

Sustained Dialogue The Only Answer

Jeevan Zutshi Sunday, August 8, 1999
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This refers to Iftekhar Hai's opinion carried in the issue of August 5 on Kashmir in San Francisco chronicle.

To understand the problem of Jammu and Kashmir (J&K) we have to go back to when India became independent and was partitioned, and Pakistan was created in August 1947. Then, there were 565 Princely States, which were given the option to join either India or Pakistan. Legally, there were three points to note on J&K:

First, the King of England was the paramount lord as far as these Princes were concerned. When the British Parliament passed the India Independence Act (1947) Britain put an end to paramountcy, leaving it to the Princes to arrive at such arrangements as they thought proper with the Governments of India and Pakistan.

Second, Pakistan was a new State, which came into existence, while the then Government of India was a successor government to the Government of United Kingdom.

Third, the Instrument of Accession was not conditional in case of any of these Princely States. Pakistan did not question the decision of any of them. No religious or ethnic composition of the population of any Princely State was applied on deciding whether a Princely State should accede to India or to Pakistan. Lord Mountbatten, Viceroy of British India, in the Crown instructions did not refer to communal representation but, mentioned that the Princely States cannot evade geography. Therefore, the Maharaja's accession of Kashmir to India was legal, constitutional and internationally binding. As there was no Pakistan before 1947, there was no question of Kashmir having been a 'disputed territory' in 1947.

As a Kashmiri I must digress into history. J&K is not a land of Muslims alone who predominate in the valley. It is a mosaic of ethnic & religious diversity, with Hindus and Sikhs mainly in Jammu, and Buddhists primarily in Ladakh, all of them living together for centuries. The state was renowned for its tradition of harmonious co-existence of Kashmiris of different cultures & religions and remained free of communal tensions, till Pakistan's subversion started. Mahatma Gandhi said that Kashmir remained a shining example of secularism. In this sense Jammu & Kashmir is a microcosm of India, which has the second largest Muslim community in the world. The argument that loss of Kashmir can lose India other territory is specious. What worries India, and all well-wishers of Pakistan, is its ability to hold together given rampant & severe sectarian & economic strife.

J&K was ruled successively by the Mughals, Afghans, Sikhs and thereafter by the Dogras. The Sikh ruler Maharaja Ranjit Singh entrusted the Jammu region to his Dogra Generals. Their descendent Maharaja Pratap Singh consolidated the Kingdom. By 1930s, the rise of anti-Dogra sentiment led Sheikh Abdullah, the 'Lion of Kashmir', to move to a secular base and form the National Conference, comprising Hindus, Muslims and Sikhs. This Conference found itself drawn to the Indian National Congress. Following the Partition, Sheikh Abdullah's National Conference supported the decision that J&K should join India. Even today we have in power a duly elected National Conference government under the leadership of Farouk Abdullah, the Sheikh's son.

Thus, historically, there was parallel democratic support from the Kashmiri peoples through its National Conference to join India. In fact the National Conference turned back a Pakistani emissary who wanted to woo Kashmir to join Pakistan.

Today the question of holding a plebiscite on J&K is academic. The UN Security Council Resolution (1948) demanded that Pakistan must withdraw all its troops, tribesmen and nationals first, and urged India to maintain a military force and hold a plebiscite. Pakistan never withdrew its forces, troops and tribesmen and has failed to implement the Resolution's prescription of prior & complete withdrawal before a plebiscite could even be considered. Incidentally, a portion of Pakistan-occupied Kashmir was later ceded by Pakistan to China.

I feel that, these UN Resolutions have themselves become obsolete because of passage of time and continued non-observance by Pakistan. This was remarked on, by Dr. Jarring, President of UNSC as early as July 1957 and by UN mediator Dr. Graham in March 1958. Passage of time, change of circumstances, and Pakistan's repeated aggressions against India in 1948, 1965, 1971 and 1999 have ruled out such possibility. Coincidentally, the latter now impinges on the broader issue of deterioration of Asian security environment due to the symbiotic relationship between the Talibans and mercenaries supported by Pakistan.

Democracy continues in J&K, where the next elections are due in September 1999. In any case, Pakistan which has seen prolonged periods of military rule since inception can hardly claim to champion democracy in J&K. India, on the other hand, has had an unbroken chain of general and State elections, including in J&K. In occupied Kashmir, no elections took place during the last 50 years. Pakistan has not accorded the right of adult franchise or any representation in the National Parliament or State Assembly to the people of the so-called 'Northern Areas'. Within its own territory, it has crushed opposition in Baluchistan and Sindh. Pakistan has tried to use religious affinity to cloak its territorial ambitions in Kashmir, even though its two-nation theory stood negated when east Pakistan seceded in 1971.

During the last 50 years the Indian Government has pumped substantial resources under the Five Year Plans to bring prosperity to J&K. J&K has always been a major tourism and adventure sport destination. It also has a unique tradition of handicrafts, quality shawls, saffron and carpets. Agriculture, irrigation, power, road other projects have received a major boost over the years. Food, fruit and horticulture production have similarly gone up. All this is in stark contrast to the economic conditions in occupied Kashmir.

Hai very correctly acknowledges that it was India which first went to the UN Security Council (UNSC). India's statesman like gesture in 1971 in returning 5,000 sq kms of captured territory to Pakistan and keeping almost 100,000 PoWs for a year fully observing the Geneva Convention, to bail out a defeated Zulfikar Ali Bhutto was in pursuit of its policy in favor of a stable Pakistan. It was a far cry from the brutal mutilation of Indian POW's by Pakistan, during their recent Kargil misadventure. The 1971 Shimla Agreement which lays down the principle of a bilateral solution to outstanding problems between India and Pakistan has stood the test of time in preventing large scale conflict on the LOC. The Agreement which was approved by Pakistan's Parliament, is binding on all Pakistan's governments and can bring in a solution to this vexed issue.

Together with India, the international community also anticipated that the Lahore Declaration, made possible through Prime Minister Atal Bihari Vajpayee's visit in February 1999, would help to build confidence to usher in an era of peace in the sub-continent. Quite

clearly the Pakistani rulers were not inclined towards this end as seen from their misadventure in crossing the LOC in March 1999 which Pakistan illegally crossed LOC in the Kargil sector with a view to internationalizing the issue it in fact had the reverse effect. The international community was unanimous in branding Pakistan the aggressor and seeking the immediate withdrawal of its forces and irregulars to maintain the status quo. It also called upon Pakistan to reopen the bilateral dialogue with India, without UN and other involvement.

After Kargil, the onus is now squarely on Pakistan to show credibility through its actions, rather than through talibanised war-cries of jihad (holy war). It needs to confirm strict adherence to the LoC in spirit & on the ground; and commit itself to ending support to cross-border terrorism in J&K. It is time that Pakistan realized that a sincere bilateral dialogue which India has offered is the only way that the Indian sub-continent will see peace & prosperity in the next millennium. Pakistan cannot wage war in summer & talk peace in winter.

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