

## **PLEBISCITE IN KASHMIR – A DEAD ISSUE**

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It is ironical that in spite of the high idealism, bordering on the ridiculous, displayed by India with regard to the issue of self determination in Kashmir, Pakistan, through the medium of vicious propaganda campaign, has been able to create a very strong feeling among the Kashmiris that it is India that is responsible for denying to them, what they consider to be, their right. So strong has, in fact, been Pakistan's propaganda, and so feeble India's efforts at countering it, that even the Indian intelligentsia has been affected by it, and today there are many amongst them who have begun to, inwardly, feel the shame of this being so. This impression needs to be countered not only to assuage the hurt feelings of the Kashmiris and to clear the guilt conscience that any one of us may be suffering from, but also to be able to view the problem in its correct perspective.

First of all let it be understood that self determination is not the right of the people of Kashmir, as they seem to have been made to believe. Legally the discretion of joining one dominion or the other or that of remaining independent was vested entirely with the rulers of the Princely States of India. The element of ascertaining the wishes of the people of Kashmir in this regard was introduced by India as a matter of its obsession for playing fair. So committed were the Indian leaders to this ideal that even though the Maharaja of Kashmir was naturally inclined towards an accession to India, the Indian leaders refused to even discuss this matter with him on the ground that no such discussion could be held without the participation of recognised people's representatives. They even went to the extent of having it conveyed to the Maharaja (through Mountbatten) that they would not take it amiss were the Maharaja to accede to Pakistan on the basis of the wishes of his people. India then did not sign the Stand Still Agreement proposed by the Maharaja on the lapse of British Paramountcy on 15 August 1947 on similar grounds. Even Kashmir fell into its lap as a result of the Pakistani invasion, India, notwithstanding the fact that the Maharaja's request for accession was this time accompanied by a similar request made in person by sheikh Mohammad Abdullah, who unquestioningly represented the majority in Kashmir, went to the extent of accepting the accession under a self imposed stipulation that the question of accession should be settled by a reference to the people as soon as law and order have been restored in Kashmir and her soil cleared of the invader. But India was not to stop at just that. As if to bind itself still further, India, while complaining to the Security Council about Pakistan's aggression in Kashmir, went on to unnecessarily commit itself to ascertaining the wishes of the people on the issue of the State's accession. No country in the world would have acted against its national interests in pursuance of an ideal, however high, as India had done to serve the cause of self determination for the Kashmiris. On this account India did, indeed, lay itself open to the charge of being imprudent and totally lacking in political sagacity, but to charge it with having subverted the process of self determination would be blasphemous so to say.

While India was going all out to secure for the Kashmiris the right to self determination in the matter of accession, Pakistan, that is today posing as a champion of the Kashmiris' cause, was harping on the legality and the constitutionality of the issue to debar the Kashmiris from exercising their will. Even as late as 21 September '47 Pakistan's Prime Minister Mr Liaqat Ali Khan made the following statement : -

“The correct position is that the Indian Independence Act of 1947 has left all Indian States completely free to join either one dominion or the other or to enter into treaty relations with either. Legally and constitutionally there is no question of putting limitations on this right of the States. Muslim League leaders before 15 August and the official spokesman of the Pakistan Government thereafter have publicly declared their agreement with this view; and have since rigorously stood by it”.

Even when the Security Council decided to hold a plebiscite in Kashmir, it was again Pakistan that scuttled the move by refusing to act on the demilitarisation clause of the resolution adopted by the world body in this regard. The resolution laid down that “the Pakistan Government should undertake to use its best endeavours to secure the withdrawal of tribes-men and Pakistan nationals not normally resident therein, who have entered the State for the purpose of fighting and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State” and that “when it is established to the satisfaction of the Commission set up in accordance with the Council’s resolution, that the tribesmen are withdrawing “ should India “put into operation, in consultation with the Commission, a plan for withdrawing their own forces from Jammu and Kashmir and reducing progressively to the minimum strength required for the support of the civil power in maintenance of law and order”.

The stipulations set forth in the resolution of the Council of 21 April ’48, quoted above were very clear and these formed the basis for the United Nations Commission for India and Pakistan (UNCIP) resolution of 13 August’48, which set forth the Cease-fire Order and the Truce Agreement between India and Pakistan, where by “the Government of Pakistan agree[d] to withdraw its troops from the State”. And yet no withdrawal of troops was ever conducted by Pakistan to make way for the partial withdrawal of the troops by India and the subsequent setting into motion of the process of holding the plebiscite. Pakistan stalled the proceedings by raising a controversy over the interpretation of the UNCIP resolution, where there should have been none in view of the clarification that the Chairman of the UNCIP had already given in response to a query on similar points raised by India before itself accepting the resolution. In his letter to the Prime Minister of India the Chairman had written to say that the “interpretation of the resolution as expressed in Para 4 of [the Prime Minister’s] letter coincides with its [Commission’s] own interpretation”.

India’s interpretation of the resolution put up for consideration before the Commission and referred to above by the Chairman as coinciding with that of the Commission was with reference to paragraph A3 of Part II of the UNCIP resolution which laid down that pending a final solution, the territory evacuated by Pakistani troops would be administered by the local authorities under surveillance of the Commission. India had sought confirmation of its interpretation that this paragraph would not be interpreted or applied in practice so as :-

- (a) to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistani troops;
- (b) to afford any recognition to the so called “Azad Kashmir Government”; or
- (c) to enable this territory to be consolidated in any way during the period of the truce to the disadvantage of the State.

Pakistan’s interpretation seeking recognition of the “Azad Kashmir Government” as the local authority in Pakistan Occupied Kashmir (POK) and retention of the “Azad Kashmir” forces in terms of the UNCIP resolution was preposterous and grossly at variance with the

interpretation of the Commission itself. It could not have been accepted even by a liberal India. Evidently with the memories of the brutalities and savagery of the invaders still fresh in the minds of the people then, Pakistan did not expect a favourable verdict from the plebiscite and the absurd demand was used as a spanner in the ongoing process for grant of right of self-determination to the people of Kashmir to seek accession on the basis of religion instead.

Although the Pakistani stand was not in keeping with the Security Council and UNCIP resolutions, it received much support from the Anglo-American block, whose interests lay more in appeasing Pakistan for use of its air bases for spy missions over the Soviet Union than upholding the verdict of the UN. Those were the days when the Soviet Union had taken a neutral stand over the Kashmir issue. The Western powers, therefore, had a field day in bullying and exerting undue pressure on India in an effort to make it yield to Pakistani demands. The Security Council and the UNCIP resolutions were shelved and solutions other than plebiscite were sought to be thrust on India with their bulldozing majority at the UN. Fortunately India held out against the Western onslaught till the Soviet Union, sensing the implications of the Anglo-American game plan, came to its rescue with its power of the veto. The dead-lock was now complete and with it ended the remotest possibility of a plebiscite ever being held in Kashmir.

The issue of self-determination in Kashmir is now long dead, and notwithstanding all the brave talk by some militants, any attempt at its revival would amount to flogging a dead horse. It must be understood that withdrawal of troops by both India and Pakistan, (no matter in which order), still remains to be a pre-requisite for holding of a free and fair plebiscite. It would be wishful thinking on the part of the protagonists of the plebiscite if they believe that what could not be done immediately after the cease-fire in 1949 could be done now and Pakistan and India can be made to withdraw from their respective territories, which they have now been holding for the last half a century or so. If this not possible then why this wild goose chase and self-inflicted pain and suffering over a cause that does not exist.

It may not be politically expedient to say so but the fact remains that, as should be evident from the results of the Indo-Pak wars of 1965 and 1971 and the ongoing fruitless proxy war, neither Pakistan nor India is in a position to alter, by the use of military force, the situation created by the Cease-fire Agreement and Kashmir already stands divided between India and Pakistan. The permanent *status quo* along the Cease-fire Line or the Line of Actual Control, therefore, seems to be the only viable solution to the Kashmir imbroglio. That, in practical terms, is what the Shimla Agreement is all about.