are created for a sustained and meaningful dialogue between Pakistan and India for a political solution to the dispute".(20)

## NON-ALLIGNED MOVEMENT

The Azad Kashmir government sent a delegation to Ghana, on the occasion of the NAM Conference. On this occasion the delegation conveyed its message and information regarding Kashmir to the media. The delegation from Jammu and Kashmir state was the only delegation with which the Muslim leaders at Accra met. The fifteen foreign delegations whose interviews were broadcasted by the Ghana radio in its special programme included also members of the Kashmiri delegation.(21) Although the Kashmir issue got its recognition among the NAM Countries, but on the other hand India enjoys a place of special consideration in the NAM. Hence, the members of NAM have not taken any moral stand on Kashmir and did not take any positive effort to influence India on the issue.

## CONCLUSION

Kashmir is once again engulfed in an inferno, where the tyrant Indian army lay out the arena of carnage. The veteran freedom fighters of Kashmir have risen to challenge the suppressive rule of the usurpers at the cost of enormous sacrifies. Their struggle is an indigenous uprising against the unjust occupation and massive violation of human rights in the valley. It is for the first time since 1948 that the people of Kashmir have taken on India in a determined and courageous manner.

Pakistan has raised the issue at various international forums and it is back in the world focus. World accepts Kash-

mir issue as international flash point. Pakistan is bound to provide moral and political support to Kashmiri Muslims. The freedom struggle of the Kashmiris has now entered in the final phase, there is an urgent need to solve this problem. Kashmiris should be helped in achieving their goal. UNO has failed; Muslim world has failed; the world community is quiet. It is now up to Pakistan to help their Muslim brothers of Kashmir to make their final phase final.

Though the world accept Kashmir issue as international flash point, but the situation in the region has remained unchanged. The international society did promote recognition of break away republics of former Soviet Union and Yugoslavia. There are peace talks going on in Middle East and between Israel and Palestine, but still the world community remains quiet on Kashmir issue. The international scene does not suggest that we are operating from a position of strength. Pakistan has to gear up her diplomatic efforts in the world to win sympathies on Kashmir issue.

It is now for Pakistan to once again raise the Kashmir question not only at the UNO, but also at all other international platforms like OIC, NAM, Commonwealth and SAARC etc. The world must be made to realise that the people of Kashmir demand their right and they be allowed to decide their future themselves. The strategy for Pakistan may well be to continue providing moral and material support on one hand and on the other, launch along with like-minded countries a massive international movement to arouse the world conscience about the blatant human rights violations in occupied Kashmir.

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