

KASHMIR AT THE UN AND BEYOND

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PROF. KHURSHID AHMAD



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By Senator Prof Khurshid Ahmad

THE Kashmir issue has been brought to the forefront of world agenda by the heroic national resistance movement waged particularly for the last five years in the Indian occupied Kashmir. Indian forces moved into the valley of Kashmir on October 26, 1947, and have ever since held it down with wanton use of brute force.

For the valley's population of around four million, where the real concentration of Indian forces is, there are 580,000 Indian armed personnel (army and border security forces). This is the highest concentration of an occupying power in human history: one soldier for every eight civilians, men, women and children. Between 40,000 to 50,000 people have been martyred and over 60,000 permanently disabled during the last five years. India is trying to suppress by state terror a national uprising, demanding the implementation of UN resolutions and of the fulfilment of Indian commitments to give them the opportunity to decide their political future through a free and fair plebiscite under the UN auspices.

There are three dimensions to the problem first, gross violation of human rights in Jammu and Kashmir by the Indian occupation forces; secondly, the fact that this human rights situation is a cause-related phenomenon. The fundamental issue is Kashmiri people's national movement for their rights of self-determination as envisaged by the UN resolutions; and finally, the threat to security in South Asia posed by this conflict which, if escalates, can spark off a war in a region inhabited by over a billion people — over one fifth of the human race.

India took Kashmir dispute to the UN in December 1947. A resolution was passed by the Security Council on April 21, 1948, recommending the holding of a plebiscite to decide the future of Jammu and Kashmir. United Nations Commission on India and Pakistan was established to ensure the implementation of this resolution. The Commission passed two resolutions on August 14, 1948, and January 5, 1949, which were accepted by India and Pakistan. The August 14, 1948, resolution committed both India and Pakistan, and the UN to decide about the future status of Jammu and Kashmir. It said: "The governments of India and Pakistan reaffirm their wish that the future status of the state of Jammu and Kashmir shall be determined in accordance with the will of the people".

When India tried to seek a constitutional declaration from an unrepresentative "Constituent Assembly declaring Kashmir an integral part of India, the Security Council in a resolution on January 24, 1957, rejected that declaration and reaffirmed that the future of Jammu and Kashmir is yet to be decided in accordance with earlier UN resolutions. On May 10, 1964, the President of the Security Council once again affirmed that "the Pakis-

tan-India question (on Kashmir) remains on the agenda of the Security Council". The UN Secretary-General has referred to the rising Indo-Pakistan tensions on Kashmir in his September 1994 report (para 541) in the following words: "Relations between India and Pakistan are still marred by their dispute over Jammu and Kashmir, one of the oldest unresolved conflicts still on the United Nations agenda. The United Nations Military Observer Group in India and Pakistan (UNMOGIP) has continued in its efforts to monitor the ceasefire line in Jammu and Kashmir, as it has since 1949. India and Pakistan have affirmed their commitment to respect the ceasefire line and to peaceful resolution of the issue in accordance with the Simla Agreement of 1972. Nonetheless, the level of tension in Jammu and Kashmir has increased considerably in recent years".

The success of our efforts towards the solution of the Kashmir problem depends very much on our success in setting our own house in order politically, economically and ideologically. Politics of confrontation and agitation has adversely affected not only the political and economic processes in the country but also our credibility abroad.

In this background the issue is not to bring Jammu and Kashmir on the UN agenda; the real issue is to re-activate the issue and bring about enough pressure on India to stop the gross and wanton violation of human rights in the held state and to agree to modalities for the implementation of the UN resolutions, giving to the people of Jammu and Kashmir an opportunity to exercise their right to decide their future. Simla Agreement, although entered into in a climate of duress, affirms the supremacy of the UN Charter, records that the agreement "by both sides" is "without prejudice to the recognised position of either side", and envisages a "final solution" to the dispute about the state of Jammu and Kashmir. As such, the accord cannot be used as

an exercise for continued Indian occupation of the state and avoidance of its final solution through reference to the will of the people.

President Clinton, in his address to the General Assembly in 1993, referred to the human rights violations in Kashmir. Pakistan seized upon that and moved a resolution in Committee No. 3 (which deals with human rights issues) highlighting the grim situation in Kashmir. Five member states, including Pakistan, sponsored the resolution. The Government of Pakistan withdrew the resolution under alleged "friendly pressure". This was debacle one. The issue was again raised at the UN Commission on Human Rights at Geneva in 1994. But again at the last moment, on the alleged initiative of some friendly countries, the resolution was not pressed for vote, with the result that it became infructuous. This was debacle two. Any hope that India would come to the negotiating table for any genuine and meaningful dialogue did not materialise. Once the pressure is released, India begins to harp on its claim that Jammu and Kashmir are its "integral part". It refuses to recognise it as a disputed territory. This position is a non-starter. Unless India accepts Kashmir as a disputed territory, dialogue would be meaningless.

There are only two ways to force India to agree to work out a solution; first, pressure from the resistance movement in occupied Kashmir, and, secondly, diplomatic, political and economic pressure of the world. The fact is that the UN resolutions have been lying in cold storage; it is the sacrifice and struggle of the Kashmiri people that has brought the issue to world forums. The US Assistant Secretary of State is reported to have said in Delhi that it is the situation in (Indian held) Jammu and Kashmir which forces the world to realise that there is a dispute around.

Pakistan and its OIC friends tried to reactivate the issue at the UN during the current General Assembly session. OIC held an extraordinary conference at Islamabad in September, 1994 to consider its strategy for Bosnia and Kashmir. In this 7th Extraordinary Conference, an OIC Contact Group for Jammu and Kashmir was formed at the initiative of the OIC Secretary General. This OIC Contact Group (consisting of Pakistan, Turkey, Saudi Arabia and Niger) resolved to bring the issue on the agenda of the First Committee (which deals with the question of nuclear non-proliferation, disarmament and security) in the light of the UN Secretary General's Annual Report, emphasising the increase in tension between India and Pakistan on this issue.

(To be concluded)

(Prof Khurshid Ahmad was invited to join the Pakistan delegation to the UN in the third week of October. He participated in the UN proceedings from October 28 to November 8 and withdrew from the delegation when the resolution on Kashmir was not tabled).