

A viable Kashmir Policy?

This article takes further and examines the merits of the views expressed by Director General Strategic Studies Institute and MNA Dr. Shireen M Mazari, published in The Nation on Friday February 26, 2016 on Pakistan's Kashmir policy. While addressing a workshop for the MNAs titled "Pakistan and Global Strategic Environment" at Pakistan Institute for Parliamentary Services, Dr. Mazari regretted that Pakistan currently lacks a viable Kashmir policy, which is the first and foremost step Pakistan should take for the resolution of conflict.

One may wish concur with the view that 'Pakistan lacks viable Kashmir Policy' in the interests of four Kashmiris distributed under three administrations at Srinagar, Muzaffarabad, Gilgit and the fourth a strong diaspora spread all over the world. A good Kashmir policy is in the interests of peace and progress in India and Pakistan and the region as well. Currently the common people of Jammu and Kashmir have to endure a burden of five Governments (three Kashmir and 2 of India and Pakistan) and need to reconcile their lives according to five constitutions as well. There is a huge interference in their lives from surveillance agencies and almost every single individual in the Indian administered Kashmir (now occupied) is indexed for a security clearance.

A clue how the Indian intelligence remains overwhelming in the Indian administered Kashmir has been confirmed by former RAW chief A. S. Dulat in his book at page 205 titled "Kashmir The Vajpayee Years". He writes, "The IB had a sinister reputation in the Kashmiri mind. Part of it was because since Independence, the IB had basically been running Kashmir, advising the home minister on whatever happened there".

In general it would be fair to say that Pakistani academics partly perform their duty and partly perpetuate an ignorance of an undeclared Government policy on Kashmir. The first and foremost question that arises as a common priority, is whether Pakistan has a Kashmir policy.

The first answer would be, yes, and the second immediate question would be whether it has followed it since 1 January 1948 or since 15 January 1948 when Pakistan filed her defence against Indian complaint lodged with the UN Security Council?

There is a policy on Kashmir but Pakistani Governments have been lazy in its duties in respect of UN mechanism on Kashmir and on outsourced duties under UN Resolutions, Constitution of Pakistan and the Constitutional arrangements with the Government of Azad Kashmir. Foreign office of Pakistan too has continued to share this 'let go' attitude of political Governments on Kashmir. The first error of judgment by the foreign office was that it failed bring to the attention of the recent Governments that Indian-Pakistan Question was not raised at the UN Security Council for about 31 years, from 5 November 1965 to 15 September 1996. In September 1996 Kashmir lost its regularity at the UN Security Council agenda, which it had enjoyed in perpetuity for 48 years from January 1948 to September 1996.

It was hit by rule 11 of the provisional rules of procedure of the Security Council and deleted from the agenda. However, such deleted matters are allowed "to be provisionally retained in the

list of matters which the Security Council is seized for a period of one year if a Member of the United Nations notifies its objection to its deletion before 15 September 1996”.

Ever since Pakistan has arranged to notify the Security Council under this reminder provision that it wants Indian-Pakistan Question (Kashmir) to be retained on the agenda. This year Pakistan notified the UN Security Council on 7 January 2016 that it wants to retain three questions, namely, The India-Pakistan question, The Hyderabad question and The situation in the India/Pakistan subcontinent on the agenda.

Although the present Government (Prime Minister) and the military leaderships (Army Chief) have reiterated the Pakistan Kashmir policy at the 69th and 70th sessions of UN General Assembly and at the Youm-i-Shohada in April 2014 and at RUSI (The Royal United Services Institute for Defence and Security Studies) in October 2015 in London respectively, yet it is not enough.

Governments in Islamabad and their support units in the foreign offices and other disciplines working on Kashmir have not addressed the issue of outsourced work by UN to Government at Srinagar and India in relation to a free reference of the people of Kashmir under UN supervision. Pakistan Governments have failed to pressure the Government of Kashmir at Srinagar to set up a neutral, inclusive and responsible Government (with representations from Azad Kashmir and Gilgit and Baltistan) to carry out the work outsourced to it by the UN for self-determination. Pakistan Governments have failed to highlight and pressure Srinagar Government that it is under a caution of UN SC Resolution of 30 March 19501, reminding it that it is elected from “only a part of the whole territory of Jammu and Kashmir” and therefore not fully representative to take any one sided call in violation of UN mechanism on Kashmir.

These Governments further failed to monitor the presence of Indian army in the Valley and point out to the United Nations on a regular basis, that Indian forces that were allowed a temporary admission in the State as a sub-ordinate force yet the Indian army was engaged in massive violation of human rights and was violating the curbs placed on its number, behaviour and location in the UN Security Council Resolution of 21 April 1948.

It is almost 68 years since Indian soldiers were entrusted to be an aid for the law and order situation. Things have changed and jurisprudence of this duty may be looked upon with recent developments. United Nations could investigate whether Srinagar Government needs the presence and assistance of Indian army any more. In the light of the fact that the Indian army is engaged in a low intensity war with the people of Kashmir Valley, UN may consider its own military presence there.

On the Pakistan side of Kashmir Pakistan “in the discharge of its responsibilities under UNCIP Resolution” has introduced a Constitutional arrangement in the affairs with the Government of Azad Kashmir under The Azad Jammu and Kashmir Interim Constitution Act, 1974. It is disappointing to point out that for the last 56 years Government of AJ&K continues to disregard its duties towards Self-Determination under the Act 1960 and Act 1974.

Prime Minister of Pakistan as chairman AJ&K Council along with his five nominated non-Kashmiri members in the Council has accepted a Constitutional duty in the matters of Azad Kashmir in particular and responsibilities towards the right of self-determination under UNCIP Resolutions in general. Kashmir policy is that Government of Pakistan would “provide for the better Government and administration of Azad Jammu and Kashmir until such time as the status of Jammu and Kashmir is determined in accordance with the freely expressed will of the people of the State through the democratic method of free and fair plebiscite, under the auspices of the United Nations as envisaged in the UNCIP Resolutions adopted from time to time”.

The Pakistan policy on Kashmir has yet to make a move on these subjects shared with the people of Kashmir and in particular act in accordance with the wisdom given in article 257 of the Constitution of The Islamic Republic of Pakistan, 1973. Government of Pakistan has assumed responsibilities in Azad Kashmir under UNCIP Resolution but has continued to fail to activate the UN mechanism on the resolution of Kashmir dispute. The intra-disciplinary interest in Kashmir lacks merit and needs a complete overhaul.