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KASHMIR PROBLEM IN THE U.N. SECURITY COUNCIL

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ABSTRACT :

In 1956 Pandit Nehru again made a no-war Pact offer which Pakistan rejected. India after this claimed the areas of Hunza, Pumul Nagar and Chitralas parts of Kashmir, while Pakistan protested against the claim. This was followed by intense diplomatic maneuverings by both sides. After three years of continuous efforts, on the 28th November 1956, Pakistan once more took the Kashmir dispute to the U.N. Security Council.

KEYWORDS: Kashmir Problem, Pakistan's diplomatic strength, Security Council.

INTRODUCTION:

However by this time the situation had altered fundamentally, Pakistan was now in alliance with four of the five permanent members of the Security Council i.e. with the U.S.A., the U.K., France and China. Internally during this period (1953-56) Pakistan's government changed five times, and this had weakened the prospects of successful negotiations. In 1956 India's stand on the Suez Canal dispute and on Hungary had much annoyed the Western Powers and this naturally added to Pakistan's diplomatic strength. Feroz Khan Noon, who presented the Pakistani case to the Security Council on January 16, 1957 said that if India agreed to a plebiscite Pakistan would sign a "No-War-Pact" with India and also make a declaration that an attack on India would be an attack on Pakistan. He also raised the question of the illegality of the Kashmir Constituent Assembly and the stationing of U.N. Troops in Kashmir. V.K. Krishna Menon who pleaded the Indian case, maintained that since Part-II of the UNCIP resolution had not been fulfilled by Pakistan, obviously part-III of the resolution could not be implemented. He also informed the U.N. Council that India had more Muslim than West Pakistan had. On January 24, 1957 the U.N. Council passed a resolution asking India to accept a plebiscite for Kashmir the U.S.S.R. had abstained. In fact this resolution was prepared before India could even complete her reply. The Council also tried to station a U.N. Force in Kashmir. India was most indignant at these attempts and on the 26th January 1957, in defiance of the mandate of the U.N. Council, India declared that the accession of Kashmir to India was irrecoverable.

Columbia, Australia, Cuba, The U.K. and the U.S.A. brought forward a resolution outlawing the Constituent Assembly and planning to station a U.N. Force in Kashmir. The Soviet Union strongly supported India and demanded Pakistan's vacation of "Azad-Kashmir". On the 20th February it vetoed the resolution. So the Western Powers brought forward a fresh resolution requesting Security Council President Jarring, who came from neutral Sweden, to go to the Sub-Continent as an U.N. investigator to further examine this matter. Jarring's mission also failed and India lodged a complaint against Pakistan's construction of the Mangla Dam in Occupied Kashmir. Pakistan charged India with having plans to convert Kashmir into a Hindu Majority.

In November 1957, the Western Powers again sponsored a resolution calling for plebiscite in Kashmir. But the Soviet Veto threat made them withdraw this resolution and a fresh resolution proposed by Jarring calling for a total demilitarization of Kashmir was passed with the Soviet abstaining. Dr. Graham was also appointed the U.N. representative in Kashmir.

Pakistan reluctantly accepted this plan. However India declined to accept it and Krishna Menon clearly told the Security Council: "We have accepted no resolutions except the Council resolution of 17th January 1948 and the Commissions resolution of 13th August, 1948 and 5th January 1949..... As on previous occasions there was no question of our acceptance, no question of our acquiescing in what has been put in this resolution. We shall offer the traditional hospitality of our country to Mr. Graham if he goes there.

Graham, in his report, while emphasizing the need for peace on the sub-Continent, called upon India and Pakistan to maintain the 'Cease-Fire-Line'. He suggested a U.N. Force for "Azad Kashmir" and called upon the two states to enter into direct negotiations. Pakistan agreed to this but India stuck to her demand for the withdrawal of Pakistan's troops from Kashmir in accordance with the UNCIP resolution. She categorically refused to allow foreign troops in Kashmir. India's stand was bitterly criticized in Pakistan. A leading newspaper said that this was a "lucid exposition of Bharti intransigence on Kashmir. Nehru, on the other hand said, "Any consideration of this problem which ignores certain basic issues and which endeavors to put us on the same level as Pakistan - that is the aggressor and the aggressed continue on the same level is not agreeable to us and will not be accepted.

At this stage Pakistan's internal politics took strange turns. Premier Noon was made the subject of severe criticism by Pakistan's political leaders. He in turn reacted sharply by turning down criticism of India and condemning war. On the 9th September 1958, Feroz Khan Noon reached Delhi in search of peace. His talks with Nehru resulted in an exchange of certain enclaves between the two states in the Eastern areas. But nothing beyond this could be achieved as on the 7th October 1958, the military took over power in Pakistan. Thus India and Pakistan remained as far apart as they were in 1948.

Once military rule was proclaimed in Pakistan, its new leaders initially began off by a lot of Sabre-rattling on several political problems from tax evasion to Kashmir. But when things began to settle down, Ayub Khan, began to show a desire for peace. Nehru however, was hesitant to have direct dealings with this military regime which he termed "naked military dictatorship."

At this juncture it may be recalled, Sino-Indian relations had become strained. Aware of a possible danger from China, Pakistan's new leaders began to talk of joint defence of the Sub-continent. On the 1st of September 1959, President Ayub met Premier Nehru and at the meeting the Pakistan President emphasized the larger view point he had in mind. This was evident from what he told newsmen at Palam Airport where he met Nehru. The President said, "I, as a military man, can foresee one danger - that if we go on squabbling in this way and do not resolve our problems, we shall be defeated in details. Past history has told us of the invasions that have come to the sub-continent in this way. Nehru, however, paid scanty attention to this suggestion. A reason was that Ayub wanted the Kashmir dispute to be solved before such a pact. In 1960 India and Pakistan signed the Indus water Treaty and thus one of the two serious obstacles to Indo-Pak amity was removed. Great hopes were aroused all round; but all were in vain. Due to a continuing mutual distrust the Kashmir dispute was once more taken to the U.N. council by Pakistan in 'mid' 1962. Meanwhile India's action in Goa in Dec 1961 had angered the western block which was seething with resentment. The Soviet-Union perhaps due to the embarrassment it would cause to Portugal, - A NATO member - strongly supported the Indian action. In fact the Soviet Veto defeated Portugal's resolution condemning India. The Goa action had also led to a questioning of the reliability of western military alliances due to western inaction over the issue. U.S. representative Adlai Stevenson had called the Goa action "the first act in a drama which could end with the death of this organization (the U.N.)"

Pakistan hoped to exploit this situation and shelved India's offer of direct talks. In February 1962, the council again took up the Kashmir issue. The U.S. President John F. Kennedy, however, wanted the world Bank President Eugene Black to negotiate between India and Pakistan (as he had done in the canal water dispute), instead of the council. On India's refusal to accept this suggestion Pakistan stiffened her attitude in the U.N. council. U.S.S.R. and Rumania backed India. The Indian representative requested for a postponement of the

debate till April, by when the Third General Election in India would be over. In accordance with this request the Council met on the 27th April and Ireland moved a draft resolution asking the Security Council to enforce the 1949 UNCIP resolutions, beginning with an Indo-Pak dialogue with the help of a mediator. India and U.A.R. – another major Muslim State -voted against this resolution. The resolution was more of a U.N. offer of its good offices to solve the Kashmir problem. This was a clear retreat by the Council from the stand it assumed in the past. The Council members had acknowledged the changed situation. The U.S.S.R. however vetoed this resolution.

So it is quite clear that Kashmir issue has been debated in the U.N. Security Council many times from 1948 to 1965 and is still lying on the agenda of the Security Council and several military efforts of the U.N. have not borne any fruit. Instead of solving it, they complicated it. But why did India approach the U.N. and why did the efforts of the U.N. fail? It seems it was the British Government who persuaded India to refer the issue to the U.N. because the British strategy in the region was to see that the conflict along with the tribal invasion should not end in the ignominy of Pakistan. Another view point is that the main reason behind the lodging of the complaint by India with the U.N. was her faith in the charter of the U.N. Her belief that the military was not always the most hopeful and stable means of settling the issue. The Indian Government felt that an armed conflict in the Sub-continent immediately after freedom would complicate the situation.

Many reasons can be given for the failure of U.N. to solve the issue. Firstly - the U.N. effort were doomed to fail as they were based on the inherently impossible task of rewarding the party which did not have much faith in the U.N. charter and the International Law.

Secondly - the U.N. treated the offender as well as the defender equally and that was the main error committed by it.

Thirdly - it did not handle the issue fairly and honestly. It worked as the Anglo-American alliance against India.

Fourthly - the decision of government of Pakistan to join military alliances sponsored by the U.S. and her allies, gave a rude shock to the efforts of the U.N. in resolving the issue, because Pakistan started expecting much more from the U.S.

After the Sino-India war of 1962, direct negotiations at the ministerial level took place and six rounds of talks from December 1962 to May 1963 were held. But when the talks were going on Pakistan and China signed a Border Agreement which provided some concessions to the Chinese, on the Pakistan occupied Kashmir's territory. The Government of India lodged a strong protest with Government of Pakistan. The agreement had contributed in further complicating the issue. The talks failed and the gulf between the two countries further widened.

The Indo-Pak war of 1965 was a grave miscalculation on Pakistan's part. After nearly 15 years when India had been on the defensive in the International forums, the situation changed. Apparently, Pakistan's calculation was that, with Pakistan's support, Kashmiris would rise in revolt against India. For this reason, several hundred, by some calculations nearly 7000, army men and military personnel in civilian guise were sent into the valley to generate an uprising. A Kashmiri uprising along with an Indo-Pak war would, indeed have put India's armed forces, only marginally stronger after the battering suffered at the Chinese hands, to a severe test. India's armed forces could deal with Pakistan's military in 1965, but would have been terribly stretched if both an invasion and an uprising had taken place simultaneously.

In 1965, Indo-Pak war, Pakistan was severely defeated; an U.N. arranged cease-fire brought an end to the hostilities. For the third time Moscow took a hand in an attempt to bring India and Pakistan together and arranged a summit meeting at Tashkent between the heads of government of the two countries. Finally after strenuous negotiations the Tashkent declaration was signed by the two countries in the hope and promise of a peaceful future.

No doubt the Tashkent meet was a historic moment. For the first time some hope was entertained that India and Pakistan might be able to turn away from the path of conflict and hostility to live in amity and peace. In Pakistan Ayub Khan in a nation-wide broadcast of 1st February 1966, joined issue with his critics who thought that the Kashmir issue could only be solved through war and that because once India and Pakistan "have fought, they should always fight. He was satisfied that the major powers in the U.N fully realized their importance and

need of a settlement of the Kashmir dispute, but such problems could not be solved" under the heat of emotion, but through cool headed reason and diplomacy." The Tashkent declaration would help to generate an atmosphere of understanding between India and Pakistan. Troops of the two countries were being withdrawn from the border with that objective.

The expectations from the Tashkent agreement were short lived. Increasing recrimination, bitterness, frustration and mutual accusations marked the India-Pakistan scene. The understanding of the two countries about the meaning of Tashkent was highly divergent, their expectations from it were different. For Pakistan it was the first decisive step towards unfreezing the Kashmir issue which to Pakistan meant only the working out of a formula for the integration of Kashmir, with that country. It meant the holding of some kind of plebiscite under some kind of an international supervision which Pakistan was entirely confident of winning. To the Indian thinking, the significance of Tashkent agreement lay in the hope that the two countries would discard the recourse to force and violence, stop the spread of hatred and engage in realistic negotiations on mutual problems without looking towards foreign intervention. The perceptions of the two countries were so different.

Contrary to Soviet expectations, their moves instead of bringing Pakistan and India nearer brought new tensions in their relations. There was a marked deterioration during 1966-69. In the Pak view India was making so much noise over Soviet arms supplies due to frustration as it wanted Pakistan to be weak and isolated. On the other hand, India chose to believe that the Pakistani attitude had stiffened and that the change in its posture was due to the Russian arms aid. This had resulted in unfortunate, increased tensions, Swaran Singh asserted.

Another war between India and Pakistan erupted in 1971, six years later of second war in 1965. While the bone of contention then was East Pakistan, not Kashmir, it had serious consequences for the latter. Pakistan was bifurcated; East Pakistanis claiming that they were Bengali Muslims and not simply Muslims, decimating thereby the two nation theory based on a priority of religion over ethnicity. Moreover the war was a severe blow to Pakistan's armed forces. Both ideologically and militarily, it was a catastrophe for Pakistan. The war was an awful moment for Kashmiri nationalists also. They might have opposed Pakistan, but since they had a troubled relationship with India – often seeking a divorce from what they viewed as a forced marriage - they ended up getting an ally in Pakistan. For Pakistan the best - case scenario was Kashmir's accession. Kashmir's rupture from India, whatever it meant for Pakistan, was second best but better than the worse-case scenario of Kashmir's integration with India. The 1971 defeat of Pakistan weakened Kashmiri nationalists; a plea for divorce had to be turned into a compromise. Sheikh Abdullah finally made his peace with India "our dispute with the government of India" he told the 'Times' (London) in an interview, "is not about accession but it is about the quantum of autonomy." This was the first public admission of a change in his position; something the Indian government was willing to deal with as it could be easily accommodated in a federal framework.

On its part, Delhi proceeded at two levels, external and internal. After its defeat, Pakistan came to a peace agreement with India. For India, it was also an opportunity to extract concessions concerning Kashmir. In the event on July 2, 1972, an agreement signed by Indira Gandhi and Zulfikar Ali Bhutto, known as Shimla Accord proposed, "In Jammu and Kashmir, the line of control resulting from the Cease-Fire of December 17, 1971, shall be respected by both sides without prejudice to the recognized position of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat or the use of force in violation of this line.

On the other hand Delhi reopened negotiations with Sheikh Abdullah who signed an agreement with Delhi in Feb. 1975, accepting that Kashmir was "a constituent unit of the state of Jammu and Kashmir, seeking to make any change in, the constitution of the state of Jammu and Kashmir shall take effect unless the bill receives (The President of India) assent". In return Act. 370 was kept alive, which gave more autonomy to Jammu and Kashmir than to any other state in India. Abdullah's leadership was later electorally legitimated. Elections in 1977 demonstrated overwhelming support for him, He ruled till he died in 1982.

Sheikh Abdullah was succeeded by his son Farooq Abdullah. He won 1983 elections handsomely, beating Congress. But Mrs. Indira Gandhi's awkward display of power violated the federal principle. She appointed Jagmohan as Governor of J & K, who was very close to her. One of his first gubernatorial acts was to dismiss the Farooq government on the ground that it had lost majority support in the Assembly. Most observers

agree that Farooq's dismissal was the beginning of a new phase of alienation in the valley. Old fears were revived. But surprisingly in 1986 after Indira Gandhi's death Farooq signed an accord with Congress, under which Rajiv Gandhi's, Congress and Farooq's National Conference contested the 1987 elections jointly.

In the elections that followed in 1987, 'Kashmiriat' was mobilized by a coalition of Islamic groups, known as the Muslim United Front (MUF). In Kashmir the Orthodox Islamic Parties had been electorally insignificant. Watching the surge in MUF support, the Conference-Congress alliance rigged the 1987 elections. Several MUF electoral candidates were beaten up. Later that year; riots against Farooq's government broke out. Muslim fundamentalists burned the Indian Flag and called Farooq a traitor. By 1989, a strong middle class had emerged, which provided a much more fertile ground for an uprising.

By now Pakistan was engaged in its military revival. President Zia had started, the process of Islamization of Pakistan. As trouble in Kashmir brewed, Kashmiri nationalism once again found an ally in Pakistan. Islamic militant groups like Hizbul Muzahideen; and JKLF had started operating from Pakistan. It cannot be denied from this fact that these Islamic groups have received greater support from Pakistan. Many believe, including the U.S. government, that Pakistan has also provided armed support to the militants: While it is difficult for a researcher to confirm, this widely held belief, it is known that thanks to the Afghanistan war, weapons of deadly potential are so easily available in Pakistan that the government does not have to supply weapons in order for the militants to get them.

Since early 1990 ascertain mode of containing the insurgency in Kashmir has been followed. Without tracing the details of what has happened during last few years and more, two things stand out. One, the militants were able to call the shots almost throughout 1990 and 1991. This happened largely because the government of India was caught off guard and took some time to react and to organize things. In fact it was during these years when situation in Jammu and Kashmir worsened much more.

Hazratbal incident of 1993 was a major issue in the turbulent history of Kashmir. During 32 day crisis militants succeeded in sharpening the focus on the already internationalized Kashmir issue which appeared to be their aim. Pakistan could well have masterminded the plot and its timing. The meeting of the OIC in Riyadh, the U.N. General Assembly Session and the Conference organized to discuss the Kashmir issue in Brussels, all happening at that time when Hazratbal hogged the limelight is an incredible coincidence. Furthermore, a new dispensation in Islamabad came on-stage with a charged Kashmir salvo. And U.S. President Clinton's reference to Kashmir in his speech at the U.N. General Assembly, followed by Mrs. Robin Raphel's anti-India stridency even questioning the very validity of Kashmir's accession to India soared the militant's morale and put the state Government on the defensive.

On the human rights front, the countries of Western bloc led by U.S. were never impartial. In fact it needs more transparency. It is worth noting that discussions in 1992 with Amnesty International representatives helped India to sensitize the organization to the atrocities by militants in the Kashmir valley. 1993 Amnesty Report for the first time acknowledged the abuse of human rights by terrorists. Regular interaction of this nature is more likely to blunt criticism than invite it, thereby strengthening India's stand that it is a democracy fully committed to protect human rights.

The story of Pakistan's efforts to internationalize the Jammu and Kashmir issue and give it a Human Rights stand is not new. Geneva, in March 1994, was, in fact, the third of a series of attempts to move the resolution on an international forum. The first was at the United Nations Human Rights Commission (UNHRC) in 1993. It circulated a draft resolution then. The second occasion was also in 1993 in the U.N. General Assembly, The draft resolution that Pakistan had circulated was identical to that tabled in Geneva. A combination of factors led Pakistan to shelve it.

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