



Kashmir and new Pak-US strategy

Pakistan could have invoked the Stand Still Agreement (which pre-dates Indian accession) of August 1947 and UN position on the role of Indian soldier in Kashmir

Efforts by New Delhi to buy out a non-territorial settlement on Kashmir have no merit and no future either. It is true that delay in the resolution of Kashmir dispute does assist India to anaesthetise the people and helps it to keep the international community on its side by maintaining a false semblance of a dialogue with Pakistan. India continues its planning to humble the Kashmiri people and exploits the habitat. In particular India has erred in the unlawful exploit of water resources embedded as a trust property in the disputed habitat. Like people of the State, natural resources including water too have a right to self-determination and New Delhi could not use them with no holds barred.

So far Indian governments have failed to find an exit ramp to climb out of UN mechanism evolved for the settlement of the question of 'equality and self-determination' and have failed to dilute the jurisprudence of Kashmir case. It is reassuring news for the people of Kashmir that for the first time Kashmir has been introduced in the institutionalised annual Strategic Dialogue between the United States and Pakistan. Pakistan has secured a diplomatic triumph at the start of the year.

The sixth ministerial-level Pakistan-U.S. Strategic Dialogue between Pakistan's Advisor to the Prime Minister on Foreign Affairs Sartaj Aziz and United States Secretary of State John Kerry on February 29 in Washington goes to show that nuclear capability of Pakistan, its role in the region and its place in the Muslim world has cancelled out any overriding influence of Indian size.

The US-Pakistan joint statement issued in Washington on 01 March 2016 clearly states, “The United States and Pakistan emphasized the importance of meaningful dialogue in support of peaceful resolution of outstanding issues, including Kashmir. The delegations underscored that all parties in the region should continuously act with maximum restraint and work collaboratively toward reducing tensions.” A shift in US policy towards Pakistan on Kashmir is not new. It dates back to UN debates on Kashmir. After several years Pakistan has succeeded in convincing the US that it is serious about the war on terrorism, with clearly the Army Chief there, General Raheel Sharif playing a major role in this. The military operations against extremist groups in the northern areas have had an impact on this perception. Despite the periodic flirtation with India, successive governments in the US have always moved back to the stability of the old relationship with Pakistan. This time, however, Islamabad has extracted strategic praise and cooperation, legitimising the new relationship in the two day strategic dialogue between Secretary of State John Kerry and Pakistan Advisor Sartaj Aziz.

US has played a lead role and has shown a keen interest in the Kashmir case. Somehow, leadership in Kashmir and Pakistan could not keep the thread of this interest. US has made itself clear at the UN Security Council debates on Kashmir, that it appreciates and encourages a bilateral dialogue between India and Pakistan on the question of Kashmir, provided that it is consistent with the principles of UN Charter and is just.

There is very little research and track of US interest in Jammu and Kashmir. Kashmiri and Pakistani leaderships could not have had a better wisdom to follow than the one contained in the US New Delhi Embassy telegram 3137 to the State Department sent on 8 June 1958 (FRUS 1958 – 1960 XV, p.119). Ambassador Ellsworth Bunker writes, “We should keep plugging away and not lose heart...It may take a year or two years or even more to reach a desired solution, but patience, perseverance and the logic of events will ultimately bring us to success”.

United States has never allowed India to enjoy a stronger, status quo power in the matter of Kashmir. Loy Henderson became the first American ambassador to visit Kashmir in September 1949. He found the military officers of the UN monitoring group and other foreigners in Kashmir almost unanimous in holding that the people of the Valley would prefer Pakistan to India if they had the opportunity to vote freely. In August 1951 US State Department prepared a Memorandum titled “Kashmir Dispute: Future Action”. The aim was to take the matter to International Court of Justice (ICJ) and have

the India's principal arguments surrounding its occupation of Kashmir, knocked out. US Embassy in New Delhi continued to make useful inputs on the Indian mind set. In August 1956 the Embassy telegram 271 to the State Department (FRUS 1955-1957) highlights that, "No pressure short of war would force India to relinquish the Valley".

US State Department has continued to remain on the side of the people of Kashmir and in support of Pakistan's views on Kashmir. It has rejected the ratification of accession by Kashmir Constituent Assembly in 1954 as a violation of UN Resolution on Kashmir. The Office of the Legal Advisor of the State Department prepared a memorandum in September 1965 on the legal title of accession claimed by India. The legal advice has confirmed that the Maharaja's signing the instrument of accession did not settle the accession issue. The officials have held that a resolution of the Kashmir issue was essential to South Asian peace and security and considered Indian intransigence primarily responsible for delaying a settlement. The McGhee-Hickerson memorandum also noted the British position on the accession. "It is the view of the United Kingdom Attorney General and Foreign Office legal advisors that the Maharajah's execution of the Instrument of Accession to India was inconsistent with Kashmir's obligations to Pakistan, and for that reason perhaps invalid".

There is no denying the fact that the people of Kashmir introduced an indigenous military resistance against Indian occupation in the early 1990s. It has helped India to decimate a generation of Kashmiri Muslim youth in the last 25 years and further helped it to put in place an unprecedented surveillance mechanism, unheard in the Valley from 1846-1990. Kashmiri and Pakistani leadership could have done more to bring to the notice of international community that the death of a generation has been a deliberate policy to create a number deficit in the Muslim population of Kashmir. Indian soldiers should not have been allowed a no holds barred movement in the Valley. Pakistan could have invoked the Stand Still Agreement (which pre-dates Indian accession) of August 1947 and UN position on the role of Indian soldier in Kashmir. The death of a nearly 100,000 Kashmiri youth at the hands of Indian soldiers asking for the implementation of UN Resolutions on Kashmir, attracts war crimes and unfortunately the issue could not be sensitised correctly. The diplomatic narrative used by the Kashmiri and Pakistani leadership failed to provide a substantive supplement to the militant struggle carried out by the Kashmiri youth. It remained disjointed and mostly cosmetic.

During the last 25 years we have failed to bring into discussion the US, UK, French, Chinese, Iranian and other important inputs made to Kashmir dispute at the UN Security Council and which constitute the jurisprudence of Kashmir case. We failed to press for the first and most important step to seek to establish a Provisional Government under the UN supervision at Srinagar. France had suggested that “.Provisional government would have to be a coalition government composed of the chiefs of both the National Conference and the Muslim Conference. This government, acting under the authority and control of the Security Council, would be alone responsible for taking any steps necessary for the holding of the plebiscite”. UN mechanism disarms India in the Valley and it has been our inaction which has allowed India a continued foothold so far.

United Nations has flagged the primacy of Kashmir as a core issue. We need not disturb its order in any joint statement with India. France has stated that “once the Kashmir dispute has been settled, the solution of the outstanding questions between India and Pakistan will be greatly eased”. United Kingdom has equally held that holding of Plebiscite ‘was a matter for the Government (Kashmir) and the people of Jammu and Kashmir”. India has no role except the earlier lame excuse that Kashmir needed support in maintaining law and order. The argument has lost its gloss over the years and world has moved in this area as a collective. The three Kashmiri administrations and the United Nations are well placed to ensure law and order in any part of Kashmir. People of Kashmir and the leadership in Pakistan need to rediscover US role in UN efforts to resolve Kashmir dispute.