

Role of UNO in Kashmir issue

Fayaz Ahmad Wani

Research Scholar (Pol. Science)
Jiwaji University Gwalior M.P

Abstract: The Kashmir dispute primarily involves the life and future of the people of the land. Because of its impact on relation between India and Pakistan, however it directly affects the peace and stability of the south Asian subcontinent. This is a region which contains a large segment of the human race. Two wars have been the harvest reaped from the dispute. The possibility of a third, bloodier, probably nuclear and more extensive one has by no means been eliminated. The dispute is not insoluble through peaceful procedures. I believe that the United States can, and should, lead the effort to achieve a fair and peaceful settlement of the dispute –fair to the people most immediately involved and fair to its own commitments to democracy and human rights. By doing so, our country can strengthen the principle of a just world order. It will also earn the gratitude of generations in Kashmir, in Pakistan and even in India itself. The United Nations was formally introduced to the Kashmir problem on December 30, 1947 when the government of Indian announced its decision to bring the dispute before the Security Council under Article 35 of the UN charter. This article provides that any member state can bring to the attention of the Security Council or the general assembly any situation which it considers likely to lead to international conflict.

Keywords: Plebiscite, sub-continent, accede, security council, bedeviled, cease fire, demilitarization, bilateral.

Geography: On the top of the Indian sub-continent lie between 32.17 to 36.58 North latitude and 73.26 to 80.30 East longitudes the territories know as the Jammu and Kashmir state. The state is bounded on the north by Pamir's (the roof of the world) and Chinese Turkistan from which it is completely segregated by the eastern off-shoots of the Hindukash and the Karakorum mountains. The Eastern and Western boundaries of the state are made up by the China-Tibet and Pakistan while on the south it is bounded by the plains of the Indian sub-continent. As it is the meeting point of some powers of the world. The soviet Russia, china, Afghanistan and Pakistan the state occupies a unique position in the political geography of India.

History: The Indian princely state of Jammu and Kashmir, with a predominantly Muslim population under a Hindu Maharaja, was so situated geographically that it could have joined either Pakistan or India following the British departure from the subcontinent in 1947. The logic behind the partition of the Indian Empire into Muslim and non Muslim partitions suggested that Kashmir ought to go to Pakistan. Until the key issues of 1947 are resolved it is more than probable that the Kashmir dispute will continue to damage seriously the health of the bodies politic of both India and Pakistan. With the end of the British Paramountcy, the state of Jammu and Kashmir became independent on 15 August 1947, initially its ruler, Maharaja Hari Singh, decide not to join India or Pakistan and thereby remain independent. On 20 October 1947, the Azad Kashmir Forces supported by the Pakistan army attacked the frontiers of the state. Under this unusual and extraordinary political circumstance, the ruler of the state decided to accede the state to India. Accordingly the Instrument of Accession of Jammu and Kashmir to India was signed by Pandit Jawaharlal Nehru and Maharaja Hari Singh on 26 October 1947. Under this the state surrendered only three subjects (defence, external affairs and communication) to the Dominion of India.

Political changes:

The political changes in the milieu in which the group functioned providing some fresh insights. Eric Colban was the UN Secretary General's special representative with the UN commission for India and Pakistan (UNCIP) which was setup by the UN Security Council Resolution of 21 April 1948. The resolution replaced an earlier one of 20 January 1948 which had established a three member commission; one to be selected to each party and third by their nominees. Its task was twofold, 'to investigate the facts' and to exercise any mediatory influence' in light of the parties complaints. The resolution of 21 April 1948 set up a five member commission, noted the parties' accord on the principle of a plebiscite and proceeded to lay down the fundamentals of the modalities of a plebiscite, e.g, troops withdrawal, interim administration, etc. It limited the issue in the plebiscite to accession to either India or Pakistan alone.

On 5 January 1949 the UNCIP adopted another resolution, based on an accord it had mediated, meanwhile, on the modalities of a plebiscite. These are the two agreed resolutions, not of the Security Council, as is commonly believed, but of the UNCIP. Krishna Menon told the Security Council on 8 Feb 1957, the only international engagements that exist are two resolutions of the UNCIP dated 13 August 1948 and 5 January 1949. These are the engagements. If they were of a formal character, they might be treaties. Under the Vienna convention on the law of treaties, however they constitute a treaty [Article 2(1) (a)]. On new year's day 1949, India and Pakistan declared a cease fire in Kashmir. On 27 July 1949, at Karachi they signed an agreement delineating the cease fire line.

Bilateral Agreement:

The Security Council's mandated was, thus, fortified by bilateral agreements. Meanwhile, an important event had taken place on 15 January 1949 which has been completely overlooked. It was an agreement signed by Lieutenant Colonel S .P. Kapila for India and Lieutenant Colonel A. J. Wilson for Pakistan which sought to put the cease fire on a formal basis. It provided inter alia for an armed civil force drawn from the present Azad forces who were Nationals of the state, for maintaining law and order in Pak Occupied Kashmir and the civil armed force to be under the control of the UNCIP, neither the Pakistan nor the POK government. The commander in Chiefs of both armies endorsed this accord. Lieutenant General Maurice Delvoie of Belgium was military adviser to the UNCIP. The first military observers arrived on the subcontinent on 24 January 1949. Delvoie was present at the 15 January conference and recorded; on his request both commanders in chief agreed to restore the communications by road between Srinagar and Rawalpindi, and to rebuild the necessary bridges.

Dixon plan:

The people of Kashmir nostalgically recall 'the Dixon Plan' and long for the day when it can be put into effect. It was proposed by Sir Owen Dixon, a judge of the Australian high court came to the sub-continent as the United Nations representative for India and Pakistan pursuant to the Security Council's Resolutions of 14 March 1950. He had a high reputation for independence, integrity and ability, J L Nehru wrote to Kashmir's Prime Minister, Sheikh Mohammad Abdullah, on 6 April. Girija Shanker Bajpal, Secretary General of the ministry of external affairs knew him when both were envoys in Washington 1942-44.

The Report Sir Owen Dixon submitted to the UN Security Council on 15 Sept 1950 is a classic; unexcelled for its elegant style, incisive analysis and transparent honesty. No UN mediator received a warmer welcome. No mediator before or since came so close to success.

The five member UN commission for India and Pakistan (1948-49) secured accord on terms for plebiscite in its resolution of 13 August 1948 and 5 January 1949; arranged a cease fire (New year's day 1949) and drew up a cease fire line on which both sides agreed on 27 July 1949. It proved unequal to the task thereafter, so did General A G L. McNaughton of Canada {who was the president of the UN Security Council in 1949} the six reports of the UN mediator Frank Graham [1951-1953 and 1956] reflect incompetence and a passion for survival. Gunnar Jarring (1958) was escapist. They did much harm.

When met in London three years later, Nehru told him, as Dixon recorded in his diary (1 June 1953) that of all the people who had dealt with the Kashmir question, I was the only man who came to grips with it. This was the Dixon plan. It assigned Ladakh to India, the northern areas and Pakistan occupied Kashmir (POK) to Pakistan split Jammu between the two, and envisaged a plebiscite in the Kashmir valley. Pakistan demurred at first, but agreed. It fell because Nehru did not accept the condition in which the plebiscite could be held; precisely the issue on which the United Nations Commission for India and Pakistan (UNCIP) and Graham failed they because of their ineptness; Dixon because he lost patience.

We know have the inside story from an Australian scholar of impeccable credentials. Major William Alan Reid was an observer with the UN military observers group in Kashmir (UNMOGIP). He was obliged to return in 1981 and retire from the army as he has sustained serious injuries in a jeep accident on the Srinagar –Muzaffarabad road. Dixon had more than a fair prospect of success. Vishnu Sahay, secretary for Kashmir Affairs in the MEA, had informed the Australian high commission (AHC) in New Delhi before Dixon's arrival that both Nehru and Vallabhbhai Patel were even prepared to risk public opinion, if the need arose to get the plebiscite cum partition plan through. Before the end of 1948- if not earlier Nehru had developed second thoughts on a plebiscite in Kashmir. But he told the British High Commissioner Archibald Nye on 9 September 1949 that a proposal for a plebiscite being confined to the valley and the area north of it [excluding Gilgit] was worthy of consideration.

The first Kashmir war and the intervention of the United Nations 1947-1964.

Outside commentators on the Kashmir problem have tended to concentrate on the United Nations aspects. This is partly because Kashmir was one of the first disputes put to the United Nations after its creation at the end of World War 2nd, and, as such, was seen many quarters to be a crucial experiment in the possibility of settling quarrels between nations by International mediation. In part, however, the emphasis on the United Nations derives from the great volume of reports and other documents to which Kashmir in the United Nations has given rise. The result, perhaps, has been a trifle misleading. All the United Nations has been able to do in this kind of problem has been to devise formulae for a possible settlement and lend its good offices in attempts at arbitration or mediation. In the Kashmir dispute the United Nations have never possessed either the power or the mandate to enforce a settlement; it could only advise and recommend. Thus many of the discussions have contained within them a powerful element of unreality. The essence of the Kashmir problem is not to be found, except by interference, in the debate of the Security Council; it lies in the internal politics of India and Pakistan. Hence there is little point in examining, as have some writers, in microscopic detail every plan advanced by the United Nations and its General Assembly. I will confine myself here to a brief outline of the history of the United Nations involvement and an analysis of the basic nature of the solutions which it proposed.

In the specific case of the state of Jammu and Kashmir, Pakistan requested that the Security Council set up a commission which would arrange for a cease fire, followed by the withdrawal of all outside troops, whether coming from India or Pakistan, as the prelude to the establishment of a fully impartial state of Jammu and Kashmir administration and the holding of a plebiscite to

determine the wishes of the state's people free from the influence both of India and of sheikh Abdullah. All this, in effect, was very much what M. A Jinnah had put to Mountbatten on 01 November 1947. Only in these circumstances would the people of the state have the chance to voice freely their opposition to aggressive Indian expansionism. P 166

Security Council Decisions

There was much in these submissions that was controversial between Indian and Pakistan, but the proposal of a plebiscite was not. This is clear from the statement made on 28 January 1948 by the president of the council. He said "the documents at our disposal show agreement between the parties on the three following points;

- The question as to whether the state of Jammu and Kashmir will accede to India or to Pakistan shall be decided by plebiscite.
- This plebiscite must be conducted under conditions which will ensure complete impartiality
- The plebiscite will therefore be held under the auspices of the United Nations.

Led by the United States and Britain, the council adopted a resolution on 21 April 1948 which noted "with satisfaction that both India and Pakistan desire that the question of accession. Should be decided through appointed a commission of the United Nations, of which the United States became a member, to work out a plan for the demilitarization of Kashmir prior to the plebiscite.

The United Nations commission for India and Pakistan (UNCIP) submitted proposals to the two governments. Formulated as resolutions, they constituted an international agreement upon being accepted in writing by both governments. Part 3rd of the commission's resolution of 13 August 1948, agreed to by both India and Pakistan, states;

Shimla agreement, 1972:

Government of India and the government of Pakistan are resolved that the two countries put an end to the conflict and confrontation that have hitherto marred their relations and work for the promotion of a friendly and harmonious relationship and the establishment of durable peace in the subcontinent, so that both countries may henceforth devote their resources and energies to the pressing task of advancing the welfare of the peoples. In order to achieve this objective, the government of India and the government of Pakistan have agreed as follows;

- That the principle and purposes of the charter of the United Nations shall govern the relations between the two countries;
- That the two countries are resolved to settle their difference by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them. Pending the final settlement of any of the problems between the two countries neither side shall unilaterally alter the situation and both shall prevent the organization, assistance or encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations.
- That the prerequisite for reconciliation, good neighborliness and durable peace between them is a commitment by both the countries to peaceful co-existence, respect for each other's territorial integrity and sovereignty and non-interference in each other's internal affairs, on the basis of equality and mutual benefit;
- That the basic issues and causes of conflict which bedeviled the relations between the two countries for the last 25 years shall be resolved by peaceful means;
- That there shall always respect each other's national unity, territorial integrity, independence and sovereign equality;
- That in accordance with the charter of the United Nations they will refrain from the threat of use of force against the territorial integrity or political independence of each other.
- Both governments will take steps within their power to prevent hostile propaganda directed against each other. Both countries will encourage the dissemination of such information as would promote the development of friendly relations between them.

In order progressively to restore and normalize relation between the two countries step by step, it was agreed that;

- a. Step shall be taken to resume communication, postal, telegraphic, sea, land including border posts, and air links including over flights.
- b. Appropriate steps shall be taken to promote travel facilities for the nationals of the other country.
- c. Trade and cooperation in economic and other agreed fields will be resumed as far as possible.
- d. Exchange in the field of science and culture will be promoted.

UN Commission on Kashmir:

The Security Council nominated Belgium and Columbia to the Kashmir commission. India nominated Czechoslovakia and Pakistan Argentina India and Pakistan could not agree over the fifth member and so the Security Council president nominated the U.S. the commission arrived in Karachi on July 8, 1948 within five weeks presented its report to the Security Council. It called for a cease fire in Kashmir; it recognized the presence of regular Pakistani troops in Kashmir and called for their withdrawal as well as of all Pakistani nations and invading tribesmen. On this being accomplished India was asked to withdraw

the bulk of her forces, India and Pakistan were asked to affirm that the future of Kashmir would be decided through a plebiscite after the cease fire and truce and to create conditions which would make a plebiscite possible.

India and Pakistan accepted the cease-fire, Pakistan with the condition that her views would not be binding on the so called Azad Kashmir government which alone, she said, had the power to order a cease fire and which would continue to administer the territories under its control. In its report to the Security Council, submitted on November 23, 1948, the Kashmir commission pointed out that the conditions attached by Pakistan made a cease fire and solution of the problem impossible. The Security Council, however, asked the commission to continue its work.

India and Pakistan voluntarily agreed to a cease fire in Kashmir from the midnight of December 31, 1948. That being achieved the UN commission adopted a resolution on January 5, 1949 directing that the future of Kashmir would be decided by a plebiscite to be held when the conditions regarding withdrawal of forces contained in its earlier report were fulfilled and arrangements for a plebiscite completed. It called on the UN Secretary General to appoint a plebiscite administrator.

REFERENCES:

- [1] Executive director, Kashmir American council by Dr Gulam Nabi Fai.
- [2] Asifa Jan; Naya Kashmir.
- [3] M. Laximikant, Indian Polity
- [4] G. Noorani, The Kashmir Dispute, 1947-2012.
- [5] Alastair Lamb; Kashmir a dispute Legacy 1846-1990.
- [6] Bhim Sing; Jammu and Kashmir The blunder and way out.
- [7] A Factual survey; UN's Failure in Kashmir.

