

Kashmir: The Simla Solution

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The overriding consideration for India at the Simla Conference was to put an end to its adversarial relations with Pakistan and to forge an instrument that would help to build a structure of durable peace between the two countries. But to translate the idea into negotiable points was no easy task for D.P. Dhar and Aziz Ahmed, the emissaries appointed by the two governments to prepare the ground for the conference. They met in April 1972 at Murree and after three days of hard bargaining produced two documents: an agenda for the conference and an agreed set of principles that should guide the negotiations at Simla.

The principles were meant to generate an appropriate ethos for the Summit meeting between Prime Minister Indira Gandhi and President Zulfikar Ali Bhutto. Recognising 'the need for establishment of durable peace' and 'ending of military conflict' and the 'desirability of diverting resources towards developments', the principles demanded willingness to think afresh and cast aside the shackles of past policies.

In pursuance of this, the Indian side took note of the traditional Pakistani view that there could be no enduring peace and stability in the sub-continent unless the Kashmir problem was settled and decided to persuade Pakistan to address the issue. At first, Pakistan resisted discussion on this subject. Its priorities were determined by the events related to the emergence of Bangladesh as a sovereign state. Bhutto was especially concerned with the return of the territories and prisoners of war taken by India during the military conflict of 1971.

Gradual Move

On Kashmir, Pakistan strongly felt that it would be more feasible to first try and settle other, less emotionally charged disputes step-by-step and to take up the Kashmir questions later. This approach, they believed, would generate a friendly atmosphere and a favourable public opinion for acceptance of a solution of the problem, which would necessarily have to be a compromise.

India though willing to take up the issues of occupied territories and prisoners of war, was keen, in addition, to solve long-term problems, Kashmir in particular. India itself had advocated the step-by-step approach in the past but this had not yielded the desired results. This time, India was determined that the Simla Conference should not turn into a replica of the Tashkent Conference which addressed the immediate problems created by the war of 1965 without tackling the basic reasons that gave rise to it. To break this impasse, Bhutto, agreed to negotiate on long-term problems, his code name for Kashmir, provided that the solution, if arrived at, was implemented gradually, in a piecemeal manner and in step with improvement in overall Indo-Pak relations.

To understand the political climate prevalent in the sub-continent in July 1972 when the Simla Conference was held, it is necessary to recall the events that preceded it – events that altered some basic perceptions the Pakistan leadership held dear.

The emergence of Bangladesh as a sovereign state had brought out sharply the inadequacy of religion as the sole basis of nationality. It also repudiated the two-nation theory and struck a deadly blow to Pakistan's claim, implicit as well as explicit, that it spoke on behalf of the Muslims of the sub-continent. Bhutto was acutely conscious of this fundamental change of context and he stated this frankly in his preliminary conversation with Mrs. Gandhi.

Personal Position

Furthermore, Bhutto said that he was convinced by the events of 1971 that Pakistan could not acquire Kashmir by military intervention. "Kashmir troubles me a lot", Bhutto said. He did not want its dark shadow looming over Indo-Pak relations. He wanted his countrymen to get over the trauma of the emergence of its eastern wing as a separate independent state as quickly as possible and concentrate on making the residual Pakistan a prosperous country. Therefore, Bhutto was personally inclined to accept the status quo as a permanent solution of the Kashmir problem. However, he had several constraints in this regard which he spelt out as follows:

- a) His political enemies at home and, especially, the army bosses would denounce him for surrendering what many in Pakistan considered their vital national interest. This would endanger the democratic setup, which had emerged after 14 years of army rule. In this context Bhutto repeatedly talked about his fear of what he called the Lahore lobby, though he never clearly explained what it was.
- b) He was anxious to carry the support of all political elements in Pakistan in favour of any agreement that emerged at Simla. He wanted all members of the delegation, representing the entire political spectrum of Pakistan, to support and be committed to the outcome of the conference. He said that there should be no dissenters in his delegation when he left Simla.

Bhutto was very keen to have the support of Aziz Ahmed who led the Pakistan negotiating team. Ahmed was the senior most civil servant of Pakistan and carried great weight in the ranks of its civil service. He had also a reputation for being a hard-liner. Ahmed's support would, according to Bhutto, secure him the support of the bureaucracy, which constituted a very powerful segment of the Pakistan political elite.

Aziz Ahmed, was against the enlargement of the agenda to include Kashmir. But he yielded ground when the Indian side explained that it was not insisting on an immediate and formal acceptance of the *status quo*, which they believed could be looked upon as the imposition of harsh terms by the victor in war. The Indian side felt that such a move might nurture a revengist ideology in Pakistan. They reminded themselves of the consequence of the Treaty of Versailles and were against doing anything, which could be the basis of another war.

The Indian side, therefore, put their proposal in a low key and in an indirect manner by proposing that the name of the line dividing India and Pakistan in Jammu & Kashmir by changed from the

‘cease-fire line’ to the ‘line of control’. Aziz Ahmed objected to this. He pointed out, quite rightly, that the proposed change of terminology would mean a change in the status of the line. Aziz Ahmed put forth this view vehemently and stated that he was not prepared to accept the change in the nomenclature of the line.

But this change was the core of the Indian solution to the Kashmir problem: the *de facto* line of control was to be graduated to the level of the *de jure* border. Since no agreement was reached on this point, negotiations were called off and the curtain came down on five days of hectic talks, which had begun with great hopes throughout the sub-continent. This was the afternoon of July 2 and the Pakistan delegation was scheduled to leave the next morning. Soon the word spread that the conference had failed. Media men rushed to announce the failure.

Troops withdrawal

In the midst of this developing gloom, Bhutto asked to see Mrs. Gandhi and a meeting was fixed for 6 p.m. at the Retreat where she was staying. When Bhutto came to see Mrs. Gandhi, he met P.N. Haksar and me briefly and said, “You officials give up too easily”. Mrs. Gandhi and Bhutto met for an hour while Haksar and I waited in the adjoining room.

Emerging from the meeting, Bhutto looked very pleased and said that “we have settled the matter and decided to give you some work to do before dinner.” After he left, Mrs. Gandhi briefed us on what transpired. At their meeting, Mrs. Gandhi told Bhutto that she was sympathetic to his concerns and that she would hate to appear to be dictating terms to a defeated adversary. She agreed to the earliest possible withdrawal of troops from occupied territories in the interest of an overall Agreement.

Mrs. Gandhi elaborated the merits of the Indian proposal in the following terms: it was the only feasible solution. An important feature of the proposal was that neither country was gaining or losing territory on account of the war. It also did not involve any transfer of population from one side to the other. Kashmiris as an ethnic community were left undivided on the Indian side. The line of control was, therefore, an ethnic and linguistic frontier. In fact in 1947, at the time of the partition, it was also an ideological frontier, being the limit of the political influence of Sheikh Mohammad Abdullah and his National Conference Party. True, there were some anomalies in this otherwise neatly etched picture but, these, Mrs. Gandhi pointed out, could be removed by mutual consent.

Bhutto responded with feeling and apparent sincerity. After long and agonising reflection, Bhutto said, he had come to the conclusion that the Indian proposal was the only feasible one. But he could not agree to incorporating it in the Agreement for the reasons he had stated earlier. He would, however, work towards its implementation in practice and over time. Mrs. Gandhi herself was worried that a formal withdrawal of the Indian claim on Pak-occupied Kashmir could create political trouble for her. She agreed that the solution should not be recorded in the Agreement for reasons advanced by Bhutto, but it should be gradually implemented as he had suggested.

Secret Clauses

It was also agreed that the understanding would not be a written one. The insertion of secret clauses in the Agreement was considered inconsistent with the desire to build a structure of durable peace. It was decided, however, that the Agreement would be worded in a manner that would facilitate the implementation of the understanding. This resulted in some last-minute negotiations, which were carried on during the return banquet of the President of Pakistan on the eve of his departure for his country.

Thus, several clauses included in the Agreement had to be drafted and re-drafted in a way that would provide the context in which the Agreement was to be read and implemented. The most important of these was sub-clause 4 (ii), which says: "In Jammu and Kashmir, the line of control resulting from the ceasefire of December 17, 1971 shall be respected by both sides without prejudice to the recognised position of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat or the use of force in violation of this line." The phrase "without prejudice to the recognised position of either side" was a concession to Bhutto to save him from his domestic critics. But to prevent the abuse of this concession and to lay the foundation for a future settlement of the Kashmir issue, the second and third sentences had to be incorporated and the sub-clause is, therefore, to be read as a whole.

And this is how it was interpreted by observers who followed the negotiations closely. Peter Hezelhurst, *The Times* London, correspondent, writing under the title 'Concessions at Simla Summit bring hope for deal on Kashmir', described the Agreement "as a historic breakthrough in the protracted efforts to resolve the differences between the estranged Asian neighbours during the past 25 years." Interpreting sub-clause 4 (ii) referred to above, he wrote, "Apparently this will mean that Pakistan has agreed to settle the Kashmir issue bilaterally with India and President Bhutto of Pakistan will not raise the dispute in the United Nations if he keeps to the spirit of the Agreement. This would appear to be an important concessions to Mrs. Gandhi, the Indian Prime Minister, who has advocated bilateralism as the means of settling Kashmir and other disputes with Pakistan...The Agreement also stipulates that both parties have agreed to recognise the cease fire line in Kashmir as it stood at the conclusion of the war in December, and convert it into a line of peace." (*The Times*, London, July 4, 1972).

Bhutto agreed not only to change the ceasefire line into a line of control, for which he had earlier proposed the term 'line of peace', but also agreed that the line would be gradually endowed with the "characteristics of an international border" (his words). The transition was to take place in the following manner: After the resumption of traffic between India and Pakistan across the international border had gained momentum, movement of traffic would be allowed at specified points across the line of control. At these points of entry, immigration control and customs clearance offices would be established. Furthermore, Pakistan Occupied Kashmir would be incorporated into Pakistan. To begin with, Bhutto's Party would set up its branches there and later the area would be taken over by the administration. India would make proforma protests in a low key. (This is what actually happened in 1974 when Bhutto constitutionally made POK a province of Pakistan without much protest from India).

It was thought that with the gradual use of the LOC as a *de facto* frontier, public opinion on both sides would be reconciled to its permanence. In the meanwhile, the opening of trade and commerce

and cooperation between India and Pakistan would result in easing tensions between the two countries. When Mrs. Gandhi, after recounting their points of agreement, finally asked Bhutto, “Is this the understanding on which we will proceed?” He replied, “Absolutely, *Aap mujh par bharosa keejiye*”.

One of Bhutto’s aides, who was also very close to the Americans, briefed Mr. James P. Sterba, the *New York Times* correspondent fully on the understanding that his boss had reached with Mrs. Gandhi. In his news analysis, which appeared within hours of the signing of the Agreement, Mr. Sterba, after referring to the inflexible positions of the two governments on the Kashmir problem, wrote, “President Bhutto, Pakistan’s first civilian leader in 14 years, came to Simla ready to compromise. According to sources close to him, he was willing to forsake the Indian-held two-thirds of Kashmir that contains four-fifths of the population and the prized valley called the vale, and agree that a ceasefire line – would gradually become the border between the two countries. The key word is ‘gradually’. President Bhutto wants a softening of the cease-fire line-with trade and travel across it- and a secret agreement with Mrs. Gandhi that a formally recognised border would emerge after a few years, during which he would condition his people to it without riots and an overthrow of his government.” (The Simla Agreement – Behind the Progress Reports There is the possibility of a Secret Agreement, *The New York Times*, July 3, 1972).

Crucial Point

This was the understanding between the leaders of the two countries and this was the Simla solution of the Kashmir problem. The Agreement that was signed at Simla in the first hour of July 3, 1972 was the launching pad for the implementation of the Simla solution. Some Pakistanis maintain that the recent events in Kashmir have overtaken the Agreement while Indians insist that the dispute should be resolved through bilateral negotiations as stipulated under it. This debate misses the crucial point that the Simla Agreement provided not only a mechanism for the solution of the Kashmir problem but it also envisaged the solution itself.

The Simla solution seemed the only way in which the political leadership of the two countries could resolve their conflicting claims over Kashmir. It is still the only way that remains open to them. To be sure, aspirations of the Valley Muslims need to be satisfied. The Indira-Abdullah Accord, which was an answer to this question, has come unstuck, due largely to the growth of Muslim fundamentalism and the massive intervention of Pakistan, in flagrant violation of Simla commitments. If Pakistan accepts the Simla solution, the Kashmir problem will be reduced to manageable proportions. It will simply become an internal problem, one of altering the existing Centre-state relations in a manner that will satisfy Kashmiri demand for more genuine autonomy.

(Courtesy: *The Times of India*, 4 April 1995)