**Bad advice likely to hurt the Kashmir case**

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“The issue should, in the last analysis, be decided by the people of the State of Jammu and Kashmir themselves, and not the rulers heretofore placed over them, and that no prearranged political organization in any part of the State concerned, and set up under the auspices of authorities which had already made their, choice should interfere with their complete freedom of choice.” (Netherlands 566th meeting of UN Security Council held on 10 November 1951).

It clarifies that the interests of India and Pakistan, in Kashmir, are a consequence of the right of self-determination of the people of Jammu and Kashmir. Therefore, an organization remotely concerned with Kashmir need not to parachute at Serena Hotel Islamabad and organise a conference on the “challenges to restoring peace and autonomy in IOK&K”. That all participants at the conference except one were non-Kashmiris, makes it fake.

Dr. Ghulam Nabi Fai, Secretary General, WKAF has examined the merits of the conference in his column “Derailing a conversation on Kashmir: Autonomy VS self-determination”. He has expressed his concern that “The organizers of the conference had placed autonomy on the front burner. The right of self-determination of the people of Kashmir is nowhere to be seen.” Dr. Waleed Rasool from IoK has validly argued that if Pakistan cannot win for us, it can draw it for us, but for Pakistan to it lose it for us, would be an unbelievable tragedy.

There is a general impression that the conference at Serena Hotel had its sanction in the idea of “autonomy” put forward in a joint paper of Moeed Yusuf & Adil Najam Published in December 2009. Dr. Yusuf is at the PM Secretariat, the concern merits examination. He admits that, “This paper documents and analyses 46 proposals made between 1947 and 2008 for resolving the India-Pakistan dispute over Jammu and Kashmir.”

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Paper has left out a total of 101 years of the struggle. An examination of the suggestion that “autonomy’ has the growing consensus reveals that it is flawed and does disenfranchise the people of Jammu and Kashmir, in the same manner as the concept paper “The Beginning of the Future” prepared by the two think tanks, namely, Institute of Regional Studies, Pakistan and International Centre for Peace Initiatives, India and published jointly and simultaneously in Islamabad and Mumbai in September 2000.

The authors of the paper want us to fall for “autonomy.” We had an autonomy until 5 August 2019. Prime Minister Narasimha Rao had offered to top it up with “sky is the limit” in 1994 and Prime Minister Atal Bihari Vajpayee had offered a formula of “insaniyat, kashmiriyat & jamhooriyat”, as a wayforward in 2003. Our struggle is for “rights and dignity” and “security and self-determination”.

The “notion of Kashmiris involvement in any negotiations on the issue and demilitarisation of the state”, as a casual and peripheral consideration, is outrageous. India was prepared to negotiate with Kashmiris and it would require an email, a text message, a phone call or a press statement. People of Kashmir did not want to engage with India without Pakistan being present at the table. India has punished the people of Kashmir for their insistence to have Pakistan in the equation. If people of Kashmir had agreed to negotiate with India, the latter would have later, claimed Azad Kashmir and GB as resolved in her parliament resolution in February 1994.

Dr. Moeed Yusuf’s paper makes a fundamental error when it decides to skip the Indian position on Kashmir issue. At the 230th Meeting of UN Security Council on 20 January 1948, presided over by Belgium, India has conceded that Kashmir is a core issue. India has said “We hope to be able to convince the Security Council that once we have dealt with the Kashmir question, there will probably not be anything of substance which will divide India and Pakistan to the extent of endangering international peace and security”. It was a bad judgement by Pakistani government to disturb the core status of Kashmir and make it one in the eight other outstanding issues in dispute with India.

The jurisprudence of the Kashmir case is the pre UN and post UN history of the case. China has highlighted a peculiar feature of Kashmir dispute. It is the agreement between India and Pakistan, on the Kashmir Dispute before coming to UN Security Council. China has said:

“This dispute has another peculiar feature. From the very beginning, the Council began with an agreement between two parties. In fact, before the two parties directly concerned ever appeared before the Council, the two parties agreed that the plebiscite should be the answer. What did the Council do? The Council tried to build a solution on this prior agreement that the two parties had before they came to this Council. So the idea of a plebiscite was not imposed by the Council on the two parties.” (Para 68, 765th meeting of the UN Security Council held on 24 January 1957).

The paper has failed to address the core jurisprudence of the case and has ignored the settled consensus, that is, return to UN Resolutions. France has said that “Resolutions of 13 August 1948 and 5 January, to which we must always return because they won the express agreement of both India and Pakistan. If the parties are unable to reach agreement on the plan submitted to them, provision is made for arbitration, and, to make assurance doubly sure, arbitration is to be carried out by an arbitrator or panel of arbitrators appointed not by a political body but by the President of International Court of Justice.” (539th meeting of the UN Security Council). A reference to ICJ was first proposed by Britain in November 1947 and by USA in August 1951.

Dr. Moeed Yusuf has an important position in the present government. However, as a scholar he has to pass the test of a reliable understanding of the case. He should note that Pakistan has submitted at the UN SC that “the accession of the State to the Indian Dominion would be tantamount to signing of their death warrant.”

We reject the behaviour of these conferences ab initio. Bad advice is likely to hurt the Kashmir case and wrong the Pakistan foothold. There is an urgent need to seek a reference on the ‘positive duty’ of the Security Council argued by US. US has stated that “unless the parties are able to agree upon some other solution consistent with the principles of UN Charter, the solution which was recommended by the Security Council should prevail.” To jump start a dialogue with India on autonomy Kashmiris do not need any guidance paper. An email would suffice.

There is more on the table than Dr. Moeed Yusuf and Adil Najam have for us in their concept paper. It would obviously anger and annoy if anyone attempts to lead the Kashmiris down to the altar of ‘autonomy’. The authors of “autonomy” proposal need to know that Plebiscite was to be held by 01 November 1950 by Admiral Chester Nimitz, UN Plebiscite Administrator for Kashmir.

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