



Kashmir Question at the Security Council

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Prefatory

The State of Jammu and Kashmir, as it existed before the partition of India in August 1947, was one of the princely states of the British Indian Empire. Pakistan abetted and sponsored invasion of J&K State, by frontier tribesmen on October 22, 1947, resulted in the division of the State into two parts; one controlled by India and the other by Pakistan. In common usage, Kashmir refers to the entire State of Jammu and Kashmir comprising five regions of Kashmir Valley, Jammu, Ladakh, Azad Kashmir and Gilgit and Baltistan.

Fighting between Indian and Pakistani troops, beginning on 26 October 1947, continued through 1948 with no significant change in respective military positions of the two warring countries. Although, two independent states had emerged on the map of the sub-continent, yet the hangover of British influence and her strategic interests could not be wished away that soon. Both countries were linked to Great Britain through numerous ties, trade, commerce, history, culture, and international relations etc. Evidently, when a critical situation arose in the strategic state of Jammu and Kashmir on the eve of British withdrawal from the sub-continent, it was but natural that they would monitor the situation and dovetail their regional policy accordingly.

As total expulsion of the invaders from entire State could not and did not happen, continued fighting between the two countries caused concern in London and subsequently in Washington as well.

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Presence of the Soviet Union in close proximity of Northern area of the State of Jammu and Kashmir was one among their concerns. In post-WW II strategy, Anglo-American bloc focused on stonewalling the growing ideological and physical thrust of communist Russia, particularly in vulnerable parts of Asia. As fighting between India and Pakistan over Kashmir protracted, British and American apprehension was that the Soviets might muddle in the disturbed waters and thus sabotage their imperial interests.

Although WW II had taken away leadership of the world from the hands of Great Britain (GB) and placed it in the hands of the United States (US), yet since GB has had the knowledge and experience of the affairs of the sub-continent, London managed to lay the road map for the Anglo-American bloc as far as policy matters pertaining to crisis in Kashmir were concerned.

Silent Interaction

During the period between the outbreak of hostilities and the signing of cease fire agreement between India and Pakistan at the stroke of midnight on December 31, 1948, which fills a period of more than twelve months, Great Britain, supported by the US, remained busy with silent interaction with New Delhi and Karachi. The main purpose of these unannounced tripartite parleys was to stop the fighting in the first place and then broker an amicable settlement of the dispute. On November 1, 1948, while the war front in Kashmir

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was active, Lord Mountbatten, the Governor General of India then, travelled to Karachi where he met with Mr. Jinnah and talked about withdrawal of tribal hordes from Kashmir, allowing time to the ruler to decide which of the two countries he would like to accede to. He further argued that withdrawal of the tribal hordes and restoration of the State to pre-22 October position would pave the way for a plebiscite in the valley. When Jinnah bluntly rejected the proposal, Lord Mountbatten touched on the suggestion of referring the matter to the United Nations (UN). It is to be noted that reference to the wishes of the people, though not a stipulation in the Instrument of Accession signed by Maharaja Hari Singh, was very much proposed by the Governor General in his acceptance letter addressed to the Maharaja. This is the reason why reference to people remained an obsession with Lord Mountbatten.

Before we proceed to discuss various Resolutions passed by the Security Council on Kashmir issue since 1948, it is interesting as well as educative to cast a cursory glance on what was going on in London's Foreign Office in regard to Kashmir's impending decision about accession to one of the two dominions.

It has to be made clear that the Indian Independence Act did not provide for the independence of any princely State once partition was made. The choice was between the two dominions. However, there was an advisory by way of guideline for accession, like geographical location, demographic complexion, connectivity etc.

The position in the State of Jammu and Kashmir was peculiar. Although the main connectivity of the State was through the Jhelum Valley Road linking the Valley to Pakistan; and Jammu region had rail connection with Sialkot, yet the Redcliff Award did provide Jammu and the State connectivity corridor to East Punjab. On population count, again there was big variance. While Kashmir Valley was predominantly Sunni Muslim, Jammu region was predominantly Hindu and Ladakh was Buddhist. Consequently, accession to one or the other dominion was nothing less than a dilemma for the ruler. Maharaja Hari Singh could not take any decision in hurry. It was in this background that he had concluded a Standstill Agreement with

Pakistan. Similar agreement offered to India was under New Delhi's consideration. Pakistan had signed the agreement on August 15, 1947 but since things moved very fast and the North-West Frontier Province (NWFP) became overactive in preparing for the tribal invasion of Kashmir, Pakistan unilaterally broke the standstill agreement just a week before it launched 'Operation Gulmarg', the code name for tribal invasion.

Russian Bugbear

Ramachandra Kak, the Kashmiri Pandit Prime Minister of the State at the time of partition of the country, is said to have proposed independence of the State instead of accession to one or the other dominion as other princely states of undivided India did.¹ Pro-Indian historians

have castigated him for working against the interests of India because, in their view, independence for the State meant treating India and Pakistan at par. Ramachandra Kak's wife was a Scottish lady with family connection to Lord Wavell, the Viceroy of

India. Some observers think that Kak was familiar with British perceptions of Kashmir as a strategic region of the sub-continent. Researches into the history of British diplomacy in Asia in the wake of expanding Communist ideology show that Great Britain and the US both had apprehensions that Russians were capable of penetrating the southern underbelly of the Soviet Union to secure access to the warm waters of the Indian Ocean. If that happened, then the sea routes of strategic importance leading to and out of the oil rich Gulf would be immensely threatened. In the wider strategy of the region, independent Kashmir would become vulnerable to communist influence particularly when it was economically very fragile and the masses of people were illiterate and emotional. British residents in Srinagar and the Governors in NWFP during the last phase of the British Indian rule, one and all, had alerted London time and again of this eventuality. This was also the view of Noel-Baker, the then Commonwealth Secretary, who later on was the British representative at the Security Council to deal with Kashmir issue when India made reference to it. A cryptic remark by K.V. Novikov, the first Soviet Ambassador in New Delhi (1947-1953), that "India

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and the Soviet Union had a common frontier of 16 miles in Northern Kashmir” had puzzled London.²

The more serious reason for Britain to reject the option of independent Kashmir was Nehru’s passion for Fabian socialism and his penchant for Moscow. Actually, Nehru was influenced by the Fabians during his days as a student at Harrow. There he interacted briskly with a bunch of leftists; some of them rabid to the extent of making him commit Himalayan blunders as the first Prime Minister of India. The one to be singled out of this group was Krishna Menon, who, under Nehru, occupied very sensitive positions in the Government of India as Indian Representative at the UN, Ambassador to Moscow, and Defence Minister. Owing to his arrogance and rigid ideological frame of mind, he brought disaster to India, to himself, and to Nehru in the aftermath of Chinese invasion of North-East in 1962 and the rout of Indian border forces. The British handled Nehru with extreme diplomatic dexterity. It was no gaffe when Stalin told Dr. Radhakrishnan, the first Indian Ambassador to Moscow in 1950, that he was skeptic about Nehru delivering the goods.

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As Indo-Pak war over Kashmir raged through 1948, British Prime Minister Clement Attlee remained in close contact with Nehru, Lord Mountbatten, and the British Commanders in both the countries. Attlee was closely watching lest Soviet Union attained vintage point in Kashmir matrix. Therefore, he was very particular that cease fire should be introduced at any cost between the two warring countries, as early as possible, before Pakistan became economically and militarily worn out and lost the strategically crucial Northern Areas to India. Convinced of the aptness of Attlee’s viewpoint, Washington opted to lend all support to the idea of two countries agreeing to cease fire in Kashmir. Anglo-American efforts for bringing about cease fire in Kashmir on the midnight of 31 December 1948 received accolades from knowledgeable circles in London. Phase I of Anglo-American Kashmir policy was a complete success.

Inside Kashmir

What clinched the success of bringing about cease fire in Kashmir were the alarming reports from India

that Kashmir’s popular leader Sheikh Abdullah was hobnobbing with the leftists and had surrounded himself with a strong battery of leftist ideologues in the party as well as among sections of Kashmiri people. He received full support from Indian left, including Nehru whose close friendship with him was destined to become a chequered chapter of Indo-Kashmir political history. Joseph Korbel, a member of the United Nations Commission for India and Pakistan (UNCIP) and a deserter to the US (father of Madelyn Albright, former US Secretary of State) and Alistair Lamb, both have shed light on this aspect of Sheikh Abdullah in their books on Kashmir. It is a different story that after the dismissal of Mehr Chand Mahajan by the Maharaja as Prime Minister, Sheikh Abdullah assumed power in the last week of October 1947, first as Chief

Administrator and then as “Prime Minister” of the State, he sidelined his communist supporters who, ultimately, dumped him on 9 August 1953. It is generally believed that after joining the Indian delegation to Lake Success to present India’s case on Kashmir to the Security Council, Sheikh Abdullah began to move away from Kashmir’s accession to

India and strongly nursed the idea of independent Kashmir. The grapevine has it that he came under the influence of some circles in the US that considered Kashmir’s accession to India a disadvantage to their broad anti-communist strategy in the region. It has also to be noted that in 1952-3, Adlai Stevenson, the then unsuccessful presidential candidate in the US and later US Ambassador in India had several secret rounds of talk with the Sheikh in Srinagar. In his book *Kashmir 1947-1977* (Urdu)³, Sanaullah Bhat, the late editor of Kashmir Urdu daily *Aftab*, has given glimpses of those meetings and also the Abdullah-Abbas formula for resolution of Kashmir dispute. Actually, Sheikh Abdullah, after assuming power, met thrice with Chowdhury Abbas, his one time colleague and Muslim Conference heavyweight, in Jammu prison in February 1948. The two leaders had hammered out a formula for resolving Kashmir dispute and bringing about lasting peace in the region. The formula, in short, was that both countries pull out their forces from their respective sides, restore Kashmir to pre-1947 position for three years and then hold referendum to ascertain the wishes of the people. Chowdhury Abbas had told Sanaullah Bhat that Pakistani authorities rejected

the formula and that Adlai Stevenson told Abbas in a meeting in Lahore that Sheikh Abdullah had talked to him about the formula.

After returning from Lake Success, Sheikh Abdullah changed his tone and tenor about Kashmir's accession to India and began fantasizing the Sultanate of Kashmir till all this day-dreaming shattered on the night of 8-9 August 1953 when, as a result of no confidence motion passed by the majority of J&K cabinet of ministers, he was deposed and arrested.

Great Britain, the colonial power that had just withdrawn its occupation of India and had given partition, with its horrendous consequences, as the parting gift to the people of the sub-continent, maintained its broad colonial interests in the region and did not think that India and Pakistan were absolutely outside the sphere of her influence in Asia. We have convincing evidence to show that months before the partition of India, policy planners in London had been debating the possible impact on Great Britain's policy towards the two nascent States, India and Pakistan, of the ruler of J&K joining one or the other state, and also keeping the third option of independence in sight. Kashmir was very much in the framework of the Cabinet Mission and Cripps Mission.

Dilemma of Approaching UN

Close scrutiny of official and non-official records show that in the beginning Nehru was not interested in taking Kashmir issue to the United Nations. He was aware that Anglo-American bloc at the UN and the Security Council (SC) were not very friendly to India because they took note of Nehru's proclivity to the Soviet Union. Nehru's sister, Vijayalaxmi Pandit, then Indian Ambassador in Washington, had been regularly briefing her brother on how international heavyweights behaved at the UN. Moreover, Washington took serious note of Nehru appointing Asif Ali as Ambassador to the US against the wishes of some influential Congress men and cabinet colleagues at home. Aruna, the wife of Asif Ali was a committed leftist and Americans were not comfortable with Nehru's choice. Moreover, Asif Ali was no match to then Pakistani Ambassador

Ispahani, who had successfully vitiated political opinion in the US against India on Kashmir. Nehru had to withdraw him within months. At the same time British representative Noel-Baker and American representative Warren Austin had come to explicit agreement that Pakistan's position on Kashmir was not to be diluted at the level of Security Council, to which India had made a reference on January 1, 1949.

It is a well-known fact that Sardar Patel, the then Deputy Prime Minister and Home Minister, had strong views of timely action in Kashmir instead of bringing India's affairs to the vortex of international politics. The Sardar had said, "We should never have gone to the UNO. At the UNO, not only has the dispute been prolonged but the merits of our

case have been completely lost in the interaction of power politics". Certainly, Patel did not see eye to eye with Nehru on latter's Kashmir policy. He had opposed appointment of N. Gopalaswami Ayyangar as minister without a portfolio to assist Nehru in handling Kashmir issue. Moreover, Nehru had taken Kashmir out of dispensation by the Indian Home Ministry and handled it personally, arguing that

handling Kashmir meant handling Sheikh Abdullah and the Home Minister would not be able to do that. How farcical it appears in the history of astute statesmanship?

Many Indian historians and commentators have criticized Nehru for taking Kashmir issue to the Security Council, despite knowing that the Big-5 cared more for their political interests than for administering justice on the merits of a case. On the prompting of Lord Mountbatten, Nehru entered into correspondence with Pakistan Prime Minister Liaquat Ali Khan proposing that the two countries make joint efforts to bring about cessation of hostilities. Also, Nehru personally handed over a protest letter to the Prime Minister of Pakistan, on 22 December 1947 at Delhi, when he had come for a meeting of Joint Defence Council.⁴ Nehru even proposed to Liaquat in a telegram that UN team could be asked to visit Kashmir and advise the two countries on how plebiscite could be held in J&K. Liaquat opposed it and replied that Nehru should avoid such legal disputations and questioned, "How

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Pakistan was a party to the dispute of Jammu and Kashmir and how the United Nations observers can be brought in this dispute”.⁵

Disappointed by Pakistan’s negative response to Nehru’s overtures for bilateral talks, including UN intermediation to resolve the issue instead of exercising the option of war --- something that Nehru despised and Lord Mountbatten was eager not to happen, at last, Lord Mountbatten persuaded Nehru to make a reference to the Security Council. He even persuaded Mahatma Gandhi to invoke the assistance of the United Nations. India then approached the United Nations.

Indian Complaint

P.P. Pillai, Indian representative then to the United Nations, filed an official complaint to the President of the Security Council against Pakistan by invoking Article 35 of the UN Charter, which permits a member of the UN to draw the attention of the Secretary General to the fact that the situation in Jammu and Kashmir was likely to lead to international friction. The

Government of India requested the SC to prevent Pakistan Government’s personal, military and civil officers, and other nationals from participating or assisting in invasion of the Jammu and Kashmir state. Moreover, India demanded that Pakistan should deny any use of its territory or any other kind of aid which would prolong the present conflict.

Pakistan’s then Foreign Minister, Zafarullah (Zaffrullah) Khan, in his reply to the Indian complaint, emphatically denied all charges asserting that Pakistan neither provided bases for military operations nor supplied military or other facilities to the invaders. This notwithstanding, Document I Para 3 of the UN Commission’s First Interim Report (S/100) said that Pakistan was unofficially involved in aiding the raiders.

On January 15, 1948 Security Council met at Lake Success and opened discussion on India’s complaint. Indian delegation comprised N Gopaldaswami Ayyangar, then Minister in the Indian Government, M.C. Setalvad, Indian Attorney General, and Sheikh Muhammad Abdullah. After tracing the history and background of the case briefly,

Ayyangar pleaded that a neighbouring state could not interfere in its internal or external relations and India had the full responsibility of the defence of the State of J&K which had acceded to the Dominion of India. He said, India had made it clear that once the invaders were cleared and normal conditions restored, a plebiscite would be held to ascertain the wishes of the people of the State. The crux of his petition was urgent withdrawal of raiders. On January 16, Pakistan’s Foreign Minister replied by producing three documents. Doc 1 dealt with the Indian complaint, Doc 2 with Pakistan’s counter complaint, and Doc 3, a fairly lengthy one, with the details of the case. He refuted India’s charges, though admitting that some members of independent tribesmen or Pakistani citizens might be helping the

“Azad Kashmir Government” in their liberation struggle.

In its counter complaint document, Pakistan raised the issue that India had embarked on “genocide” of Muslim population ahead of partition of India. He said that Pakistan was of the view that security and well being of Indian Muslims were in serious danger. In its document No. 3, Pakistan’s Foreign Minister complained that India had

obtained accession of J&K State through fraud and atrocities perpetrated on the Muslims of Kashmir State. In conclusion Zafarullah demanded that UN appoint a Commission to investigate all the accusations against India, arrange cessation of hostilities in J&K, enforce withdrawal of all outsiders, facilitate return and rehabilitation of refugees, establish impartial administration in J&K, and hold free and fair plebiscite.

SC Resolution of January 17, 1948

Zafarullah’s defence of Pakistan’s stand was considered brilliant in the sense that he was able to convince most of the members of the SC that Kashmir issue was directly related to the partition of the Indian sub-continent on the basis of two-nation theory, and also in attracting sympathy as the smaller and weaker party. Indian side weakened its case by not clearly stating that Pakistan had committed an act of aggression on India by allowing and helping the raiders to invade J&K and that Pakistan was irrevocably hostile towards India.

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After hearing the two sides, the then SC President, Van Langenhove of Belgium, passed a Resolution calling on both sides to refrain from making any statement and from doing any act or permitting any act which might aggravate the situation. He also directed them to inform the SC immediately of any material change in the situation. Pakistan did not stop inducting regulars into Kashmir fighting which she admitted to the UNCIP later on.

The then American representative to the UN, Mr. Warren Austin, suggested that two delegations meet under the Chairmanship of the President of the SC to seek his guidance in finding common ground on which the structure of a settlement may be built. India and Pakistan both agreed with the American representative. Initial talks went off well.

Resolution of January 20, 1948

In its meeting of 20th January 1948, SC adopted, by majority vote (with abstention by USSR and Ukraine), another resolution for appointment of a three-member Commission (later on known as UNCIP) to investigate the facts and to examine mediatory influences. The Commission was to comprise of one member each selected from India and Pakistan and the third to be designated by the two so elected. A Clause (C) in the Resolution laid down the terms of reference of the Commission viz. examine the situation in the light of Indian and Pakistani presentations.

Two observations demand consideration at this point. One, if the two countries had agreed to the proposal of the American representative to discuss the matter jointly with the President of the SC, why that decision was set aside overnight and a fresh resolution was brought in? Second, how come the contemplated Commission was to consider the case of Pakistan without Pakistan having made reference to the Security Council? The issue at hand was expulsion of raiders from Kashmir and the Security Council brought in extraneous issues for the proposed Commission to consider.

However, Gopaldaswamy Ayyangar made a minor concession in agreeing to the suggestion that if, after

disposing of India's complaint, the SC decided to consider Pakistan's counter-complaint it could do so. But Pakistani delegation insisted on SC discussing entire gamut of Kashmir dispute. The resolution was put to vote; nine members voted in favour and Russia and Ukraine abstained. Pakistan succeeded in diverting the attention of the SC from tribal invasion of Kashmir to whole range of partition and the aftermath. Immediately after the day's proceedings were over, Zafarullah wrote a letter to the President of the Security Council threatening military action against India in the issue of Junagarh and requesting an early meeting of the SC to consider the situation other than that of Jammu and Kashmir. This was to offset India's objection that Pakistan had not made any reference to the SC on any issue. Pakistan argued that war might start up on any of the other issues other than J&K and hence urgent action by the SC was required. As a result of this letter, the SC gave a new name to the agenda as 'India-Pakistan Question'.

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Based on a report of *New York Times* of 22 January 1948, Ayyangar wrote to the SC President taking exception to change in the description of the item before he had replied to the Pakistan's statement of 17 January. British and Russian delegates supported India's procedural objections to change of title. So did the

US delegation but ended up with the view that it hardly made any difference if instead of Jammu and Kashmir Question, the item was called India-Pakistan Question. Nevertheless, it did mean a big difference. Pakistan wanted status of equality and succeeded in widening the scope of discussion.

The complexion of Indian complaint changed before she had exercised the right of reply to Pakistan. On 23 January 1948, Indian representative Setalvad replied in detail to Zafarullah's statement refuting all charges and calling his accusations as false. Exercising the right to reply, Zafarullah concluded that under a neutral administration or under United Nations observation, whatever was preferred, a plebiscite to be held to decide which country J&K would accede. "It was the only guarantee which would stop fighting", he stated. British representative Noel-Baker brushed aside Zafarullah's many charges like

genocide and killing as arising out of history and suggested that the conflict needed to be contained by facilitating negotiations between the two countries through the Security Council. US delegate Warren Austin said that India's acceptance of accession was conditional and the two parties will seek solution under the aegis of the SC.

Two Proposals

On 27 January 1948, India submitted two draft proposals; (a) Pakistan should withdraw tribesmen and other invaders and stop their passage through its territory. It proposed retention of a small Indian military presence in Kashmir and conversion of Sheikh Abdullah's Emergency Administration into a Council of Ministers functioning as responsible ministry; (b) Holding of plebiscite with Sheikh Abdullah as the head of the government under the supervision of the UN Commission. Concentrating on two points, ending hostilities and conducting of a plebiscite, the President of SC proposed two resolutions; (a) Plebiscite organized, held, and supervised under SC's authority; (b) Duties of the Commission in bringing about the cessation of hostilities in J&K. Canada, China, and Syria supported the resolutions but Sheikh Abdullah said that the resolutions were confusing the issue of liberation of Kashmir. India rejected both resolutions saying they did not deal with the urgent problem of stopping the fighting.

India stuck to three points; (a) Accession of the State with Indian Union was complete. However, if the people did not vote for India in the plebiscite then Kashmir would be released from accessing; (b) Defence of J&K against internal disorder and external aggression was a function of the Indian Army; (c) The form of government in Kashmir was a matter for the people of the state to decide.

Resolution of April 21, 1948

Belgium, Canada, China, Columbia, UK, and the US sponsored another resolution in the next meeting. Part I of the Resolution spoke of plebiscite under the SC's authority and Part II dealt with duties of the Commission in bringing about cessation of hostilities. Indian delegation called cessation of fighting as "harmless in the extreme -- an illustration of trying to fiddle here while India was burning". He reminded the delegates of their condemnation of Yugoslavia, Albania, and Bulgaria for giving assistance to the rebels for fighting with the Government forces in Greece. He demanded

stopping the fighting first and then compelling Pakistan to withdraw tribesmen from Jammu and Kashmir. Two members, Dr. Tsiang of China and Lopez of Columbia, showed greater appreciation of Indian viewpoint.

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In India, public opinion went against the way Security Council handled her Kashmir complaint. In a public rally in Jammu on February 15, 1948, Pandit Nehru said that instead of discussing and deciding in a straight forward manner, the nations of the world sitting on the Security Council got lost in power politics. Addressing the Constituent Assembly on March 5, 1948, he confessed that he was surprised and at the same time distressed that the "Indian reference had not even been properly considered and other matters were given precedence". *The Hindu* wrote in an editorial, "The difficulty from the beginning has been that the Anglo-American powers and their satellites in the SC had identified themselves completely with the Pakistani cause".

Indian delegation returned to Security Council on 10 March 1948, and with that discussions in the

Security Council on Kashmir were resumed. For about a month, SC President Dr. Tsiang of China and A Lopez of Columbia had more discussions with the two parties and then a very significant resolution was jointly sponsored by the US, UK, France, Canada, China, and Columbia known to us as SC Resolution of 21 April 1948. The Resolution called upon Pakistan to use its best endeavors' to secure the withdrawal of tribesmen and Pakistani nationals to prevent any further intrusion into the State, to refrain from aiding, and stop fighting in the State. India was permitted a minimum force to aid the Government of Kashmir in the maintenance of law and order. India's withdrawal of its forces was not to begin until after the Commission (not Pakistan) was satisfied that the tribesmen were withdrawing and that the arrangement for the cessation of fighting has become effective.

The Resolution comprises three parts. Summing up briefly, Part I begins with imposing obligations on Pakistan that; (a) Pakistan undertakes to secure withdrawal of tribesmen and Pakistani nationals from J&K; (b) Prevent / stop any intrusion into the State and; (c) Scheme of settlement provided full freedom to the citizens of the State to express their views and vote on the question of accession. Obligations imposed on India were; (a) Withdrawal of troops conditional to Commission' satisfaction that Pakistani nationals and tribesmen were withdrawn and cease fire made effective; (b) Plan progressive reduction of forces till only minimum strength needed for enforcement of law and order was retained.

Part II relates to Plebiscite and certain obligations imposed on India. Briefly speaking, these are; (a) To ensure State government invited representatives of major political parties to share equally conduct of administration at the ministerial level while carrying out plebiscite; (b) To ensure that State government delegated all powers to the Plebiscite Administrator as were necessary; (c) A nominee of Secretary General of the UN would be appointed as assistant to the Plebiscite Administrator; (d) Plebiscite Administrator had the right to communicate directly with the Security Council through the Commission and also with the governments of two countries; (e) To undertake prevention of bribery, corruption,

coercion or intimidation or undue influence on the voters.

Part III called for; (a) Appointment of a representative of both the Governments attached to the Commission; (b) Authorized the Commission to appoint UN Observers in J&K.

India's reaction was that it sidetracked the main objective by dealing with other problems. Pakistan had proposed that the State government should include representatives of the so-called Azad Kashmir and the Muslim Conference which were rejected by the SC. Its demand of sending troops and police into Kashmir to ensure withdrawal of tribesmen was also rejected. Pakistan said the resolution was not acceptable to her and that she would not call

upon the raiders to withdraw from Kashmir. It rejected the Resolution of 21 April 1948. J&K Government was critical of the resolution saying Plebiscite Administrator was conceived a super ruler with unlimited and unprecedented authority. India also rejected the resolution for cold holding of the main issue of continued bloodshed in Kashmir. *The Hindu* wrote in an editorial that this cut at the very roots

of the UN Resolution because the first step was that Pakistan would call upon raiders to withdraw.

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Pakistan's Confession

When the UN Commission (UNCIP) arrived in Karachi on July 7, 1948, Pakistan Foreign Minister informed it that Pakistan army had at that time three Brigades of regular troops in Kashmir who were sent to the State during the first half of May 1948. Joseph Korbel, a member of the Commission said this disclosure of Pakistan had changed the entire complexion of Kashmir case. On June 5, 1958 Nehru wrote to the SC President that there could be no question of Commission proceeding to implement the resolution until objections raised by the Government of India had been satisfactorily met. With this ended the Kashmir case at the SC and the scene now shifted to India-Pakistan.

UNCIP

Czechoslovakia, Argentina, Belgium, Columbia, and the US comprised the five-member UN Commission on India and Pakistan on the basis of Resolution of April 21, 1948. Czechoslovakia was nominated by India and Argentina by Pakistan. Belgium and Columbia were nominated by the Security Council and US designated by the SC President. Commission's first shock was the confession by Pakistan Foreign Minister that three Brigades of Pakistan army had moved into Kashmir in May. India gave proof of Pakistan Army's involvement in Kashmir fighting. On August 13, 1948 the Commission passed a resolution in three parts dealing with; (a) Cease fire; (b) Truce agreement and; (c) Plebiscite. For the first time, the UNCIP recorded violation of international law by Pakistan by sending troops into Kashmir. Pakistan agreed to withdraw tribesmen and others fighting there. On August 20, 1948 India accepted the 13 August Resolution with some clarifications like, (a) Recognizing J&K Government's sovereignty over parts vacated by Pakistan or PoK forces; (b) No participation to Pakistan in Kashmir plebiscite.

On September 6, 1948 Pakistan conditionally accepted the UNCIP August 13 Resolution. On September 7, Nehru declared in the Indian Parliament that in view of Pakistan's confession that her troops were present in J&K, it was proved that her whole case before the SC had been build up on falsehood and deceit. Next day Pakistan Foreign Minister Zafarullah said in a press conference at Karachi that Pakistan was under no obligation, international or otherwise, which prevented her from sending her troops to Kashmir.

In its first report dated November 23, 1948 from Geneva, the UNCIP highlighted; (a) Regular Pakistani forces were in J&K and were taking part in fighting, (b) It was an entirely new situation on the ground in Kashmir; (c) Cease fire not possible owing to Pakistan's reservations about truce resolution and; (d) Forces fighting in Azad Kashmir were under command and control of Pakistan.

After Dr. Lozano made some clarifications about plebiscite, the two sides accepted cease fire which came about on January 1, 1949. Assurance had been given to India that the plebiscite proposal shall not be binding upon India if Pakistan does not implement Part I and II of the Resolution of April 13, 1948.

On March 13, 1948 the US designated Fleet-Admiral Chester N Nimitz as Plebiscite Administrator for J&K. In a memorandum President of SC asked India and Pakistan on 29 and 30 August whether they would agree to the appointment of Admiral Nimitz, the Plebiscite Administrator as arbitrator regarding implementation of Part II of April 13 Resolution. Memorandum stated that arbitration would terminate once truce terms were decided. Pakistan accepted the resolution but India rejected it outright arguing that the Arbitrator was given a freehand in determining the question over which he was to arbitrate. Pakistan had not withdrawn her troops and second step could not be taken until withdrawal of Pakistani troops was complete.

In its first report dated November 23, 1948 from Geneva, the UNCIP highlighted; (a) Regular Pakistani forces were in J&K and were taking part in fighting, (b) It was an entirely new situation on the ground in Kashmir; (c) Cease fire not possible owing to Pakistan's reservations about truce resolution and; (d) Forces fighting in Azad Kashmir were under command and control of Pakistan.

UNCIP Resolution of January 5, 1949

UNCIP continued deliberating on Kashmir question and intermittently meeting with the representatives of India and Pakistan to iron out angularities that cropped up in the course of discussions. On January 5, 1949, UNCIP came up with a new Resolution which reiterated the earlier position of the SC's Resolution of April 21. In fact the January 5 Resolution is in continuation of the April 21 Resolution. Briefly stated, the highlights of this resolution could be; (a) Impartial plebiscite; (b) Plebiscite to be held when cease fire and truce arrangements set forth in Part I and II of August 13, 1948 Resolution have been carried out and; (c) Defining how plebiscite will be carried out. Sometimes observers give undue importance to this Resolution producing it as a strong argument for holding plebiscite without ensuring whether the pre-conditions have been met or not. However, Clause 2 of the Resolution makes the entire exercise of plebiscite subject to the implementation of Article 2 above according to which withdrawal of all

tribesmen and other Pakistanis fighting in Kashmir precedes holding of election.

The reason why Pakistan was unwilling to implement the two resolutions in conjunction could be; (a) Pakistan was not confident she would win plebiscite as long as Sheikh Abdullah continued to be accepted by Kashmiris as unchallenged leader in Kashmir and that he was not at all in favour of his people voting for Pakistan; (b) Pakistan had reservations that do whatever she may, plebiscite would not be free and fair in Kashmir and that would seal her fate in Kashmir forever and; (c) By now Pakistan had understood that Anglo-American bloc did not really have soft corner either for the people of Kashmir or for Pakistan; they catered to their own larger interests.

It may be said that after January 5, 1949, impact and practicability of the resolutions fizzled out. Kashmir question lost its earlier priority with the SC. Anglo-American bloc got deeply involved in countering Soviet menace on global level and frantically looked for military alliances like Baghdad Pact, CENTO, and SEATO etc. India's role in Non-Aligned movement was at least a respite if not total relief. Moreover, Indo-China and Indo-Pakistan wars of 60s and 70s altogether changed the political landscape of the sub-continent. A long pause in UN's deliberations over Kashmir was inevitable.

Present Status

Seven decades have passed when above mentioned two resolutions were passed by the Security Council to put an end to Kashmir dispute. Pakistan was never sincere about these resolutions. But to throw dust into the eyes of her own people, the Kashmir radicals, and myopic NGOs she continued to orchestrate about SC Resolutions and accusing India for not holding plebiscite in Kashmir.

Resolution of January 5, 1949 stipulates that implementation of the Resolution of April 21, 1948 on Kashmir is to be preceded by Pakistan withdrawing all tribesmen and fighting forces from Kashmir and entrusting to Srinagar-based government the responsibility of maintaining law and order in the State. Following this, India would

also withdraw bulk of its forces and leave only a small force needed to maintain law and order. After these preliminaries are completed, preparations would be made for holding plebiscite for which, again, the resolution has laid down the roadmap.

After initial denial of having any troops deployed in Kashmir war, Pakistan, as has been shown above, conceded that her units were fighting in parts of Kashmir. Pakistan did not withdraw her troops and conversely reinforced manpower by sending more regulars and more arms and ammunition to war front in Kashmir. Obviously, Pakistan by her defiance made a mockery of the Security Council's resolutions to the extent that she made them lose their sanctity.

Secondly in 1953, Pakistan signed an agreement with China by virtue of which it unilaterally ceded more than 5,000 square kilometers of the disputed territory in Aksaichin area of the then Northern Areas. This was blatant violation of UN Resolutions of April 1948 and January 1949, which had desired that the status quo should not be changed until the time resolutions were implemented. India cannot be expected to observe the clauses of a resolution which Pakistan, a party to the resolution, has wilfully violated.

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Thirdly, India and Pakistan signed Shimla Agreement in 1972 after the Bangladesh war was over. By virtue of this resolution, India agreed to the repatriation of 99 thousand Pakistani prisoners of Bangladesh war. The Shimla Accord specifically mentioned about J&K that LoC would be converted into Actual Line of Control, status quo would be maintained, and the issue of Kashmir would be resolved bilaterally without intervention by the third party. When Pakistan tried to revive Kashmir issue after she initiated the proxy war in Kashmir in 1990, two Secretaries General of the UN, namely Boutros Boutros-Ghali and Kofi Anan said that the UN had no locus standi in India – Pak dispute over Kashmir because the parties had signed a bilateral accord and under existing rules the UN had to honour the Shimla Agreement.

Lastly, Pakistan initiated proxy war in Kashmir by sending armed jihadis across the border clandestinely and through them tried to destabilize the elected

government in Jammu and Kashmir. This violated the UN as well as the Shimla Agreement in letter and in spirit. It was clear that Pakistan wanted to grab Kashmir through muscle power which India would not allow to happen. As firing and shelling across the LoC and International Border in J&K State continued to take innocent lives of civilians and soldiers on both sides, India and Pakistan concluded a ceasefire agreement in 2003. They agreed to flag marches whenever the issue of firing arose and without escalating the situation would talk and resolve it. But Pakistan has one language at the table of talks and another on the ground. It has violated the ceasefire agreement hundreds of times by resorting to unprovoked firing and shelling and forcing India to respond to the situation. Even flag marches and promises have all proved futile. This shows that Pakistan has no intention of adhering either to the national and international commitments nor is she prepared to contribute to peace and stability in the region, particularly after she has launched proxy war in Jammu and Kashmir in 1990. Not only the LoC even the International Border has become live because Pakistan has inducted what it calls, non-state actors as the frontline of her defence against India. What Pakistan calls non-state actors and frontline defence are actually terrorist organizations and their activists who are now dreaming of Islamic Caliphate. The worry caused to India and the US by Pakistan patronizing the jihadi legions is that a day might come when Pakistan's nuclear arsenal falls in the hands of these jihadis who, having no commitment except that of causing destruction to human society, will have no hesitation to use it.

Conclusion

The way Security Council handled Kashmir question in partly partisan and partly hegemonic manner exposed its make-believe neutrality and impartiality. It dealt with global issues along the paradigms of great power politics. The way Kashmir question fizzled out showed how circumspect and toothless the Council is.

The two warring countries will not find equitable justice at this international body and, therefore, no solution of Kashmir question can be called viable and sustainable unless hammered by the two countries without intervention of third party. Kashmir question has become catalyst to new issues on the subcontinent of identities and ethnicities. Resurgence of fundamentalist Islam in the Islamic world has added another dimension to Kashmir issue and, much to the satisfaction of Pakistan and OIC, internationalization of Kashmir question is a phenomenon that cannot be overlooked in the context of contemporary world history. Kashmir is very much sucked deep into the vortex of international diplomacy and regional security. Breaking the status quo recklessly is fraught with extreme danger and disaster.

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End Notes

- 1 See Jammu and Kashmir State 1946-1947: Dilemma of Accession on The Missing Link in the Struggle by R.C.Kak, Oriental and India Office Collection, British Library (London) manuscript MSS Eur D 862.
- 2 Ziegler, Mountbatten, p., 416, also see nos. item nos. 354, 369 and 473, Vol XI, TOP.
- 3 Kashmir: from 1947 to 1977, SanaullahBhat
- 4 The Great Divide: Britain, India, Pakistan. Hodson, H.V. Oxford. 1997, pp. 465-68.
- 5 Govt. of India, White Paper on Jammu & Kashmir, Delhi 1948, p.73



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