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United Nations involvement in India – Pakistan question of Kashmir

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Abstract

Kashmir Conflict is the oldest unresolved international conflict in the world today. The conflict of Kashmir with its origin in the partition of the subcontinent by the British in 1947 with the passage of time has turned into a bitter legacy. The first war over Kashmir between India and Pakistan in 1948 activated the United Nations which produced a plethora of resolutions. These resolutions formed the important part of UN's involvement in the Kashmir. The article focuses on the Peacekeeping missions mandated by the Security Council to investigate and mediate in the dispute between two countries. The article outlines the Security Council mandates and evaluates its operational achievements and limitations.

Key words: UN, UNSC, Peacekeeping, India, Pakistan, Kashmir, UNCIP, UNMOGIP,

Background of Kashmir Conflict

The partition of British India in 1947, which resulted in the emergence of the states of India and Pakistan, created many loopholes and gaps which from time to time influenced the relations of both countries. Of the many legacies of partition, one and the most sensitive issue was the Kashmir dispute.

Upon the partition in 1947, the British Indian Empire was divided into two separate entities, the predominantly Hindu nation of India and the almost exclusively Muslim nation of Pakistan. At the time of independence there were more than 560 Princely states in the Indian sub-continent that were left to choose between becoming a part of one of two greater nations; the Dominion of Pakistan or the Union of India or could live as independent states by making suitable political arrangements with their more powerful neighbouring Dominions".[1]

The state of Jammu and Kashmir, which had a predominantly Muslim population but was subject to the rule of a Hindu Maharaja, shared borders with both

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Volume 02 Issue 05
May 2016

India and West Pakistan. This religious dispute made it substantially more difficult for the Dominion of Pakistan to appeal to Kashmir. Pakistan was worried about the Maharajah deciding to join India. With these worries, Pakistani tribesmen invaded Kashmir. The Maharajah asked India to intervene in Kashmir and signed an "Instrument of Accession" with India ceding control over foreign and defence policy to India. Thus, the conflict between India and Pakistan became direct and violent, and the value of Kashmir rose significantly.[2]

Following the outbreak of the Indo-Pakistani War of 1947, Viceroy Louis Mountbatten flew to Lahore on 1 November 1947 for a conference with Muhammad Ali Jinnah to pursue a peaceful resolution to the conflict. He proposed that, in all the princely States where the ruler did not accede to a Dominion corresponding to the majority population (which would have included Junagadh, Hyderabad as well Kashmir), the accession should be decided by an 'impartial reference to the will of the people'. Jinnah refused this offer, as the nature of the vote necessitated its enactment in Hyderabad and Junagadh as well as in Kashmir. [3]

India later decided to pursue a resolve by referring the ongoing conflict to the United Nations Security Council under article 35th of the UN Charter, which allows the UN member states to bring to the Security Council attention situations 'likely to endanger the maintenance of international peace'[4]. As a result, the Security Council established the United Nations Commission for India and Pakistan (UNCIP) where it worked on resolutions to prevent the First Indo---Pakistani War from advancing further[5].

UN Military Observer Group in India and Pakistan (UNMOGIP) and its role

Kashmir, along with the Israeli-Palestinian conflict and the war in Korean Peninsula, was among the first crisis that the United Nations had to confront in the post-World War II period.[6] To investigate the dispute and mediate between the two countries, the UN Security Council by its resolution 39 (1948) established the United Nations Commission on India and Pakistan (UNCIP). At that time there were Pakistani tribal attacks and both Indian and Pakistani military were present in Jammu and Kashmir. The justification of the India's presence in the Jammu and Kashmir was

ISSN: 2455-3220
Volume 02 Issue 05
May 2016

based on the validity of Maharaja's accession to India. However Pakistan denied the charges and held that conflict in Kashmir was a revolt against the Maharaja's tyrannical rule.

Led by Britain and the United States, the UN Security Council passed a resolution 47 (1948) on 21, April 1948 and decided to enlarge the members of UNCIP from 3 to 5. The UNCIP reached Kashmir in July 1948 and after deliberations with Indian and Pakistani leadership, produced a proposal, which called for an immediate ceasefire and called on the Government of Pakistan to secure the withdrawal from the state of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the state for the purpose of fighting. It also asked the India to reduce the bulk of its forces to minimum strength, after which the two countries would hold a plebiscite which should be put into effect on the question of accession of the state to India or Pakistan. However, both the countries failed to arrive at a truce agreement due to differences over interpretation of the procedure for and the extent of demilitarization.

In November 1948, although both countries agreed to the plebiscite but Pakistan refused to withdraw their forces from Kashmir on the grounds that India was allowed to retain some of its troops to maintain order, which could potentially lead to compulsion or coercion of voters by Indian forces to influence the outcome of the proposed plebiscite.

Over the next few years, the UN Security Council passed four new resolutions, revising the terms of Resolution 47 to include a synchronous withdrawal of both Indian and Pakistani troops from the region. To this end, UN arbitrators put forward eleven different proposals for the demilitarization of the region. All of these were accepted by Pakistan, but rejected by the Indian government, which maintained that the State had become a part of the Indian Union.

In December 1949, UNSC President General A. G. L McNaughton tried to seek a mutually satisfactory solution between India and Pakistan. His proposals for the demilitarisation of Kashmir to ensure an impartial Plebiscite in Kashmir were rejected by India.

After the failure of Mc Naughton proposals, the United Nations on 14 March 1950 replaced the UNCIP by a single U.N representative Owen Dixon, a judge from Australia to seek the UN objective of

ISSN: 2455-3220
Volume 02 Issue 05
May 2016

demilitarisation. He suggested two plans including the division of the state. The government of India rejected both the proposals as these provided for the establishment of an UN authority in the state.

After the failure of Dixon, Dr. Frank Graham was appointed as the UN representative by a UN resolution (30 March 1951) to mediate between India and Pakistan to get them to agree on holding a Plebiscite in Kashmir. Dr. Graham worked from 1951-53 without meeting any success. Frank Graham was followed by Gunnar Jarring in 1957 who also failed to make any headway on Kashmir.[7]

Following the termination of the mandate of UNCIP, the Security Council, by its resolution 91 (1951) on 30, March 1951, established the United Nations Military Observer Group in India & Pakistan (UNMOGIP) to supervise the ceasefire in Jammu and Kashmir. UNMOGIP functions were to observe and report, investigate complaints of ceasefire violation and submit its findings to each party and to Secretary General.[8]

In 1965, the second war broke out between India and Pakistan and the question of India- Pakistan was once again at the forefront of Security Council. The number of observers was doubled as the hostilities spread to Kashmir. At the end of 1971, the third war broke out between India and Pakistan and by the time the war ended, number of positions on both sides of original ceasefire line had changed. The Security Council (SC) on 21 December adopted resolution 307 (1971) by which it demanded that a durable ceasefire in all the areas of the conflict remain in effect until all armed forces had withdrawn to their respective territories and to positions which fully respected the ceasefire line in Jammu and Kashmir supervised by UNMOGIP.

In July 1972, India and Pakistan signed an agreement defining line of control which, with minor deviations, followed the same course as the ceasefire line established by Karachi agreement. The Simla Agreement of 1972 between India and Pakistan obliged both the states to deal with their issues bilaterally. India has since argued that this preludes thirds party intervention, including that of UNMOGIP.[9] On the basis of Simla Agreement India ignores UNMOGIP and took that the mandate of UNMOGIP had lapsed. However Pakistan did not accept this position.

The military authorities of Pakistan have continued to lodge complaints with

ISSN: 2455-3220
Volume 02 Issue 05
May 2016

UNMOGIP about ceasefire violations. The military authorities of India have lodged no complaints since January 1972 and have restricted the activities of the UN observers on the Indian side of the Line of Control. They have, however, continued to provide accommodation, transport and other facilities to UNMOGIP. However, Pakistan continues to welcome the UNMOGIP mission based there. Speaking in Islamabad, Pakistan Foreign Secretary Aizaz Ahmad Chaudhury said "Pakistan will continue to facilitate the UNMOGIP, which is a source for providing credible information to the U.N. Security Council through its regular periodic reports. We have noted with concern that there were some administrative issues for the UMMOGIP in New Delhi but we believe it needs to be facilitated in the performance of its very important role."[10]

India has asked a United Nations military observer group on Kashmir to vacate a government provided bungalow in New Delhi, in a toughening stance against a mission that Indians have long opposed. New Delhi considers the whole of Kashmir as an integral part of the country and has bristled against external involvement in the region including the U.N. Military Observers Group on India and Pakistan (UNMOGIP) that was set up in 1949 after their first war. India maintains that the U.N. had no role to play after India and Pakistan signed the Shimla Pact in 1972 under which the two countries agreed to resolve all disputes including Kashmir bilaterally.[11]

On the basis of disagreement between India and Pakistan over UNMOGIP's mandate and functions, the secretary General's position has been that UNMOGIP could be terminated only by a decision of Security Council. In the absence of such an agreement, UNMOGIP has been maintained with the same arrangements as established following December 1971 ceasefire. This clearly suggests that while Indian government can bulldoze the UN body out of its office building, it cannot ask the group to leave the country, if it has to follow the international law.[12] In addition the closing down of UNMOGIP's operations would break UN's promise to the Kashmiri people made in 1948 and would also break down the principles enshrined in the United Nations Charter.[13]

India and Pakistan have fought two of their three wars since independence in 1947 over Muslim-majority Kashmir. Tension between the nuclear-armed neighbours often escalates in cross-border firing in the

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Volume 02 Issue 05
May 2016

region. Both sides often accuse each other of violating a ceasefire agreement that kills dozens of people including civilians. The UN was most active in the Kashmir dispute in the very first months of India's and Pakistan's existence, when the two countries were at war. The role of UN has been very limited in recent decades. Even during the popular Kashmir uprising in 1989-90, when hundreds of thousands of Kashmiris marched in pro-freedom processions in Kashmir Valley and when thousands crossed the LOC to receive arms training, the UNMOGIP remained in hibernation in its Srinagar office.

The UNMOGIP has played virtually no role in the conflict after 1972. When a popular uprising broke out against Indian rule in Indian-administered Kashmir in 1990, large pro-Independence processions of Kashmiris would often lead to the UNMOGIP headquarters in Srinagar to lodge protests and call on the U.N to implement its resolutions on Kashmir. Millions of Kashmir's marched up to UNMOGIP headquarter in Srinagar on 1 March, 1990, submitted memoranda to UN Secretary-General urging him to intervene and push India into granting Kashmiris their 'right to self-determination'. Although it is now becoming the common practice in Kashmir to send memoranda to the UNMOGIP, demanding implementation of U.N resolutions in Kashmir or the fulfilment of the right of self-determination of Kashmiris. On August 18, 2008, responding to the call of separatist leaders for a mass march up to UNMOGIP office, hundreds of thousands of people from every nook and corner of the Kashmir valley converged near the Tourist Reception Centre, close to the UNMOGIP office in Sonwar, locality of Srinagar to urge on the U.N to intervene in Kashmir. The sea of people comprising students from schools, colleges and universities, doctors, teachers, para medics, thousands of Kashmir government employees, professionals and peasant masses carried placards which read, "Stop Genocide of Kashmiris, Intervene UNO", " Ban ki Moon, Come soon", "We want Plebiscite" etc.[14]

The state is very strict regarding the protests outside the UN building in Srinagar. The government uses different means to block the protesters before they reach to UN office.[15] UNMOGIP has not been able to stop human right violations in Kashmir. The UN has not been able to resolve the Kashmir conflict but it represents the international dimension of the Kashmir issue. The past involvement of UN in Kashmir Conflict has

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Volume 02 Issue 05
May 2016

undoubtedly provided legitimacy and strength to the separatist argument in Kashmir but on the other hand the framing of the Kashmir Conflict as an India-Pakistan (Inter-State) Conflict in the U.N has prevented international recognition of the Kashmiri nationalist movement as the defining characteristic of the present day Kashmir Conflict.[16]

Conclusion

The UN was most active in the Kashmir dispute in the very first months of India's and Pakistan's existence, when the two countries were at war. After the 1972 Shimla Agreement UNMOGIP has been rendered completely ineffective in solving the Kashmir conflict between India and Pakistan. The non implementation of various UN resolutions passed from time to time regarding the Kashmir issue reminds that international body is yet to play its full role as far as the issue of Kashmir is concerned. The UN involvement needs to focus on getting the two sides to the table to resolve the issue. The small arm firing across the line of control has became the norm and has started to affect the civilians more than what typically is the case. Even though the U.N's complete failure in Kashmir, the presence of UNMOGIP office in summer Capital of Jammu and Kashmir continues to symbolically affirm the Kashmiri sentiments that their land is not yet another Indian State but an internationally recognized disputed territory and that their cause is a historical and just one.

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[1] [1] Mangrio, Naghma, A Historical and Political Perspective of Kashmir Issue, The Dialogue, Volume VII, Number 3

[2] [2] Kashmir Conflict: Study Guide, Kumun 2016 Model United Nations Conference

[3] [3] "India-Pakistan Background" - UN News Center.

[4] [4] Schofield, Victoria (2003) [First published in 2000], Kashmir in Conflict, London and New York: I. B. Taurus & Co, ISBN 1860648983

[5] [5] "Resolution Adopted by the United Nations Commission for India and Pakistan on 13 August 1948"Resolution Adopted by the United Nations Commission for India and Pakistan on 13 August 1948.

[6] [6] Wajahat Ahmad, Kashmir And The United Nations http://www.countercurrents.org/ahmad270808.htm

[7] [7] ibid

[8] [8] UNMOGIP- Historical background

http://www.un.org/en/peacekeeping/operations/early.shtml

[9] [9] The Oxford Handbook of United Nations Peacekeeping Operations

[10] [10] India to ask U.N. Military Observer Group to wind up ,The Hindu, July 25, 2014

[11] [11] Modi govt asks UN Military Observer Group on J&K to vacate rent-free office in Delhi, Times of India, Jul 11, 2014

[12] [12] Is Role of UN Military Observer Group in Kashmir Dispute Really Over?, International Business Times, July 12, 2014

[13] [13] Monish Shah, The Forgotten Mission": An Assessment of the United Nations Military-Observer Group in India and Pakistan, North Carolina Consortium of South Asian Studies, Volume 1, Issue 1 (Fall, 2010)

[14] [14] Wajahat Ahmad, Kashmir And The United Nations

[15] [15] Monish Shah, "The Forgotten Mission": An Assessment of the United Nations Military Observer Group in India and Pakistan, North Carolina Consortium of South Asian Studies, Volume 1, Issue 1 (Fall, 2010)

[16] [16] Wajahat Ahmad, Kashmir And The United Nations