**UN Resolutions on Kashmir are not history We have a case without them as well**

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Even today after 73 years, people of Jammu and Kashmir, their leaderships, various disciplines in charge in Azad Kashmir and Pakistan and the people who remained in power in Azad Kashmir and in Pakistan are not clear about the constituent nature of the Kashmir Case. The interpretation is based either on an ignorance or on an instinct to play to the Indian gallery.

India has continued to keep the course until it decided to change her horses and occupied part of Kashmir on 5 August 2019. India floated the ideas thatthe case has been considered under Chapter VI of the Charter and bloated the egos of our leaders and writers to propose an out of box solution. Some made a gross error of calling UN Resolutions as history.

India succeeded to force Pakistan off the UN mechanism on Kashmir for 32 years from 1251st session of UN Security Council held on 5 November 1965 till 15 September 1996. It was on 22 August 1996 that Kashmir was hit by rule 11 of rules of procedure of the Security Council (S/1996/603).

India forced Pakistan to disturb Kashmir as a core issue and make it an include into 8 other items outstanding with India.It became an issue out of many other issues in 1997. On the contrary India had conceded at the 230th meeting of the UN Security Council held on 20 January 1948 that Kashmir was a core issue. Indian representative Mr. Gopalaswami Ayyangar 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”.

Government of Azad Kashmir in its constitution Act 1974 and the Hurriyat Conference in Indian occupied Kashmir in its constitution adopted on 31 July 1993, inscribe their faith in UN Resolutions on Kashmir. Pakistan has tied itself to these two documents and to article 257 of the Constitution of Pakistan. Unfortunately we dithered in prosecuting the jurisprudence of UN Resolutions on Kashmir.

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Dr. Syed Ghulam Nabi Fai Secretary General of World Kashmir Awareness Forum has said “These are not resolutions in the routine sense of the term.  Their provisions were negotiated in detail by the UN Commission with India and Pakistan and it was only after the consent of both Governments was explicitly obtained that they were endorsed by the Security Council.  They thus constitute a binding and solemn international agreement about the settlement of the Kashmir dispute.” Dr. Fai’s view corresponds with the position taken by Britain at the UN Security Council. UK representative Sir Gladwyn Jebb said at the 606th meeting of the UN Security Council held on 6 November 1952 that, “The ultimate objective of a fair and impartial plebiscite under the auspices of the United Nations ….has been written into solemn agreements by the two Governments and endorsed by this Security Council. These agreements have been affirmed and reaffirmed by the two governments many times.”

The schools of opinion that misinterpret Chapter VI and volunteer to call UN SC Resolutions as history are the self-styled experts on Kashmir and even some Think Tanks based in Islamabad have been duped by their counterpart Think Tanks in Delhi, to spell wrong on Kashmir and start a harmful stutter.India has used this stutter to her advantage.

Kashmiri leadership spoke at the UN SC in February 1948 and came into contact with UNCIP in September 1948. Otherwise, Kashmir has remained a free for all and with no holds barred gainful interest. We are seeing individuals from Diaspora accredited as leaders by Islamabad and discussing Kashmir in the Azad Kashmir newspapers. These people are taxi drivers or from an unemployed lot who have never held a position of service all their life in Britain. They could be called good escorts and smart operators of group political tourism.

During the period from 1990 to date non-Kashmiris have also floated interested groups on Kashmir and these groups have continued to enjoy the hospitality of Indian Government and in some cases hospitality of the Government of Pakistan as well. If Islamabad and Muzaffarabad continue with this make believe jig even after 5 August 2019, it is a recipe for disaster.

The school of opinion that has been calling UN Resolutions on Kashmir a history and intentionally or unintentionally have played to the Indian gallery need to know that, they are wrong. Whether we had UN Resolutions or not we have the following jurisprudence of the case:

Prime Minister of India Jawaharlal Nehru has assured the British Prime Minister on 26 October 1947, before despatching Indian army to the State on 27 October 1947, that, “I should like to make it clear that the question of aiding Kashmir in this emergency is not designed in any way to influence the State to accede to India. Our view which we have repeatedly made public is that the question of accession in any disputed territory or State must be decided in accordance with wishes of people and we adhere to this view. It is quite clear, however, that no free expression of will of people of Kashmir is possible if external aggression succeeds in imperilling integrity of its territory”.

On 27 October 1947, Governor General of India Lord Mountbatten has assured the Government of Jammu and Kashmir that, “…the question of accession should be decided in accordance with the wishes of the people of State, it is my Government’s wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader the question of the State’s accession should be settled by a reference to the people”.

On 31 October 1947 Prime Minister of India in his telegram to Prime Minister of Pakistan has assured that, “Our assurance that we shall withdraw our troops from Kashmir as soon as peace and order are restored and leave the decision regarding the future of this State to the people of the State is not merely a pledge to your Government but also to the people of Kashmir and to the world”. (Para 6 of the telegram dated 31 October 1947).

The representative of India has laid down his case at the 227th meeting of the UN Security Council and has made three prayers that, “The question of the future status of Kashmir vis-a-vis her neighbours and the world at large, and a further question, namely, whether she should withdraw from her accession to India, and either accede to Pakistan or remain independent, with a right to claim admission as a Member of the United Nations- all this we have recognized to be a matter for unfettered decision by the people of Kashmir, after normal life is restored to them.”  This submission made by India was reiterated by China at the 765th meeting of the Security Council held on 24 January 1957.

The people of Jammu and Kashmir have a strong case of self-determination, even if there would have been no UN Security Council Resolutions. Britain had offered a reference to International Court of Justice on 22 November 1947, months before India made a reference to UN Security Council. It is our duty to understand our case and prosecute its jurisprudence and merit accordingly. We are still walking off the track and unfortunately our attempts to engage our people into make believe optics are of no consequence.

We have accrued a criminal liability for introducing a rag a tag militancy (which surrendered) and a political alliance which abandoned its constitution and allowed Government of India, a lease of life, denied to her all along for 42 years from 1948 to 1990. The militants and the politicians changed their horses mid-stream and majority of them have turned into successful businessmen in India and in Pakistan. Some have found Kashmir as a ‘gainful’ item and are engaged in political tourism in the name of Kashmir.

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