ANALYSIS OF THE SIMLA AGREEMENT AND ITS COMPARISON WITH THE TASHKENT ACCORD

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The Simla agreement was signed under the circumstances when Pakistan was reduced in its size after losing its East wing. Ninetythree thousand of its soldiers and 5,139 square miles of its territory in the Punjab and Sind were in India's hands. Under these circumstances, Pakistan was without any effective bargaining power. India had full control of the situation. Keeping these points in view, Pakistan could not have achieved more than what it got in Simla.

The agreement provided for a return to the status quo along the border[1], which meant that India was more strict regarding the territory it had captured in Kashmir. Its major gain in the talks was Pakistan's acceptance of the line of control in Kashmir resulting from the cease-fire on December 17, 1971.[2] In the matter of settling the disputes with each other, India also got Pakistan's acceptance to settle the differences bilaterally.[3] The willingness was shown by both sides to resume diplomatic relations and also to enter into trade and cultural activities.

The Tashkent and Simla agreements were signed in entirely different circumstances. In 1965, the fighting was limited to West Pakistan, whereas in 1971 the war engulfed both the wings and resulted in the separation of the Eastern wing. Pakistani and Indian Positions in the two meetings were different. Pakistan met India at Tashkent as an equal. It was not a vanquished country in 1965. Pakistan was holding 1,1617 square miles of Indian territory as compared to 446 square miles of its own territory in Indian occupation. It was a united country. President Ayub Khan was in a favourable position to talk on equal terms with his Indian counterpart.

The agreement at Tashkent was made possible because of the Soviet efforts. By doing so, Russia wanted to offset the growing Chinese influence in the region. But after Tashkent, there was a significant change in the political situation in Asia. The emergence of Red China as a super power, and Pakistan's inclination towards her, brought a change in Soviet policy. This was also due to the fact that Pakistan showed very little interest in the "Asian Security Scheme" proposed by Russia. As a result Soviet Russia discarded its earlier neutral stance to establish close relations with India. In a brief span of five years it supported India materially as well as politically.

Despite this reorientation in Soviet policy, its major objective remained the same: normalization of Indo-Pak relations, a step towards its security scheme.

Under these circumstances, the study of the two agreements becomes much easier. Succeeding paragraphs contain an analysis and comparison of the similar provisions, which more or less have the same spirit.

Normalization of relations: If we compare the two agreements, the prime objective in their preambles to be found is the normalization of relations between the two countries. Both nations must strive hard for the progress and welfare of their people. The only difference one can make out is in the organization of the phrases. There was, however, the difference of approach in pursuance of matters to realize this common purpose. At Tashkent, Pakistan's stand was that since Kashmir was the basic cause of conflict, it should be settled first and the relations be normalized subsequently, whereas India in her own interest wanted normalization of the relations first. Clauses V and VI of the agreement called for the restoration of diplomatic, economic, and trade relations whereas the "matters of direct concern" were to be discussed "at the highest and other levels" in the future.

The Simla accord was a complete reversal of the attitudes of both. Because of the changed position, Pakistan gave up its previous approach, whereas India, considering the time opportune, sought a package deal on Kashmir. However, it was Pakistan's view which gained ground.[4] One thing common between Tashkent and the Simla agreement is that the settlement of basic issues was left for future negotiations between the two countries. This accord was described as President Bhutto's major accomplishment in breaking Mrs. Gandhi's resolve to wrap up all outstanding issues in package deals.[5]

In short, both the agreements were aimed at normalizing relations and restoring economic, trade, communications, and cultural exchanges.

Bilateralism: Though the Tashkent declaration was signed under the Soviet Union's guidance, it did not prevent Pakistan from raising the Kashmir issue in the U.N. Pakistan made no such commitments under the pact. Clause IX of the agreement calls for the continued meetings of both countries on "matters of direct concern to both" whereas in Clause II of the Simla accord, both parties are specifically committed to "settle their differences by peaceful means through bilateral negotiations, or by any other peaceful means mutually agreed upon by both parties." This clause of the treaty raised much apprehension in Pakistan regarding the position of the Kashmir dispute in the U.N. Even the foreign press made comments that "Kashmir will cease to be an international question."[6]

The then President of Pakistan Bhutto, while making the speech in the National Assembly, defended the accord and explained that it did not prevent Pakistan from bringing the Kashmir dispute to the U.N. However, showing his disappointment in the capabilities of the U.N. in solving the Kashmir dispute, emphasized that it was in the best interests of Pakistan to have a foreign policy based on bilateralism and that we must give bilateralism a chance as far as relations between India and Pakistan were concerned.[7]

Considering that the U.N. had failed to settle the matter, there was perhaps no harm in exploring other possibilities. But as ***The Economist*** commented, "The acceptance of the Principle of Bilateralism was one of the major concessions that Mrs. Gandhi won at Simla."[8]

It may be argued that as long as the Simla accord subsists, Pakistan is prevented from raising the matter in the world body. But as Bhutto implied, if bilateral negotiations eventually fail, Pakistan could declare that India was violating the "spirit" of Simla and take the matter to the U.N. if that course of action appeared to promise more advantageous results.[9] It should also be noted that the Simla agreement does not require Pakistan to withdraw the case from the U.N. It keeps the matter dormant in the U.N. as long as bilateral negotiations continue under the Simla accord.

The principle of non-interference: As happens in the world, all bilateral and multilateral agreements and the principles of non-interference are always a formal expression, unless some particular agreement is studied in the background of the existing conditions and the prevailing attitudes of the parties concerned. The same is the case with the Tashkent and Simla agreements. Clause III of the Tashkent declaration says that, "the relations between India and Pakistan shall be based on the principles of non-interference in the internal affairs of each other." At Tashkent, India's position on Kashmir was that it considered it a part of its territory and hence its internal matter. According to this clause India could interpret Pakistan's acts of assistance to the Kashmiri freedom fighters as interference in its internal matter. Clause I of the declaration states, "Jammu and Kashmir were discussed and the two sides put forth their respective positions."

At Simla, India, after having achieved its aim of separating East Pakistan, could conveniently agree to adhere to the principle of non-interference and respect for what was left of Pakistan's territory. As far as the question of Jammu and Kashmir is concerned, Pakistan did better in some ways, and worse in others, at Simla. India recognized that part of Kashmir was under Pakistani control and undertook not to do anything to change that situation. It also agreed that there was a dispute regarding Kashmir which needed to be settled. On the other hand, it took some more of the Pakistan side of Kashmir and kept it; it did not return to the old

ceasfire line. A final settlement of the dispute was left to future negotiations at both Tashkent and Simla, though the reference to Kashmir at Tashkent was left somewhat vague.

Renunciation of force: In Tashkent, as well as in the Simla agreement, force as a means of settling disputes was renounced by the signatories. Clause I of the Tashkent declaration laid down that the parties "reaffirm their obligation under the charter, not to have recourse to force and to settle their disputes through peaceful means." In the Simla accord, Clause VI mentions that in accordance with the charter of the United Nations they will refrain from the threat or use of force against the territorial integrity or political independence of each other.

Both these agreements were described as "no war pacts" and subjected to strong criticism. At Tashkent, the Indian Prime Minister, Mr. Shastri, emphasized that the need for a no-war agreement was urgent. Later, India gave its own interpretation of the clause, but Pakistan firmly rejected India's interpretation.

Return of the POWs: At Tashkent, Clause VIII of the declaration dealt with the release of the POWs. In that meeting repatriation of the prisoners of war was not a problem. Release of the POWs was a side issue which was resolved by the agreement between the two parties. About 1,000 POWs held by both sides were released by the end of January 1966.[10]

At Simla the situation was different. The return of 93,000 POWs was one of the basic issues, the settlement of which was left to a future summit.

India clearly violated the Geneva Conventions and the Security Council Resolution of December 21, 1971 by delaying the repatriation of the POWs. It attached two conditions to their release. First it insited that as Pakistan's forces in the eastern section had surrendered to joint command of Indian and Bangladeshi forces, the "Bangladeshi" forces must approve before anything could be done. And to that effect, India reassured Sheikh Mujibur Rahman that it will not release the POWs until Pakistan had accepted the reality of Bangladesh. It was generally believed that in addition to securing Pakistan's recognition of Bangladesh, it wanted to use the POWs as a means of pressuring Pakistan into making a Kashmir settlement on its terms. For this the world press criticized India.[11]

Repatriation of POWs proved to be a very hard task for Pakistan. The view was held that the Simla agreement would soon fade out and as there was no openness in the talks things would deteriorate. The situation remained the same until the talks between the high officials of both countries finally started on July 24, 1973 at

Rawalpindi. "It took 19 days of hard and at times extremely difficult negotiations at Rawalpindi and New Delhi to work out this settlement," Mr. Aziz Ahmed described it later.

This agreement came to be known as the Delhi agreement and had the concurrence of the governments of India, Bangladesh, and Pakistan. Its main features were that India agreed to repatriate to Pakistan all except 195 POWs. The date was to be fixed mutually by India and Pakistan, as soon as arrangements for the transportation of these prisioners were made. Simultaneously, repatriation was also to begin, of all Bengalis in Pakistan and a substantial number of non-Bengalis in Bangladesh. The most significant feature of this agreement was "that Bangladesh agreed in a spirit of reconciliation that the 195 POWs would not be tried."[12]

How did India agree to the solution of the problem? It was partly the pressure of world opinion which disapproved the use of POWs as hostages. There were also "economic liabilities, the nonaligned conference that was to come (India and Bangladesh wanted to go to the conference with clean hands), and then the General Assembly's session which was to take place in October".[13] There were a lot of elements involved in the situation. They saved the Simla accord from dying a premature death. Up to this moment Pakistan had resisted the two pressure points of India and even the POWs were repatriated without its recognition of Bangladesh. For that, Mr. Bhutto chose a very appropriate moment, which was the Islamic summit held in Februray 1974 at Lahore.

Withdrawal of troops: In both the Tashkent and Simla agreements, there are provisions for the pull out of the troops, but with certain fundamental differences. The Tashkent declaration calls for the withdrawal of "armed personnel." while the Simla agreement calls for the pull out of "India-Pakistan" forces. Under Clause II of the Tashkent declaration, withdrawal to the position held prior to August 5, 1965 was to take place in all sectors including Jammu and Kashmir. The Simla agreement limited it to the international borders of India and Pakistan. The former fixed February 25, 1966 as a deadline for the completion of that task, whereas the latter sets a limit of 30 days to commence from the day of its ratification. The reason for this difference lies in the situation that prevailed at the time of the two agreements. At Tashkent, India by agreeing to mutual withdrawal, was to move back from territory across the 1949 ceasefire line in Kshmir, which it had earlier said it would not give up. Disengagement of the forces materialized before the set deadline. It can be said to be the major achievement of the Tashkent declaration for Pakistan.

Under the Simla accord, withdrawal was to take place on the India-Pakistan border excluding the ceasefire line in Jammu and Kashmir. The reasons are quite

clear: Pakistan's relatively weak position at Simla and the great differences of territorial gain and loss of each side in the 1965 and 1971 wars. Without denying the possibility of exaggeration from both sides, the fact remains that, in the 1965 War, Pakistan successfully resisted an Indian attack and in Kashmir it was in a fairly advantageous position. At Simla, the positions were reversed. It was India that had made significant gains across the international border and ceasefire line in Jammu and Kashmir.

One month after the ratification of the agreement the army commanders of the two countries met in August, 1973, to draw the new dotted line between them in Kashmir. According to that, each side would keep what it had won in the December war, some 450 square miles for the Pakistanis near Chamb. But everywhere else, they will go back to the border they crossed in December. The Indians were giving up more than 5,000 square miles in Punjab and Sind in exchange for some 70 square miles held by Pakistan.

No doubt, by agreeing to withdraw, Mrs. Gandhi made a big concession to Mr. Bhutto, but in return, she won two major concessions, a promise to respect the new ceasefire line and an agreement to settle disputes bilaterally.

Kashmir: Kashmir is the pivot to India-Pakistan relations, obvious from the fact that the war of December 1971 began in East Pakistan but ended in the West and in Kashmir. Again in the effort to reach a post war settlement, it was settlement, it was primarily Kashmir rather than "Bangladesh" which proved to be the stumbling block.

While making comparison between the Tashkent and the Simla agreements, Pakistan visibly gained nothing at Tashkent. Clause I of the Tashkent declaration stated "that Jammu and Kashmir was discussed and the discussion took place at Tashkent, that the declaration did not recognize Jammu and Kashmir as a dispute (for there is no indication of it), and that the discussion ended without any agreement between the two sides or any concessions from either side. Pakistan stuck to its position that Kashmir was a disputed area and India remained firm in its stand that Kashmir was India's internal problem and, therefore, non-negotiable.

Despite all inferences and interpretations of the vague clause, the fact remains that the agreement neither resolved the basic issues, nor did it make a start towards its settlement. The non-recognition of the existence of the Kashmir problem in the clause, consolidated India's position and enabled it to interpret Pakistan's future assistance to the people of Kashmir as interference in its internal affairs. On other hand, Pakistan made no commitment under the declaration.

At Simla the customary attitudes of India and Pakistan to a peace settlement were completely reversed. India, as the stronger party, sought a settlement of the Kashmir issue once and for all in its favour. It was Pakistan who now demanded that the peripheral issues be taken up first and the Kashmir problem left in cold storage.

Many questions were raised about the Simla accord. Is there any undertaking by Pakistan regarding Kashmir? Was there a secret agreement between Mr. Bhutto and Mrs. Gandhi on the fate of Kashmir? Mr. Bhutto many times clearly explained his position and repeatedly asserted that he had not entered into any secret deal with India. Besides, secret agreements in a democratic era seldom create binding obligations on the parties. Both the leaders must have been aware of this fact.

The Simla summit nearly ended in a deadlock on the Kashmir issue. The situation was saved when the two leaders succeeded in finding a new language and a new outlook which enabled them to reach an agreement highly abstract in character. It provides that in Jammu and Kashmir the "line of control" resulting from the ceasefire on December 17, 1971, shall be respected by both sides without prejudice to the recognized positions of either side.

It clearly emerges that the two sides agreed to disagree on Kashmir but resolved to work on a permanent solution for the problem. By removing the issue from international surveillance, the two parties agreed to a prolonged freezing of the entire dispute. By ruling out war in the areas they expressed their willingness to preserve the status quo, since no other course was really open to Pakistan. However, neither India nor Pakistan formally abandoned their claims to Kashmir, which was declared to be a disputed issue.

When it came to actual implementation of the pact, neither side was prepared to concede much. Hence varying interpretations of that fact were advanced. India insisted that by agreeing to the bilateral approach, Pakistan had conceded removal of the Kashmir dispute from the international arena to reach a bilateral settlement without interference. Pakistan interprets the clause in another manner:

> and when we have agreed to have bilateral negotiations with India it is on the basis of a principle and of the United Nations resolutions. Therefore, when we agreed to enter into bilateral negotiations, we did not in any way compromise our position.[14]

Differences over the role of the United Nations have found practical expression in the attitude of the two sides to the ceasefire line and the military observers in Kashmir. In view of the new dispensation, the Indians claim that the U.N. observers here have no role to perform, especially when the two parties have agreed to respect

the line of control. But the Indians have made no official request to the U.N. Secretary General to withdraw the observers. Any move to secure the removal of the observers would involve Security Council action and with China a permanent member of the council, supporting Pakistan's stand on the ceasefire line, the Indian government would prefer not to raise the issue. India's insistance for the securing of recognition of the line of control in Kashmir is significant to indicate its motives. This is that through usage the line should acquire the status of an international boundary.

Summing up the preceding analysis it can be said that as with the Tashkent declaration, the Simla accord also puts off the basic disputes for negotiations. Insofar as Kashmir is concerned, the Tashkent agreement was not a step forward, whereas the Simla accord was a step towards a new direction. Despite certain basic differences both agreements contain about the same material on peace and harmony in the relations between the two countries. Both envisage steps to be taken to normalize relations and, most critical of all, both leave the Kashmir dispute unsolved.

1. Clause IV, article 1. The text of the Simla Agreement is in The Dawn, July 3, 1972.
2. Clause IV, article 2.
3. Clause I, article 2.
4. "One Sumit that Worked, "**The Economist**, July 8, 1972.
5. **Ibid.**
6. See **The Guardian**, July 8, 1972.
7. President Bhutto's speech in the National Assembly on July 14, 1972, the text is in **The Dawn**, July 15, 1972.
8. **The Economist**, July 8, 1972.
9. **The Dawn**, July 15, 1972.
10. See the report on the repatriation of POWs in **The Times**, London, January 24, 1966.
11. **The daily Telegraph**, London, September 5, 1972.
12. "Aziz Ahmed's Press Conference, " **The Guardian**, September 2, 1972.
13. Prime Minister Bhutto's interview with **Newsweek**, October 21, 1973.
14. Mr. Bhutto's speech in the National Assembly on July 14, 1972.

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4. **The Times**, London, Jan. 24, 1966.

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