

Session 2

Success & Failure of Global Regime: Case Study of Kashmir Issue

2 Day International Conference on
Kashmir: Challenges and Prospects

Organized by
MUSLIM Institute

A two-day international conference on “Kashmir: Challenges and Prospects”, was organized by MUSLIM Institute at Islamabad Club, Islamabad on Wednesday & Thursday 26 & 27 March 2014. The conference was addressed by numerous Pakistani and international luminaries and experts on issues of global politics and international relations. Report of the second session, among five different sessions of the conference, is given below.





Kashmir: the Blind Spot of World Conscience

Victoria Schofield

British Author of Books including "Kashmir in Conflict" & "Kashmir in Crossfire"

The Kashmir issue has been on the international agenda since 1947 and numerous resolutions have been passed by the United Nations confirming that 'the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite'. Lack of progress between two nations in fulfilling pledge 'to put an end to

conflict and confrontation' and establish a 'durable peace in the sub-continent' has meant that the United Nations remains a concerned party even after the Simla agreement of 1972. The office of UN Secretary-General Ban Ki Moon has confirmed that the United Nations is ready to mediate between India and Pakistan for resolution of the issue. The resolutions adopted by EU in 2005 and 2007 about EU-India relations emphasized international concern over the situation in Jammu & Kashmir. In 2008, the EU put forward a resolution regarding the discovery of mass graves and strongly condemned 'the unlawful killings, enforced disappearances, torture, rape and other human rights abuses which have occurred in Jammu & Kashmir'. In February 2013, the OIC requested the government of India to allow international human rights groups to visit Kashmir. In addition, numerous human rights organizations have condemned the widespread abuses throughout the region, Amnesty International being among the most prolific in its issuance of reports regarding human rights abuses by Indian soldiers.

The issue remains unresolved, the tendency being for other trouble spots in the world to take precedence; this has led to a growing unease that Kashmir has become a 'blind spot' of the world's conscience. This apprehension needs to be addressed urgently. Firstly because the dispute of Jammu & Kashmir, between two already hostile neighbors, has the potential to re-ignite tensions. This would cause immense sufferings to the inhabitants of entire region. Secondly because India and Pakistan are both declared nuclear powers and have enough nuclear warheads for mutual self-destruction, a fact sometimes lost on pro-nuclear strike enthusiasts, who seem to think they are talking about using a big bomb. Thirdly because of the dangerous rhetoric which exists on television, radio, newspapers and now, in social media. Since 1947, generations have been brought up to distrust, dislike, and hate their neighbor, principally because of the hard-feelings which exist over Kashmir together with the latent trauma over partition.

Fourthly, the Kashmir issue must not be considered a blind spot because of the tremendous sufferings which have been endured by the people of Jammu and Kashmir. The demand for freedom which started as a political movement but turned into armed struggle has had dire consequences. An estimated 100,000 have died over the past thirty years, mostly young men, at least 10,000 disappeared which leaves an equivalent number of 'half widows', thousands of orphans, thousands women have been tortured and raped. The region remains militarized, people cannot be certain of going to a court of law and getting justice. The Armed Forces Special Powers Act (AFSPA) means that the authorities have right to arrest and hold anyone suspected of 'terrorist' activities. Fifthly because of resources, it is impossible to quantify how much money has been spent in terms of military defense for conventional and nuclear weapons which both countries can ill afford. In conclusion, these reasons are sufficient to indicate why, pending resolution of the 'dispute' over Jammu and Kashmir, it remains important that international bodies continue to take notice of the situation. In solving the issue consultation with those whose lives are directly affected is also necessary.



UN's Dispute Resolution Achievements viz a viz Kashmir Issue Ambassador (R) Khalid Mehmood

Chairman Institute of Strategic Studies Islamabad (ISSI), Pakistan
Kashmir dispute is virtually as old as the UN. The Indian Prime Minister Jawaharlal Nehru took the case of Kashmir to UN in Jan 1948 and Pakistan also filed a counter complaint. United Nations Security Council (UNSC) adopted certain unanimous resolutions for the right of self-determination in Kashmir. But then India started dragging its feet and rejected the UN resolutions and gradually started integrating the Occupied Kashmir with it by organizing

elections. The elections were boycotted by majority population of Occupied Kashmir. UN also gave its verdict that elections cannot be a substitute for the plebiscite. The UN has always recognized Kashmir dispute the root cause of tension in the region. The UN Secretary General recently visited India and Pakistan and offered his services for solution of this dispute and referred to the necessity of solving it for peace and security in the region.

One kind of negative development has taken place in regard to the treatment of Kashmir dispute at the UN. It was on the agenda of the UNSC since it started but now it has been decided that any item will be on agenda only if the parties concerned inform the UNSC in advance every year. So by 1st January Pakistan has to approach the Chair of UNSC to retain this issue on agenda of UNSC. According to UN charter, if parties are not able to resolve any issue, brought to it, by peaceful means under chapter six then UNSC can suggest a solution. If that solution is not honored by parties then enforcement part of UN charter comes under consideration under chapter seven. Unfortunately the enforcement requires the concurrence of at least nine member states of UNSC including five permanent members i.e. it is subject to veto. So Pakistan has to press on the issue on right time.

The role of UN Secretary General should be reactivated that he should appoint a special representative on Kashmir like he has appointed on Syria, Palestine and Rwanda. Intra Kashmir dialogue should also be

held, ensuring Kashmiri representation in any negotiation between Pakistan and India relating to Kashmir. Meanwhile the legitimate struggle of people of Kashmir for their right to self-determination has come under pressure. India started equating it with terrorism, but these attempts have not dented the struggle of Kashmiri people and international community also understands illegal stance of India. Another issue is raised that resolutions were adopted in 1948, and with the passage of time these are no longer operative. But UN Former Secretary General Kofi Annan clarified that resolutions of UNSC remain valid until those are implemented or the matter is solved by concerned parties. Similarly Simla agreement does not eliminate the right of Pakistan to approach the UN.

Human rights violation is another issue to be focused. On the issues of the draconian laws like POTA, TADA, AFSPA, PSA and the issues of mass graves, rapes and other human rights violations, we have to expose Indian atrocities and repression in Kashmir on international level. There is human rights council and opportunity to press India on the issue of the violation of human rights.

Pakistan should keep extending its moral, political and diplomatic support to this cause and should keep this issue alive. The past government has been raising this issue at the UN, and this is being done now more vigorously by the present government. Liberal elements and voices in India, which share the sentiments of the people of Kashmir, should also be engaged for the Kashmir cause. Azad Jammu & Kashmir and Gilgit Baltistan should be properly represented in the Council of Common Interest, National Economic Council and National Finance Commission. Proper shares of the revenues generated by energy produced through hydro projects in those areas should be given to them. Pending the achievement of right of self-determination, these territories without making them province should be brought at powers factually in respect of their autonomy powers and privileges including representation in the Pakistani Parliament.

I would like to conclude on quotation of Josef Korbel, "The people of Kashmir have made it unmistakably known that they insist on being heard... The accession of the State of Jammu and Kashmir to India cannot be considered as valid by canons of international law. The issue itself cannot be sidetracked, he history of the case has made it clear that time has only aggravated, not healed, the conflict, that neither Pakistan nor the Kashmiris will accept the status quo as a solution. But no high hope should be entertained that bilateral negotiations will lead to a settlement. The United Nations has a principal responsibility to seek a solution". UN should perform equal to the promise which is penned down in the charter of UN, as it has done in the case of East Timor and South Sudan, so why not in the case of Kashmir.



Interactive Session

After the presentation of research papers, the question answer session commenced. The participants asked several questions about the points raised by speakers and about the topic of the conference which were answered by the panel. Answering a question about taking the Kashmir dispute to the International Court of Justice(ICJ), Ambassador (R) Khalid Mehmood said that the ICJ can resolve those issues between the states when both the states are willing for ICJ to do so. But in the case of Kashmir, we know that India is not ready. If India gets ready, only then ICJ can play its role in this regard. Answering another question he said that now there is another development taking place which can be favorable to Kashmir cause that India desires to become permanent member of UNSC. Without support from the region, India cannot attain this goal and most critical support has to come from Pakistan. So it is another pressure point on India in the coming time. Victoria Schofield answering a question said that now there are many people in India who are raising voices for the rights of Kashmiri people. By arranging the conferences and seminars such people and the civil society in India should be engaged so that they play their role for the resolution of Kashmir dispute.





Special Comments

Barrister Sultan Mehmood Chaudhry

Former Prime Minister, Azad Jammu & Kashmir

This conference is well timed because world focus is on this region due to withdrawal of US and NATO forces from Afghanistan. At this time we can tell the international community that solution of Kashmir issue is important for peace in the region. We can raise the point that Kashmir is a nuclear flashpoint as Pakistan and India have already fought three wars on Kashmir issue and at that time these were not nuclear powers. Now they have nuclear weapons

and also armies facing eyeball to eyeball along the LOC. Sixty seven years have gone but UN Secy. Gen. has said that the UN resolutions on Kashmir are still there which guarantee that the issue should be solved according to the will of Kashmiri people. Being a Kashmiri I don't mind the process of dialogue but Kashmiri people being the main party, should be given representation in this process. Pakistan and India have held dialogue on visa processes, cultural delegations exchange, trade etc. but India is never serious for dialogue on Kashmir issue. We should exert pressure on India via international community for dialogue on Kashmir. India is allergic with the word 'mediation' because they do not want it. So the word 'facilitation' can be used instead of mediation. India and Pakistan have never been able to solve any issue bilaterally. Some international body has always come forward to solve the issues. So the Kashmir, which is core issue, should also be solved in this manner. Intra-Kashmiri dialogue should be held so that the leadership of both sides of LOC can sit together and find the way forward. The people of Kashmir are not only struggling for the right of self-determination since long time but also facing the human rights violations in Occupied Kashmir. There are about seven hundred thousand Indian troops in Kashmir and this is the highest proportion of army in the civilian population over the globe. Further India has enforced there the draconian laws like POTA, AFSPA and others which give powers to the security forces that they can arrest anybody without warrant and they can search any house without warrant. All those who believe in human dignity, social justice and human rights should come forward and condemn India for human rights violations. European Parliament condemned India that there was mass graves issue and other human rights abuses. Elections are no substitute to the right of self-determination and people of Kashmir are going to boycott it again. There will be no legal democratic authority with the new government of Occupied Kashmir.

There are a lot of Pakistanis and Kashmiris abroad especially in UK. We are planning for a million march in London as there is huge population of Pakistanis and Kashmiris. We have requested the members of House of Commons, House of Lords and human rights organizations to join so that we would attract the attention of the international community. Media should play its role for the Kashmir cause. In past there were some important events which happened in Occupied Kashmir, and were first reported by international media and then the Pakistani media took notice of that. This is age of media and we request local and international media to work on this issue.



Chief Guest Speech

Sardar Muhammad Yaqoob Khan

President Azad Jammu & Kashmir

Congratulations to MUSLIM Institute for holding successful international conference on Kashmir. It is a matter of great pleasure to participate in today's conference on Kashmir issue. I am truly very happy that so many thinkers, multiple leaderships have gathered here to address this important issue. I am quite sure that such efforts will not only help in the understanding of this issue across the globe but also contribute in successfully resolving the

Kashmir issue. It is satisfactory that all the speakers agree on one point that the right of self-determination should be provided to the people of Kashmir. Once again thanks to all the participants for coming here for noble cause. May Allah Almighty help all of us and be with us for resolution of Kashmir issue.



Concluding Remarks by Chair

Mr. Akram Zaki

Former Secy. Gen. Foreign Affairs & Chairman: Senate Committee on Foreign Affairs, Pakistan

Kashmir seems to have become black spot on the conscience of humanity. Kashmir is before the UN under chapter six which is related to peaceful settlement of Kashmir. India tries to solve it bilaterally but even the Simla agreement clearly states that it should be solved by direct negotiation or by other peaceful means. So the other peaceful means involve various options including third party,

conciliation, and mediation or eventually if necessary by arbitration. Pakistan and India have not solved

any issue bilaterally. At this time USA, although a strategic partner of India, has to pull out of Afghanistan and needs cooperation of Pakistan. Kashmir is not territorial dispute; it is essentially a question of right of self-determination of Kashmiri people which is recognized internationally. Kashmiris living in European countries are raising voices for their right. Kashmiri people are the principal party of this issue and if they are in leading role, there is far greater chance of getting international support. The artificial stigma of terrorism has put us in disadvantageous position at this time. After 9/11, India started blaming that freedom struggle in Kashmir is cross-border terrorism. We have to reestablish the difference between freedom struggle and terrorism. There is whole history of freedom struggle in Kashmir and a number of UN resolutions.

There is UN resolution that elections in Kashmir and decisions of the Assembly are not the substitute of plebiscite and do not change the legal situation of Kashmir. After rigged elections in Occupied Kashmir in 1987, the protests started against them. India suppressed the voice of people by force. When the protests were suppressed, the armed struggle started. So those elections changed peaceful struggle into armed struggle and this factor underscores illegality of elections. On 27th Feb the USA State Department issued new statement attacking very strongly the human rights violations of Indian government in Kashmir and all the black laws.

In 1947 Pakistan and India gave in written to UN that they will implement UN resolutions. By applying the Chapter seven of UN for enforced implementation of UN resolutions, we need support of at least nine SC members which does not seem easy as India has always strategic partnership with one of the major powers. Initially it used Soviet veto and after Soviet decline, now it relies on American support. Unfortunately in last more than three decades, the Afghanistan-Pakistan situation has created an adverse international atmosphere for Pakistan. So we have to be patient and not press for immediate solution at this time. We should take principle stand and continue struggle with determination. Regarding India's illegal stance there are two main points. Firstly in July 1947, the largest party of the Kashmiri leaders the Muslim Conference passed the unanimous resolution in favor of Kashmir's accession to Pakistan. Secondly, on 15th of August Maharaja of Kashmir, who could not make up his mind to go which side, offered to sign a standstill agreement. India did not sign it and Pakistan signed, which meant that British role of controlling the foreign affairs, defense and other communication was then transferred to Pakistan. So after signing that agreement, Maharaja had no right to sign the letter of accession to India. Even if it is accepted that there is letter of accession, it is illegal. People of Kashmir who are determined for freedom should be provided our full political, diplomatic, moral and media support. The struggle of Kashmiris will succeed hopefully.

At the end of the session, conference memorabilia were presented to honorable speakers. Among representatives of all sections of society, the conference was attended by renowned analysts, professors and students of various universities, parliamentarians from the Provincial and National Assemblies, foreign diplomats, members of various research organizations and a large number of journalists and academics.



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