

Conflict Transformation in Kashmir-IV

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The Backdrop:

The numerous proposals to resolve the conflict in Kashmir are floating at the regional as well as international levels. Ironically, most of these proposals have emerged during the last one and a half decade of militancy and insurgency in Kashmir. However, most of these proposals are being floated by sidelining the existential political and legal realities. In fact, their roots lay in the old formulae of cold war era in which the UN also tried to put in its expertise to resolve the issue. However, it is interesting to point out that even in the resolutions of Security Council on the status of the conflict on Kashmir, the issue got gradually reduced from being a 'dispute' to 'differences on Kashmir' between India and Pakistan. In this context, the UN Secretary General, Kofi Annan, had rightly suggested that India and Pakistan should address the problem between themselves. The three wars and a brief incursion in Kargil (in Ladakh region of J&K) launched by Pakistan could not change the status quo. The insurgency and militancy in J&K, described as 'proxy war' by the Government of India, equally did not bring any change on the status of the state of J&K.

India and Pakistan have adopted two divergent approaches to address the issue. India has been stressing on the 'processes' which would ultimately lead to the resolution of the conflict. On the other hand, Pakistan has been throwing up proposals in the shape of formulae to resolve the conflict.

Pakistan's position:

In this backdrop, the Pakistan President General Pervez Musharaff has been articulating ostensibly a new position by stating that UN resolutions had become obsolete in resolving Kashmir, hence there was an urgency in adopting new and creative approaches to address the issue. He has been advocating to think 'out of box' in resolving the Kashmir problem. In the meantime, Pakistan has been expressing its dismay on the non-response from India on these proposals. Be that as it is, an analysis of these proposals reveal that they are bound to raise old suspicions and ultimately

increase the deficit in trust between the two countries. This provides some clue to the non-response from India.

The first proposal which was articulated by Pakistan President General Pervez Musharaff last year on the sidelines of the UN meeting in Washington is 'demilitarization' of Kashmir. The proposal was further elaborated when Pakistan Ambassador to the US specifically identified two areas bordering LOC in Kashmir, Kupwara and Uri, for demilitarization. The proposal may be examined from several perspectives. First of all, the proposal is silent about the demilitarization of the part of Kashmir under the occupation of Pakistan. Secondly, it is not a new proposal. It was initially proposed by the United Nations Commission for India and Pakistan (UNCIP) representative, Frank Graham. The proposal floundered when India and Pakistan failed to agree on the number of Indian troops to be stationed in Kashmir. Thirdly, the state of J&K in general and Kashmir valley in particular is awash with small and light weapons. This is a new and a dangerous development in the history of Kashmir. The bulk of these weapons may be traced to Afghanistan via Pakistan. There are different versions on the actual period of their entry in J&K. However, there is some unanimity that these weapons started reaching the state in 1984 and these illegal supplies continued for about a decade. Be that as it may, the major problem is that there is no central even local command to control this weaponry. The growing criminalization of otherwise an exemplary peaceful and orderly Kashmir society in which light weapons are now used with impunity is a major challenge today. The number of light weapons recovered by the Indian Army in J&K can arm several units of a regular army. The process of recovering arms and ammunition in Kashmir continues. If the rumors at the local levels in J&K are to be believed, there are still huge dumps of arms in the state. Thus, the dream of a demilitarized zone can be realized only when the main pre-requisite is met. That all the weapons, in the official as well as in the non official hands, are removed. There are zones and countries in the world which are completely weapon free. Costa Rica provides an illustration to the point. Who shall take the responsibility of dealing with the weapons in the hands of non-state actors in J&K remains a moot point.

The second significant proposal put forward by the Pakistan President is the 'self-rule' in J&K. There are two aspects to this formula. First, in the UN parlance, there are 'non-self governing' states and/or 'states under the trusteeship'. This categorization relates to the areas which are still under colonial occupation and alien domination. In these parts of the world the process of de-colonization did not take off. The UN bodies continue to deal with such cases and Kashmir is certainly not one of them. The proposal of self-rule as articulated by the Pakistan President is perceived in the Indian civil society as an astute attempt to bring in Kashmir within a the UN framework through a new and indirect methodology. In this vein, the suspicions on the motives of Pakistan on India are compounded more at the non-official civil society levels than the official levels. It also accounts for the convergence of official and non-official positions in India on Kashmir.

The perspective of separatists:

The formula of a 'United states of Kashmir' is propounded by the separatist All Parties Hurriyat Conference (APHC) and articulated by its youthful leader and religious cleric, Mirwaiz Maulvi Omar Farooq. This formula, which has been endorsed by Pakistan, envisages the division of J&K in five zones of Indian Kashmir, Jammu, Ladakh, Pakistan occupied Kashmir and Gilgi-Baltistan designated as 'Northern Areas' by Pakistan. This proposal provides for the integration of J&K state as it existed before 1947. The proposal further provides for the elections to the assemblies of these five regions with the convening of a joint parliament of these regions. This formula creates the fiction of 'states' which in fact are districts or provinces. However, this formula ignores the political and constitutional developments which have overtaken the events during the last five decades. Firstly, the very first Article of the Constitution of India defines the territorial boundaries of India which include J&K as well. This article is the basic and fundamental feature of the Indian Constitution on which the entire edifice of constitutional-parliamentary system of the country rests. In absence of this Article, the entire Indian Constitution would hang in oblivion. That the Indian Supreme Court has held that the basic structure of the Constitution is unalterable aside, redrawing of the boundaries of the country from any perspective seems to be untenable. Can the Partition of Indian sub-continent be undone? The very idea of partition and redrawing of borders brings the ghosts of partition of Indian sub-Continent back to the public as well as private memories. It may be pointed out that the volume of literature in India on partition churned out during the last decade and a half, in the wake of militancy in J&K, is far higher than what was written during the last forty years in India on this subject.

From an international perspective, the UN jurisprudence has repeatedly rejected the ideas which would divide the world into bits and pieces and create an international anarchy. That the very idea of redrawing borders would lead to the crumbling of the edifices of multi-cultural and pluri-lingual states, particularly in South Asia, is yet another horrendous consequence.

The second vital issue pertains to the constitution of J&K which was drafted by the constituent assembly of J&K and finalized in the year 1957. This constitution, the first and the only state constitution in the independent history of India, regulates the internal relations between the Union of India and the state of J&K. In case this constitution is to be annulled, a fresh constituent assembly is needed to be convened in the J&K state. The argument that there is no legal and constitutional way to convene such an assembly aside, there is no unanimity of views in the three regions of the state on the subject.

Conclusion:

In view of the foregoing, it is clear that there can be no legalistic or cartographic solutions to Kashmir problem. Wars and insurgencies have equally proven futile in

settling the matter. Thus, fresh approaches need to be harnessed to settle the issue. Building the trust and confidence is the first pre-requisite to ensure the success of new initiatives on Kashmir. Rehashing the old proposals and indulging in rhetoric vitiates the atmosphere and hence to be avoided. In this regard, there appears to be weight in the argument that new processes which would make the borders irrelevant opens vast opportunities of peace and conflict resolution between India and Pakistan. The opening up of the traditional and historical routes connecting the two parts of Kashmir is one big step to ease the tensions. It is encouraging the movement of people across the line of control. This facility has united the divided families across the line of control after half a century. There is a need to remove the bureaucratic hassles on both the sides in allowing the people to avail of this facility with ease.

The avenues of trade and business between the two Kashmirs need to be explored. This would create an ambiance of pre 1947 era when the J&K state was a single political entity. This indeed is a creative approach to address the Kashmir issue. These developments would build trust and confidence to undertake further steps to strengthen the peace process. Thus, in future, arrangements could be made for joint ventures in different sectors, like tourism and hydro-electric power, between the two parts of Kashmir supervised by the two national governments. The water has been a contentious issue between India and Pakistan. The Indus-Water treaty which was hailed as a 'treaty of peace' has not been able to satisfy Pakistan. The Pakistan government has been raising objections to the hydro-electric power projects in J&K. The launching of joint hydro-electric power projects which would benefit the people on both the sides of the line of control and boost their industrial development would be a major achievement. The free movement of people engaged in the ventures leading to development and prosperity holds the key to peace and conflict resolution in the region.

In the meanwhile, the leading persons belonging to different walks of civil society in both the Kashmir's have to come forward and help reconciliation processes in both the societies. The state of J&K has witnessed unprecedented violence and mayhem for the last fifteen years. This phenomenon, apart from the loss of human lives, has dealt a deadly blow to the social fabric of the society. The cultural, social and even familial values have been impaired. Moreover, in conflict situations, where possessing a gun is perceived as a sign of masculinity, anarchic tendencies dominate the social behaviour. In these circumstances it becomes difficult for social institutions to function normally. It equally dwarfs the state structures. Thus, addressing this issue acquires primacy. There is an urgency in building a strong social movement against violence and wielding of guns in society. The mass exodus of Kashmiri Pandit community from Kashmir has created a cultural and social inequilibrium in society. The efforts at the peoples' level need to be made to ensure the return of Kashmiri Pandit community to their homes and herths.

In the case of the other side of line of control, there is a huge deficit of civil and political rights. Freedom of speech and expression is the biggest casualty in Kashmir

under the occupation of Pakistan as well as in Northern Areas. The charges of 'sedition' and 'anti-national activities' are frequently slapped on the activists or political workers who challenge the Pakistan's occupation on that part of Kashmir.

At the civil society level, the inhabitants of that part of Kashmir need to be sensitized on pluralism and diversity. This would help them to comprehend the issues from a larger and wider perspective.

In order to build peace and resolve conflict, there is a need to build a constituency of peace and enlarge its arena as far as possible in the state of J&K including POK and Northern Areas.

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