

KASHMIR CONFLICT AND RELEVANCE OF UNSC RESOLUTIONS

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(Views expressed in the brief are those of the author, and do not represent those of ISSI)



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The myth - so religiously peddled by India that the United Nations Security Council (UNSC) resolutions on Kashmir are no more relevant was once again busted when during a press conference jointly held with Pakistan's foreign minister Bilawal Bhutto Zardari, the German foreign minister Annalena Baerbock urged that the issue of Jammu and Kashmir must be settled through UNSC resolutions.

When asked during the course of the press briefing regarding the possible role of Germany in resolving the Kashmir dispute, the German foreign minister replied "Germany also has a role and responsibility with regard to the situation in Kashmir. Therefore, we support intensively the engagement of the United Nations, to find peaceful resolutions in the region,"¹

Few days later, similar views were also expressed by the Chinese foreign ministry when its spokesperson Mao Ning said, "the Kashmir issue, a dispute left from the past, needs to be resolved peacefully and appropriately in accordance with the UN Charter, Security Council resolutions and relevant bilateral agreements".² The spokesperson also stressed the "need to avoid unilateral moves

1 "German foreign minister calls for UN role to resolve Kashmir dispute," News, October 9, 2022, <https://www.thenews.com.pk/print/998487-german-foreign-minister-calls-for-un-role-to-resolve-kashmir-dispute>

2 "Settle Kashmir issue through dialogue, consultation: China," Hindu, October 27, 2022, <https://www.thehindu.com/news/international/settle-kashmir-issue-through-dialogue-consultation-china/article66061629.ece>

that may complicate the situation."³

Needless to say that these very important statements not only came as a reassurance for the people of Kashmir who had been bearing the brunt of Indian security forces for demanding their inalienable right of self-determination but the statements also negated Indian claims that UN resolutions on Kashmir are no longer relevant.

Knowing well that if given a chance, the people of Jammu and Kashmir would never choose to side with India, India had been trying to evade any reference to a possibility of holding a plebiscite in Jammu and Kashmir under UN auspices arguing that UN resolutions on Kashmir have lost their relevance, particularly after the signing of Simla Agreement. ⁴In September 2020, it went to the extent of calling the Kashmir issue an "outdated agenda" in the UN and asked for its permanent removal from the security council's agendas.⁵

Nothing could be further from the truth. Nowhere in the Simla agreement is it written that the signing of the Simla agreement automatically nullifies the UN resolution on Kashmir.⁶ As a matter of fact, even if India and Pakistan reach an agreement bilaterally, they will have to consult UNSC for the endorsement of that agreement. In order to remove an agenda from the UNSC, basic rules of procedure that govern the functioning of the Security Council need to be followed. An agenda can be removed if the conflict is resolved or there is a consensus among all 15 members of the Council for the removal of an agenda item.⁷ None of these conditions exist for UNSC to remove resolutions on Kashmir from its agenda.

Though the fact that UN resolutions could not be implemented for more than seven decades does reflect the failure of the international body, it does not in any way imply that UN resolutions are redundant. On the contrary, it calls all the more for early implementation of the resolutions. This delay also does not deprive the Kashmiri people of their fundamental human right of self-determination.

³ Ibid

⁴ "Why does India say no to Kashmir mediation?" Hindu, July 28, 2019, <https://www.thehindu.com/news/national/why-does-india-say-no-to-kashmir-mediation/article28733048.ece>

⁵ "India calls for permanently removing Jammu and Kashmir issue under 'outdated agenda item' from UNSC," India Today, September 2, 2020, <https://www.indiatoday.in/india/story/india-calls-for-permanently-removing-jammu-and-kashmir-issue-under-outdated-agenda-item-from-uns-1717641-2020-09-02>

⁶ For full text of the agreement, please visit https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/simla_agreement_1972.pdf

⁷ "Kashmir can't be removed from UN agenda : Pakistan," Dawn, September 5, 2020, <https://www.dawn.com/news/1578012>

In the case of the Simla agreement, firstly, the agreement did not change the status of Jammu and Kashmir as a disputed territory. Secondly, it is clearly stated, "That the two countries are resolved to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them."⁸ If both countries have not been able to resolve the conflict bilaterally, then according to Simla agreement, any other peaceful means, that may include third-party mediation or more relevantly the UN resolutions may be applied for the resolution of the dispute.

Since the partition of the subcontinent, India has first tried to occupy the entire state of Jammu and Kashmir and later deceived the entire world by making false promises of holding a plebiscite to ascertain the will of the Kashmiri people. 75 years have lapsed and the Kashmiri people are still waiting to exercise their right of self-determination. It is time that the international community moves beyond lip service and plays its due role in ensuring that the people of Kashmir are given their fundamental right of self-determination. Additionally, it is the duty of the UNSC to ensure that its resolutions are implemented in letter and spirit to correct a historical wrong done to the people of Kashmir.

⁸ "Simla Agreement July 2, 1972," Ministry of External Affairs, India, <https://mea.gov.in/in-focus-article.htm?19005/Simla+Agreement+July+2+1972>